

**IN THE UNITED STATES DISTRICT COURT
EASTERN MISSOURI
EASTERN DIVISION**

PAUL BERRY III,

Plaintiff,

Case Number: No.4:22-CV-465-JAR

v.

JOHN R. (JAY) ASHCROFT,
in his official capacity as
Missouri Secretary of State and
STATE OF MISSOURI,

Defendants.

PLAINTIFF BERRY MOTION TO DISMISS

Plaintiff, Paul Berry III, and upon knowledge with respect to information, hereby allege for this Motion to Dismiss requesting the dismissal of Count IV of the underlying complaint, without prejudice, state as follows:

1. Count IV of the underlying complaint seeks to declare and enjoin Defendants from utilizing any congressional map enacted by the 101st Missouri General Assembly without an emergency pursuant to MO Const art III § 29 to conduct the 2022 Missouri Primary congressional election.

2. At 6:00pm on May 13, 2022, the General Session of the 101st Missouri General

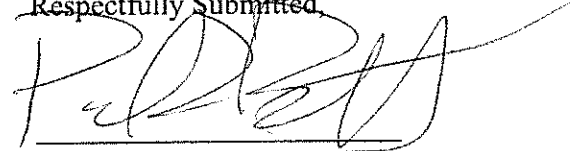
Assembly expired without enacting any congressional map without an emergency clause pursuant to MO Const art III § 29.

3. The threat of Defendants seeking to conduct the 2022 Missouri Primary congressional election by utilizing a congressional map enacted by the 101st Missouri General Assembly without an emergency clause pursuant to MO Const art III § 29 is substantially less with the expiration of the 2022 General Session of the 101st Missouri General Assembly occurring at 6:00pm on May 13, 2022, unless the Missouri Governor calls the 101st Missouri General Assembly into a Special Session, which has not occurred at the date and time of this Motion to Dismiss.

4. Defendants have not replied to the underlying complaint, specifically, Defendants have not replied to Count IV of the underlying complaint.

WHEREFORE, Plaintiff Berry requests the Court dismiss Count IV of the underlying Complaint against Defendants, without prejudice.

Respectfully Submitted,

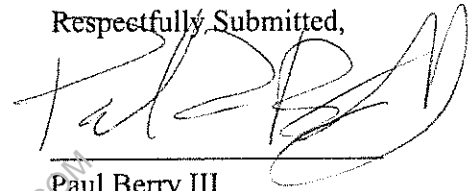


Paul Berry III
Plaintiff, Pro Se
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Maryland Heights, MO 63043
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CERTIFICATE OF SERVICE

A copy of the foregoing motion shall be served by United States Postal Service delivery to Defendant John ("Jay") Ashcroft and Defendant State of Missouri by email transmission to each Defendant's attorney of record at John.Sauer@ago.mo.gov and Jeff.Johnson@ago.mo.gov.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Paul Berry III", written over a horizontal line.

Paul Berry III
Plaintiff

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