

No. 25-1413

United States Court of Appeals
for the Fourth Circuit

TRUDY B. GRANT, SARAH KRAWCHECK, NASHONDA HUNTER, MAX
MILLIKEN, AND CALEB CLARK

Plaintiffs-Appellants,

and

JORDAN MAPP,

Plaintiff,

v.

HOWARD KNAPP, AS THE EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA
ELECTION COMMISSION, JOANNE DAY, AS A MEMBER OF THE SOUTH
CAROLINA ELECTION COMMISSION; CLIFFORD J. EDLER, AS A MEMBER OF
THE SOUTH CAROLINA ELECTION COMMISSION; LINDA MCCALL, AS A
MEMBER OF THE SOUTH CAROLINA ELECTION COMMISSION; SCOTT
MOSELEY, AS A MEMBER OF THE SOUTH CAROLINA ELECTION COMMISSION;
CHARLESTON COUNTY BOARD OF ELECTIONS AND VOTER REGISTRATION;
DENNIS SHEDD, CHAIRMAN OF THE SOUTH CAROLINA STATE ELECTION
COMMISSION,

Defendants-Appellees.

Appeal from the United States District Court
For the District of South Carolina
At Charleston

Supplemental Brief of Defendants-Appellees

Mary Elizabeth Crum
Tracey C. Green
Michael R. Burchstead
BURR & FORMAN LLP
PO Box 11390
Columbia, SC 29201
(803) 799-9800

Thomas W. Nicholson
**STATE ELECTION
COMMISSION**
1122 Lady Street,
Suite 500
Columbia, SC 29201
(803) 734-9063

John E. Robinson
**THE LAW OFFICES OF
JOHN E. ROBINSON**
36 Broad Street
Charleston, SC 29401
(843) 723-5152

*Counsel for the State Election Commission and
its Named Members*

*Counsel for Charleston
County Board of
Elections and Voter
Registration*

RETRIEVED FROM DEMOCRACYDOCKET.COM

Table of Authorities

	Page(s)
Cases	
<i>Disability Rts. S.C. v. McMaster</i> , 24 F.4th 893 (4th Cir. 2022)	5
<i>Dreher v. Experian Info. Sols., Inc.</i> , 856 F.3d 337 (4th Cir. 2017)	2
<i>Fernandez v. RentGrow, Inc.</i> , 116 F.4th 288 (4th Cir. 2024)	2
<i>Food & Drug Admin. v. All. for Hippocratic Med.</i> , 602 U.S. 381 (2024)	3, 4
<i>Hollingsworth v. Perry</i> , 570 U.S. 693 (2013)	4
<i>Holmes v. Elephant Ins. Co.</i> , 156 F.4th 413 (4th Cir. 2025)	1
<i>Lance v. Coffman</i> , 549 U.S. 437 (2007)	4
<i>Legend Night Club v. Miller</i> , 637 F.3d 291 (4th Cir. 2011)	5
<i>Lujan v. Defs. of Wildlife</i> , 504 U.S. 555 (1992)	1, 4
<i>McDonald v. Bd. of Election Comm’rs of Chicago</i> , 394 U.S. 802 (1969)	3
<i>N. Va. Hemp & Agric., LLC v. Virginia</i> , 125 F.4th 472 (4th Cir. 2025)	3
<i>O’Leary v. TrustedID, Inc.</i> , 60 F.4th 240 (4th Cir. 2023)	2

TransUnion v. Ramirez,
594 U.S. 413 (2021)..... 3

United States v. Shirah,
253 F.2d 798 (4th Cir. 1958)..... 5

RETRIEVED FROM DEMOCRACYDOCKET.COM

Issue Presented

Whether Plaintiffs have shown a non-speculative injury in fact, including whether there is evidence in the record (or evidence that may be provided to show) that Plaintiffs had a future concrete desire to vote absentee in a specific election or have otherwise suffered a cognizable injury in fact.

Argument

Plaintiffs have not shown a “non-speculative injury in fact” and there is no “evidence . . . that Plaintiffs had a future concrete desire to vote absentee in a specific election or have otherwise suffered a cognizable injury in fact.” To establish an Article III injury, a plaintiff must show “an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (cleaned up). A plaintiff “must be able to sufficiently answer the question: What’s it to you?” *Holmes v. Elephant Ins. Co.*, 156 F.4th 413, 420 (4th Cir. 2025) (cleaned up). This they have not done.

Plaintiffs allege only that they are harmed by not being allowed to “vote by absentee ballot in any election *where that is particularly convenient . . .*” (JA24 ¶ 6(b)) (emphasis added). They do not allege that they will vote absentee in a particular future election and do not—and cannot—point to any evidence that they will so vote or that they will be

unable to vote absent excuse-free absentee voting. *See* (JA23-27). Plaintiffs have not done enough to cross the Article III threshold.

First, Plaintiffs’ generalized desire to have a more “convenient” method of voting is not sufficiently “concrete” to satisfy Article III. *See O’Leary v. TrustedID, Inc.*, 60 F.4th 240, 242 (4th Cir. 2023) (“No concrete harm, no standing.” (citing *TransUnion v. Ramirez*, 594 U.S. 413, 442 (2021))); *Dreher v. Experian Info. Sols., Inc.*, 856 F.3d 337, 344 (4th Cir. 2017) (holding that a “concrete injury is de facto, meaning that it must actually exist and is real, and not abstract” (cleaned up)).

At most, Plaintiffs’ generalized desire to vote absentee for convenience is an abstract or intangible harm. Such an intangible harm can only be concrete if it has a “close relationship to a harm traditionally recognized as providing a basis for a lawsuit in American courts.” *Fernandez v. RentGrow, Inc.*, 116 F.4th 288, 295 (4th Cir. 2024) (cleaned up). This inquiry “asks whether plaintiffs have identified a close historical or common-law analogue for their asserted injury.” *Id.* Although the analogue “does not require an exact duplicate in American history and tradition,” the inexactness of this standard is not “an open-ended invitation for federal courts to loosen Article III based on

contemporary, evolving beliefs about what kinds of suits should be heard in federal courts.” *TransUnion*, 594 U.S. at 424–25.

Plaintiffs have not presented a common law analogue that would support their standing to sue for a more convenient method of voting. Nor could they, because voting by a particularly convenient method is not and has never been a legally recognized basis for a lawsuit. *See e.g.*, *McDonald v. Bd. of Election Comm’rs of Chicago*, 394 U.S. 802, 811 (1969) (holding that a state statute “deny[ing] [voters] a more convenient method of exercising the franchise” does not violate their constitutional rights). And Plaintiffs admit that they have voted either in person or absentee in every election in which they were otherwise qualified to vote and chose to vote. (JA47-77; JA83-94).

Second, Plaintiffs’ purported injuries are not particularized. To be particularized, “the injury must affect the plaintiff in a personal and individual way and not be a generalized grievance.” *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 381 (2024). Plaintiffs made no allegations and presented no evidence of a particularized need to vote absentee to distinguish them from any other similarly-situated South Carolina voter. *See N. Va. Hemp & Agric., LLC v. Virginia*, 125 F.4th 472,

489 (4th Cir. 2025) (“A plaintiff who challenges a statute must demonstrate a realistic danger of sustaining a direct injury as a result of the statute’s operation or enforcement.”). Plaintiffs have not alleged or established that they will vote absentee in a specific future election; in fact, the whole theory of their case would prevent them from doing so because they just seek to vote absentee for convenience. As such, they have at most alleged only a generalized grievance, and “such a ‘generalized grievance,’ no matter how sincere, is insufficient to confer standing.” *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013); *see also Lujan*, 504 U.S. at 573–74 (holding that a generalized grievance about government is insufficient to establish Article III standing); *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (per curiam) (“[The Court’s] refusal to serve as a forum for generalized grievances has a lengthy pedigree.”).

Third, Plaintiffs also have not identified a redressable injury. “[W]hen a plaintiff seeks prospective relief such as an injunction, the plaintiff must establish a sufficient likelihood of future injury.” *Hippocratic Med.*, 602 U.S. at 381 (citation omitted). Plaintiffs have neither alleged nor established a specific likelihood of future injury because there is no allegation that they will vote absentee in a particular

future election or that they will be unable to vote in a specific future election absent access to excuse-free absentee voting.

Plaintiffs also have not and cannot “show that [they] personally would benefit in a tangible way from the court’s intervention.” *Disability Rts. S.C. v. McMaster*, 24 F.4th 893, 903 (4th Cir. 2022) (citation omitted). This is so because the Court cannot rewrite the statute. *United States v. Shirah*, 253 F.2d 798, 800 (4th Cir. 1958) (“[C]ourts are not free to rewrite legislative enactments”); *Legend Night Club v. Miller*, 637 F.3d 291, 301 (4th Cir. 2011) (“[W]here a statute requires an amendment to pass constitutional muster, [the Court] cannot usurp the legislature’s role and rewrite it.” (citation omitted)). Thus, even if Plaintiffs prevail and South Carolina Code § 7-15-320(B)(2) is invalidated, no South Carolina voter, not just Plaintiffs, would be able to vote absentee without excuse. Consequently, even a favorable decision will not give the Plaintiffs the relief they request.

[Signature Page Follows]

Respectfully submitted,

s/Tracey C. Green

Mary Elizabeth Crum
Tracey C. Green
Michael R. Burchstead
BURR & FORMAN LLP
PO Box 11390
Columbia, SC 29211
(803) 799-9800
lcrum@burr.com
tgreen@burr.com
mburchstead@burr.com

Thomas W. Nicholson
STATE ELECTION COMMISSION
1122 Lady Street, Suite 500
Columbia, SC 29201
(803) 734-9063
tnicholson@elections.sc.gov

*Counsel for the State Election
Commission and its Named
Members*

January 23, 2026

s/John E. Robinson

THE LAW OFFICES OF JOHN
E. ROBINSON
36 Broad Street
Charleston, SC 29401
(843) 723-5152
john@charlestonlawoffices.com

*Counsel for Charleston County
Board of Voter Registration and
Elections*

January 23, 2026