



Court Rules in Favor of Greater Accessibility to Absentee voting for Mississippians During COVID-19 Pandemic

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JACKSON, Miss. — In an early evening ruling yesterday, the Hinds County Chancery Court held that voters with pre-existing medical conditions that make them more likely to suffer severe consequences from COVID-19 may vote absentee in the November 3 election. The ruling came in a lawsuit filed by the Mississippi Center for Justice, the ACLU of Mississippi, and the national ACLU Foundation regarding Mississippi's absentee ballot law.

The decision by Chancery Court Denise Owens involves a provision of Mississippi's absentee ballot law providing the option of absentee voting to "[a]ny person who has a temporary or permanent physical disability . . . whose attendance at the voting place could reasonably cause danger to himself or herself or others." That provision has existed in Mississippi's election law since 1986. Four of the plaintiffs who brought this case have such conditions and Judge Owens held that they, and others like them, may vote absentee.

Judge Owens took note of public health guidance from the Mississippi Department of Health (MDH) stating that people "with a chronic illness such as heart disease, diabetes, or lung disease" and people who otherwise are "in poor health" are at a higher risk for severe consequences from COVID-19 and should "stay home as much as possible."

At the same time, the Judge rejected the contention of the Plaintiffs that public health guidance to avoid community events by itself entitles people to vote absentee under an additional provision passed this summer by the legislature extending absentee voting to those under a "physician imposed quarantine." Judge Owens said this provision is limited to orders from the Mississippi Department of Health requiring people to isolate at home or recommendations from a voter's own physician.

The six voters who brought the case are Harriett Oppenheim, who has Lupus, has had a kidney transplant, and has chronic kidney disease; Mary Harwell, who has diabetes and lives in a household with her autistic child who has cerebral palsy and multiple auto-immune disorders and with her mother who is 77; Dave Miller, who previously had stage 3 malignant melanoma and had radiation treatment and surgery to remove the tumor and 80 nodes and more recently had spots identified on his lungs, but they were biopsied and were not found to be cancerous; Joy Parikh, who has severe asthma; Martin Clapton, who has no underlying conditions but who has been caring during the COVID-19 pandemic for his wife, who has serious medical conditions; and Michelle Colon, who has no specific underlying conditions but is trying to follow public health guidance just like the other Plaintiffs.

Judge Owens held that the four Plaintiffs with pre-existing conditions could vote absentee. She held that Martin Clapton could invoke a provision allowing absentee voting for those who are caring for others who are under a physician-impose quarantine if his wife's doctor advises her to stay in place.

Vangela M. Wade, President and CEO, Mississippi Center for Justice: "Voters should not have to choose between their health and their vote. We are doing everything we can to insure they are not forced to make that decision."



Rob McDuff, Director of the George Riley Impact Litigation Initiative, Mississippi Center for Justice: “The Court correctly concluded that Mississippi voters may vote absentee if they have medical conditions that will lead to particularly severe consequences if they contract COVID-19. But we believe the right to vote extends even further and requires that absentee voting be available to all Mississippi voters who are following public health guidance and avoiding community events during this pandemic.”

Theresa Lee, staff attorney, ACLU’s Voting Rights Project: “This ruling means more Mississippians will not have to risk exposure to a deadly virus in order to vote. The court should have extended this to all voters, and we are examining next steps to ensure everyone can protect their health and their vote.”

Joshua Tom, legal director, ACLU of Mississippi: “We are pleased that more voters can cast a ballot safely, but more needs to be done.”

The case is [Oppenheim v. Watson, No. 25CH1:20-cv-00961](#) and was filed in Chancery Court of Hinds County, First Judicial District.

Opinion: [Order of the Court](#)