

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS

____ DIVISION

at 12:25 FILED
12:25 o'clock P.m.
SEP 19 2024
TERRY HAWKINS
CIRCUIT CLERK

SHIRLEY P. BROWN and LAVONDA L. TAYLOR

PETITIONERS

V.

CASE NO. 18 CV-2024-894

FRANK BARTON, ANITA BELL, and JAMES

PULLIAUM in their official capacity as the

CRITTENDEN COUNTY BOARD OF ELECTION

COMMISSIONERS; and CRITTENDEN COUNTY

RESPONDENTS

**PETITION FOR WRIT OF MANDAMUS, DECLARATORY JUDGMENT,
AND INJUNCTIVE RELIEF**

The Plaintiffs, Shirley P. Brown and Lavonda L. Taylor, by and through their attorney, Jennifer A. Waymack Standerfer, submit this Petition against Respondents, Frank Barton, Anita Bell, and James Pulliaum in their official capacity as the Crittenden County Board of Election Commissioners; and Crittenden County, and state and allege:

PARTIES, JURISDICTION, AND VENUE

1. Shirley P. Brown, is a citizen of the United States, a resident of the State of Arkansas, a resident of West Memphis in Crittenden County Arkansas, at least eighteen (18) years of age, and is lawfully registered to vote in the November 5, 2024 General Election. Petitioner intends to early vote in the November 5, 2024 General Election. Petitioner brings this Petition as a qualified elector in Crittenden County Arkansas.

2. Lavonda L. Taylor, is a citizen of the United States, a resident of the State of Arkansas, a resident of West Memphis in Crittenden County Arkansas, at least eighteen (18) years of age, and is lawfully registered to vote in the November 5, 2024 General Election. Petitioner intends to early vote in the November 5, 2024 General Election. Petitioner brings this Petition as a qualified elector in Crittenden County Arkansas.

3. Frank Barton, Anita Bell, and James Pulliaum in their official capacity as the Crittenden County Board of Election Commissioners are the executive board governing certain administrative functions concerning elections for Crittenden County organized under Ark. Code Ann. § 7-4-101, et seq. with its main offices in the Crittenden County Courthouse at 100 Court Street, Marion, AR 72364.

4. Crittenden County is a body politic and corporate under Ark. Code Ann., § 14-14-501 with legislative and governmental powers including without limitation control over the county budget and the custody and care of county buildings and property, and with its main offices in the Crittenden County Courthouse at 100 Court Street, Marion, AR 72364.

5. Petitioner brings this action seeking declaratory judgment pursuant to the Arkansas Declaratory Judgment Act, Ark. Code Ann. § 16-111-101, et seq., § 7-1-101, § 7-4-107, § 7-4-109, § 7-5-101, and § 7-5-413.

6. Petitioner brings this action seeking injunctive relief pursuant to Ark. Code Ann. §§ 16-113-101, et seq. and Ark. R. Civ. Pro. Rule 65.

7. Petitioner brings this action in mandamus pursuant to Ark. Code Ann. §§ 16-115-101, et seq.

8. This court has subject matter jurisdiction and personal jurisdiction over the issues and persons before it.

9. Venue properly lies in Crittenden County because the cause of action arose in Crittenden County, and all parties to the action reside in Crittenden County or have their main offices in Crittenden County. Ark. Code Ann. §§ 16-60-101 and 16-60-103.

FACTS

10. Crittenden County held West Memphis early voting for the 2022 General Election at First Baptist Church West Memphis located at 200 N. Missouri Street, West Memphis AR.

11. Paula Wood, the Crittenden County Clerk has not designated the Crittenden County Courthouse as an early voting location or held early voting there, because the regular need for repairs is likely to interfere with handicapped access to voting.

12. First Baptist Church West Memphis continues to have sufficient facilities to accommodate early voting for the 2024 general election.

13. The West Memphis Eugene Woods Civic Center located at 212 West Polk Avenue, West Memphis, AR has been proposed as a location at which to hold West Memphis early voting in the future. However it was not used for early voting in the 2022 General Election and will not be available for early voting in the 2024 General Election due to construction.

14. Mr. James Pulliaum has proposed the Seventh Street Church of Christ located at 899 N. 7th Street, West Memphis, AR, 72301 as an early voting location to serve West Memphis. The Church has sufficient facilities to accommodate the voting machines, traffic, parking, and electioneering activities which candidates typically undertake no closer than 100 feet from the entrance of polling sites, and meets the requirements of law.

15. Mr. Jimmy Sloan, Elder and Minister of the Seventh Street Church of Christ has offered to host early voting at this location. **(Exhibit A, Letter from Mr. Jimmy Sloan).**

16. No objection has been raised to the facilities, accessibility, appropriateness, or legality of the Seventh Street Church of Christ as an early voting location.

17. Chair Frank Barton and Mrs. Anita Bell have expressed preference to hold early voting at the West Memphis Library located at 500 East Broadway, West Memphis, AR 72301. The property on which the West Memphis Library is built is insufficient to accommodate electioneering by candidates, and concerns regarding accessibility, traffic, and parking have been raised. The Library is not available for every day of early voting.

18. On Tuesday, August 23, 2024, the Crittenden County Board of Election Commissioners met, chaired by Mr. Barton. **(Exhibit B, Video of August 23, 2024 Meeting.)** At the 19:00 minute mark of Exhibit B early voting is discussed by the Board.

19. At the 23:30 minute mark of Exhibit B, Mr. Barton asks if there is a motion to move West Memphis early voting to the Library. Mrs. Bell indicates she will second the motion. Mr. Barton and Mrs. Bell vote for moving early voting to the Library. Mr. Pulliaum voted no.

(Exhibit C, Minutes for the August 23, 2024 Meeting.)

20. On Tuesday, September 3, 2024, the Crittenden County Board of Election Commissioners met, chaired by Mr. Barton. **(Exhibit D, Video of the September 3, 2024 Meeting.)** At the 3:00 minute mark early voting is discussed.

21. Mr. Barton inquired of Mr. Pulliaum whether he wanted to change his vote. Mr. Pulliaum declined, and attempted to discuss an alternate location. No motion was made, seconded, or voted on concerning any early voting location for West Memphis.

22. At the 19:20 minute mark of Exhibit D, Mr. Barton states, "No. There is no early voting place in West Memphis" for the 2024 General Election.

23. On or about Wednesday, September 4, 2024, Michael Ford, Chair of the Crittenden County Democratic Party, advised Mr. Barton orally and in writing that Mr. Pulliaum requested to change his vote to in favor of the public library, and asked Mr. Barton to call an emergency meeting to timely accommodate that. **(Exhibit E, Email from Ford to Burton).**

24. Mr. Barton did not call another meeting.

25. On Thursday, September 5, 2024, Mr. Ford submitted to the State Board of Election Commissioners a request for an election monitor to be appointed to Crittenden County for the 2024 general election and assistance to be provided to the Crittenden County Board of Election Commissioners in the performance of its administrative duties in the 2024 general election. **(Exhibit F, Ford Request for Assistance and a Monitor).**

26. On or about Thursday, September 5, 2024, County Clerk Paula Brown submitted a statement to the Crittenden County Board of Election Commissioners designating the County

Clerk's early voting site under Ark. Code Ann. § 7-5-418(a)(1)(A) to be the Seventh Street Church of Christ in West Memphis. (**Exhibit G, County Clerk Letter**).

CAUSE OF ACTION

27. Petitioners re-allege the preceding facts set forth in the Petition and incorporate by reference all of the foregoing paragraphs as if fully restated herein.

28. Ark. Code Ann. § 7-1-101 defines "polling site" as "a location selected by the county board of election commissioners where votes are cast. An early voting location meets this definition.

29. Ark. Code Ann. § 7-5-101(d)(1) provides that "polling sites for each election shall be the same as those established for the immediately preceding general election unless changed by order of the county board of election commissioners." Moving or removing early voting from First Baptist Church West Memphis is a "change" requiring an "order of the county board of election commissioners"

30. Ark. Code Ann. § 7-5-418(a)(1)(A) provides that "early voting shall be available to any qualified elector who applies to the county clerk's designated early voting location". The County Clerk designated the Seventh Street Church of Christ in West Memphis.

31. Ark. Code Ann. § 7-5-418(b)(1)(A) grants the discretion to the county board of election commissioners to "decide to hold early voting at additional polling sites outside the offices of the county clerk...if it so chooses."

32. Ark. Code Ann. § 7-5-418(b)(1)(A) requires that "the county board of election commissioners shall determine by unanimous vote the location of additional polling sites for early voting.

EXPEDITE PROCEEDINGS

33. Petitioners re-allege the preceding facts set forth in the Petition and incorporates by reference all of the foregoing paragraphs as if fully restated herein.

33. This Petition for Writ of Mandamus, Declaratory Judgment, and Injunctive Relief concerns an election matter, and Petitioners request that this Court set a day to hear and determine the cause no sooner than 2 and no longer than 7 days after the filing of this petition under Ark. R. Civ. Pro. Rule 78.

RESERVATION OF RIGHTS

34. Petitioner reserves the right to assert additional claims in this matter and to amend this Petition as may be appropriate.

RELIEF REQUESTED

35. WHEREFORE, the Petitioners request that this Court:

A. Declare that early voting shall be held at the First Baptist Church West Memphis, the Seventh Street Church of Christ in West Memphis, and any other West Memphis locations this Court determines the Crittenden County Board of Election Commissioners lawfully established;

B. Declare that the Crittenden County Board of Election Commissioners's determination that no early voting will be held in West Memphis is unlawful;

C. Order the Crittenden County Board of Election Commissioners to perform its duties, prepare the election materials, seek poll workers, and perform all other administrative obligations necessary to conduct early voting at the First Baptist Church West Memphis, the Seventh Street Church of Christ in West Memphis, and any other West Memphis locations this Court determines the Crittenden County Board of Election Commissioners lawfully established;

D. Order Crittenden County and the Crittenden County Board of Election Commissioners to direct its staff to assist in carrying out this Court's orders; and

F. Grant all other just and proper relief.

Respectfully submitted,

By: 

Jennifer A. Waymack Standerfer

Arkansas Bar No. 2004039

Waymack Standerfer Law, PLLC

2302 SW Nottingham Ave.

Bentonville, AR 72703

(501) 650-5889

jenniferwaymack@sbcglobal.net

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“EXHIBIT A”

Letter from Mr. Jimmy Sloan

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Seventh Street Church of Christ

Minister Jimmy Sloan, Jr.

899 North 7th Street ♦ West Memphis, Arkansas 72301 ♦ (870) 735-5773 ♦ jimmysloanjr69@gmail.com

To whom it may concern:

My name is Jimmy Sloan Jr and I serve in the capacity of Elder and Minister at the Church of Christ that meets at 899 north Seventh Street. I am writing this letter to give permission to the voting commission to use our facility for early voting. I have spoken with the rest of leadership and we are honored to assist our community in this effort. If there are any questions please contact me my cell (901) 335-3881 or you can email me at jimmysloanjr69@gmail.com.

Thanks for all that you do

Jimmy Sloan Jr
Elder/Minister

Exhibit A

“EXHIBIT B”

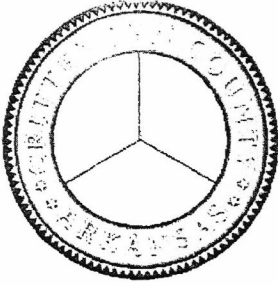
Video of August 23, 2024 Meeting

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“EXHIBIT C”

Minutes for the August 23, 2024 Meeting

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Crittenden County Election

Commission

MEETING MINUTES

August 23, 2024

Exhibit C

Present:

Frank Barton - Republican Chair

James Pulliaum - Democrat Commissioner

Anita Bell - Republican Commissioner

Mike Farrah - Election Coordinator

Jennifer Hamrick - Election Ops Manager

Guests:

Yvone Smith

Lincoln Barnett

Gene Hardin

Paige Looney

Jessica Burns

Alfreda Robinson

Bradly Moore

Joyce Grey

Karatha McWright

Linda Fritz

Wayne Croom

Glory Allen

Tammy Bell

Winthrop McWright

- 12:00 - The Crittenden County Election Commission meeting was called to order by Frank Barton and he led the Pledge of Allegiance.
- 12:02 - Commissioner Pulliaum made a motion to approve the July 11, 2024 meeting minutes.
 - 3 - 0 approved
- 12:03 - Ballot Draw was conducted by the Election Commission. Several candidates/candidate representatives and other guests drew for themselves and/or the party of their choice. (see video)
- Polling Location status was discussed. Commissioner Pulliaum brought up candidates concern of electioneering being restricted due to the geographic layout at the new West Memphis Public Library which is being considered for Early Voting in West Memphis, and the old West Memphis Public Library which is being considered to replace the Civic Center on Election Day which will be under construction during the general election. (see video)
- 12:25 - Commissioner Bell made a motion to conduct Early Voting in West Memphis at the new West Memphis Public Library
 - 2 - 1 (Commissioner Pulliaum dissented)
- 12:33 - Due to facility issues at the Marion Church of God, Commissioner Bell made a motion to move its voters to the Marion Arena.
 - 3 - 0 approved
- Another meeting will be held before 9/6/24 to solidify polling locations.

- 12:35 - The Election Commission announced that tally on election night will take place at The Post, located at 114 North Missouri Street in West Memphis.
- 12:35 – Meeting adjourned.

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“EXHIBIT D”

Video of the September 3, 2024 Meeting

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“EXHIBIT E”
Email from Ford to Burton

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Exhibit E

From: Michael Ford Michael@cbhhrealtor.com
Subject: Fw: early voting
Date: September 4, 2024 at 7:24 PM
To: Jennifer Waymack Standerfer jwaystand@gmail.com

Michael Ford, C2EX, GRI, e-PRO
Realtors Relief Foundation President
NAR Distinguished Service Award
Cell : 313-409-0342
Office: 707-722-4655
Email : michael@cbhhrealtor.com



COLDWELL BANKER

HERITAG HOMES

From: Michael Ford
Sent: Wednesday, September 4, 2024 7:13 PM
To: fbarton@bartonpowersports.com <fbarton@bartonpowersports.com>
Cc: propull2@aol.com <propull2@aol.com>; abell@crye-leike.com <abell@crye-leike.com>; mike@esystemsreach.com <mike@esystemsreach.com>; crittcoclerk@gmail.com <crittcoclerk@gmail.com>
Subject: early voting

Frank, thanks for taking the time to talk with me last night. I know you've been traveling today but time is of the essence on this matter. So, I thought it was best to send my request in writing. It is my understanding that any changes to the early voting locations must be adopted 60 days before the general election or else the voting locations for the last general election must remain in place. I believe that the 60-day deadline is tomorrow.

I understand from our conversation last night that the Election Commission voted on a motion to move West Memphis early voting to the library; that the motion requires a unanimous vote to pass; and that James Pulliaum voted against it. I have talked with James, and he explained that his objection was that he preferred early voting to be conducted at the Church of Christ on 7th Street, rather than the library. He did not anticipate that no other location would be considered. He does not wish to belabor that argument. James is prepared to vote in favor of the library as the West Memphis early voting location.

My request, as Chair of the Crittenden County Democratic Party, is that you call an emergency meeting no later than close of business tomorrow to allow a timely vote to accept the library as the West Memphis early voting location.

If this is not possible, it is my understanding that the law requires that the early voting location for the last general election remain the location for the election unless the commission unanimously agrees. Do you have legal guidance to the

contrary? James is prepared to make it a unanimous vote for the West Memphis Library.

Michael Ford, C2EX, GRI, e-PRO, ABR
DP-CC, Chair
Realtors Relief Foundation President
NAR Distinguished Service Award
Cell : 91-409-0342
Office: 90-732-4655
Email : michael@cbhhrealtor.com



COLDWELL BANKER

**HERITAGE
HOMES**

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“EXHIBIT F”

Ford Request for Assistance and a Monitor

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: Michael Ford Michael@cbhhrealtor.com
Subject: Fw: Election Commission Crittenden County Ar
Date: September 5, 2024 at 11:37 AM
To: Jennifer Waymack Standerfer jwaystand@gmail.com, Grant Tennille grant@arkdems

Exhibit F

From: Michael Ford
Sent: Thursday, September 5, 2024 11:34 AM
To: info.sbec@arkansas.gov <info.sbec@arkansas.gov>
Subject: Election Commission Crittenden County Ar

Thursday, September 5, 2024

Arkansas State Board of Election Commissioners:

I am the Chair of the Crittenden County Democratic Party, and as such have a great interest in ensuring that our county elections are conducted freely, fairly, and consistently with the rule of law. It has come to my attention that our County Board of Election Commissioners is in need of your assistance this election cycle.

Pursuant to § 7-4-101(e)(6)(A), I request that you immediately appoint at least one (1) certified election monitor to Crittenden County for the 2024 general election.

Pursuant to § 7-4-101 (e)(7), I request that you assist the Crittenden County Board of Election Commissioners in the performance of their administrative duties of the election process for the 2024 general election, beginning immediately and continuing through certification of the 2024 general election results.

The following concerns have been reported to me which evidence that your assistance is both necessary and appropriate:

1) Mrs. Anita Bell serves on the Crittenden County Board of Election Commissioners, and is the mother-in-law of a candidate who will appear on the ballot in this election. Her daughter-in-law is Tammi Bell who is a candidate for Arkansas House of Representatives, District 63. Mrs. Bell has not recused from any decisions concerning this election.

2) The Chair of the Crittenden County Board of Election Commissioners, Mr. Frank Barton, has determined that there will be no early voting location in West Memphis beginning with this election cycle. To my knowledge, there has been no unanimous vote to remove or replace the location that was used in the 2022 general election.

Mr. Barton and Mrs. Bell proposed moving the West Memphis early voting site to a new location and Mr. James Pulliaum voted against that site because, in his view, a better location had been proposed for consideration by the election commission. However, the motion was phrased in a way that foreclosed discussion of other potential locations, and the Chair did not entertain additional motions to consider other locations.

In light of the fact that the Chair will not entertain discussion of other potential voting locations, Mr. Pulliaum wishes to change his vote and vote in favor of Mr. Barton's and Mrs. Bell's proposal. Mr. Barton was timely notified of that. I, as the Chair of the Crittenden County Democratic Party requested that Mr. Barton call a timely emergency meeting, and I have attached a copy of that communication.

However, Mr. Barton has declined to call an emergency meeting to timely accommodate adoption of his own proposal, and has instead declared that there will be no early voting location in West Memphis.

3) Mr. James Pulliaum has raised general concerns about tact and decorum that indicate that communication between the membership of the board has deteriorated to point that it is interfering with the conduct of meetings and administration of official business. He has further advised that the board's practices for recruiting and hiring poll workers are insufficient as a matter of law. As such, Mr. James Pulliaum joins me in this request for an election monitor and administrative assistance.

Thank you for your prompt assistance in this matter.

Sincerely,

Michael Ford

Crittenden County Democratic Party Chair

Certified
Electio...nty.pdf

early voting

Michael Ford <Michael@cbhhrefactor.com>

Wed 9/4/2024 7:13 PM

To:fbarton@bartonpowersports.com <fbarton@bartonpowersports.com>

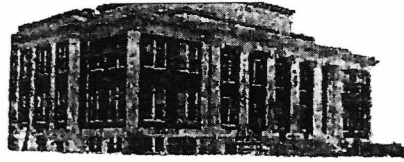
Cc:propull2@aol.com <propull2@aol.com>;abell@crye-leike.com <abell@crye-leike.com>;mike@esystemsreach.com
<mike@esystemsreach.com>;crittcoclerk@gmail.com <crittcoclerk@gmail.com>

Frank, thanks for taking the time to talk with me last night. I know you've been traveling today but time

“EXHIBIT G”
County Clerk Letter

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Exhibit G



CRITTENDEN COUNTY

100 COURT SQUARE

MARION, ARKANSAS 72364

OFFICE OF PAULA BROWN, COUNTY AND PROBATE CLERK

870-739-4434

Fax: 870-739-3072

Sept 5, 2024

Crittenden County Election Commission

Re: Early Voting Polling Site

Dear Commissioners,

According to the law, 7-5-418 (a)(1)(A), the County Clerk designates the early voting polling site and the commission can designate additional polling sites. It has come to my attention that the Commission did not designate a polling site in West Memphis for early voting. This is surprising since West Memphis is the largest municipality in the county. Therefore, I am designating the 7th Street Church of Christ as an early voting polling site. The address is 899 N. 7th Street West Memphis, AR. Please select the required number of poll workers to operate this site.

Sincerely,

Paula Brown

County Clerk

FILED
AT 12:29 O'CLOCK P M

SEP 05 2024

PAULA BROWN, CLERK
BY Patrick Johnson