



ORIGINAL

**FILED
SUPREME COURT
STATE OF OKLAHOMA**

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA APR 23 2020

**JOHN D. HADDEN
CLERK**

THE LEAGUE OF WOMEN VOTERS OF)
 OKLAHOMA, ANGELA ZEA PATRICK, and)
 PEGGY JEANNE WINTON,)
)
 Petitioners,)
)
 v.)
)
 PAUL ZIRIAX, Secretary of the Oklahoma State)
 Election Board, in his official capacity,)
)
 Respondent.)

Sup. Ct. Case No. **#118765**

ORIGINAL
Received
Marshall
Revised
Outstanding
Disputed

APPLICATION TO ASSUME ORIGINAL JURISDICTION AND REQUEST FOR EXTRAORDINARY RELIEF

Petitioners, the League of Women Voters of Oklahoma, Angela Zea Patrick, and Peggy Jeanne Winton, respectfully request that this Court assume original jurisdiction and issue all appropriate extraordinary relief, including but not limited to: 1) a declaration that a voter seeking to vote by absentee ballot pursuant to 26 O.S. § 107 may submit a personally signed statement made under penalty of perjury, in compliance with the dictates of 12 O.S. § 426, in lieu of a notarized affidavit; 2) a writ of prohibition, barring the Secretary from sending voters absentee ballot forms and instructions that improperly suggest a notarized affidavit is required for their ballots to be counted; and/or 3) a writ of mandamus, directing the Secretary to send absentee voters ballot forms and materials that facilitate the making of a proper “under penalty of perjury” statement in lieu of an affidavit pursuant to 12 O.S. § 426.

In support of this Application, Petitioners show the Court:

1. Petitioner Angela Zea Patrick is a qualified elector, registered to vote in Oklahoma County, Oklahoma. She is also a nurse practitioner currently practicing in a metro area emergency department, and thus at higher risk of exposure to the novel coronavirus. In order to protect her own health and that of the public, Petitioner Patrick plans to vote by absentee

ballot in the upcoming 2020 elections. And because she does not wish to unnecessarily risk exposing herself or others by unnecessarily leaving her home and interacting with a notary public or other officer, she would like to submit her ballot with a signed statement made under penalty of perjury, pursuant to 12 O.S. § 426, in lieu of a notarized affidavit. Because the State Election Board's current absentee ballot instructions suggest that a sworn affidavit is required, however, she is concerned that her vote will not be counted if she does so.

2. Petitioner Peggy Jeanne Winton is a qualified elector, registered to vote in Tulsa County, Oklahoma. She is also 68 years of age, a cancer survivor, and has asthma, putting her in the highest risk category for COVID-19. In order to protect both her own health and the health of the public, she plans to vote by absentee ballot in the upcoming 2020 elections. And because she does not wish to unnecessarily risk exposing herself or others by unnecessarily leaving her home and interacting with a notary public or other officer, she would like to submit her ballot with a signed statement made under penalty of perjury, pursuant to 12 O.S. § 426, in lieu of a notarized affidavit. Because the State Election Board's current absentee ballot instructions suggest that a sworn affidavit is required, however, she is concerned that her vote will not be counted if she does so.

3. As registered voters and the objects of the action or inaction at issue, Petitioners have standing to assert their own rights, as well as to vindicate the public interest in this matter of great public importance. *Gentges v. Oklahoma State Election Bd.*, 2014 OK 8, ¶¶ 5-12, 319 P.3d 674, 676-77; *see also Hunsucker v. Fallin*, 2017 OK 100, ¶¶ 5-6, 408 P.3d 599, 602, as modified (Dec. 20, 2017).

4. Petitioner The League of Women Voters of Oklahoma is a non-partisan, community-based organization dedicated to encouraging informed and active participation in

government and the electoral process. As an organization that has, since its founding nearly a century ago, led efforts to remove barriers to exercising the right to vote, Petitioner has standing to assert its own rights and those of its members, as well as to vindicate the public interest in this matter of great public importance. *Gentges v. Oklahoma State Election Bd.*, 2014 OK 8, ¶¶ 5-12, 319 P.3d 674, 676–77; *see also Hunsucker v. Fallin*, 2017 OK 100, ¶¶ 5-6, 408 P.3d 599, 602, as modified (Dec. 20, 2017).

5. Respondent Paul Ziriak is the Secretary of the Oklahoma State Election Board, and is named in his official capacity. Respondent has the authority, and the obligation, to “prescribe all forms to be used in administering absentee ballot provisions of the law.” 26 O.S. § 14-127.

6. As explained in the accompanying brief, the absentee ballot forms and instructions issued by Respondent currently inform voters that, in order to be counted, absentee ballots *must* be accompanied by a *notarized affidavit*. Under Oklahoma law, however, this is incorrect: the affidavit requirement of 26 O.S. § 14-107 may *also* be satisfied by a personally signed statement made under penalty of perjury pursuant to 12 O.S. § 426. Continuing to incorrectly inform voters that they must have their affidavit forms notarized contravenes Oklahoma law, infringes upon the fundamental right to vote, and, in the time of a global pandemic, endangers public health.

7. This application is not filed within ten days of any scheduled trial or hearing date.

WHEREFORE, Petitioners pray that this Court assume original jurisdiction of this matter and issue a writ of prohibition or mandamus or other appropriate extraordinary relief.

Respectfully Submitted,

Melanie Wilson Rughani

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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was served by email and U.S. Mail, postage prepaid, this 23rd day of April, 2020, to:

Paul Ziriak, Secretary
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