

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS

CIVIL DIVISION

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

**AMENDED PETITION FOR WRIT OF MANDAMUS, DECLARATORY JUDGMENT,  
AND INJUNCTIVE RELIEF  
(AMENDED PORTIONS IN ITALICS)**

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; § 7-5-418; Title 7, Chapter 5; *Title 7, Chapter 4*; and *Ark. Con. Article 3, § 2*.

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)**.

27. *At hearing on this matter, the Crittenden County Board of Election Commissioners, through its Chair Frank Barton, maintained that they will not prepare for, staff, supply voting materials to, provide budget for, or otherwise assist with anything needed to conduct early voting at any location in West Memphis.*

28. *At hearing on this matter, Chair Frank Barton maintained that:*

*A) Barton knows he would have a unanimous vote to declare the West Memphis Library as an early voting location if he called another meeting;*

*B) Barton is aware of no law that would prevent him from calling a meeting to designate an additional early voting location; and*

*C) Barton will not call a meeting to designate any early voting location in West Memphis.*

29. *All Exhibits as described in Petitioner's Petition filed on Thursday, September 19, 2024, are incorporated by reference in this Amended Petition.*

### **CAUSE OF ACTION**

30. 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.

31. 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.

32. 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”

33. 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.

34. 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.”

35. 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.

36. Ark. Code Ann. § 7-4-107 sets forth the duties of the county board of election commissioners, and Chapters 4 and 5 of Title 7 set forth various duties of the county board of elect.

37. Ark. Code Ann. § 7-5-401 provides that “the county clerk shall be furnished a suitable room at the county courthouse or other location designed for the purpose of exercising all the powers and duties concerning the application for, the issuance of, and the voting of absentee and early voting ballots required by law of the county clerk.

38. Ark. Code Ann. § 7-5-211(c) provides that “the county board of election commissioners shall be responsible for providing ballots and election materials for absentee and early voting to the county clerk before the beginning day for absentee and early voting.

**EXPEDITE PROCEEDINGS**

39. 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.

40. 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**

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

### **RELIEF REQUESTED**

42. 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: /s/ Jennifer A. Waymack Standerfer

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