

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

KANSAS APPLESEED CENTER FOR
LAW AND JUSTICE, INC. et al.,

Plaintiffs/Appellees,

v.

SCOTT SCHWAB, in his official capacity
as the Kansas Secretary of State,

Defendant/Appellant

AND

JAMIE SHEW, in his official capacity as
the Douglas County Clerk, *Defendant.*

Appellate Case No. 130,839

District Court Case
No. DG-2025-CV-000206

**DEFENDANT SECRETARY SCHWAB'S EMERGENCY MOTION TO EXPEDITE
DECISION ON THE SECRETARY'S CONTEMPORANEOUSLY FILED
MOTION TO STAY OR SUSPEND TEMPORARY INJUNCTION PENDING APPEAL**

Under Supreme Court Rule 5.01 and K.S.A. 60-262(f), Defendant/Appellant Scott Schwab ("the Secretary") respectfully moves this Court to expedite its decision on the Secretary's contemporaneously filed Emergency Motion to Stay or Suspend the District Court's Order Temporarily Enjoining S.B. 4, an election statute imposing an Election Day ballot receipt deadline for advanced mail ballots. Expedited consideration is necessary due to the rapidly approaching August 4, 2026, primary election and that fact that on July 15, 2026, county election officers began transmitting advanced mail ballots with return instructions comporting with S.B. 4's Election Day deadline. In further support of this Motion to Expedite, the Secretary states as follows:

1. Effective January 1, 2026, S.B. 4 (2025), requires that all advance voting ballots must be received in the county election office or polling place no later than the close of the polls.

This law amends K.S.A. 25-1132(b) to eliminate the three-day grace period for county election offices to accept advance mail ballots.

2. On May 5, 2025, plaintiffs brought a lawsuit facially challenging this law under the Kansas Constitution.

3. More than seven months after commencing their lawsuit, on December 9, 2025, Plaintiffs moved to temporarily enjoin S.B. 4.

4. On January 27, 2026, the district court held a non-evidentiary hearing on the Plaintiffs' Motion for Temporary Injunction.

5. At the conclusion of the hearing, the district court ordered the Plaintiffs and the Secretary to submit proposed findings of fact and conclusions of law by March 2, 2026, noting time was of the essence.

6. More than four months after receiving the parties' proposed findings of fact and conclusions of law, on July 16, 2026, the district court granted Plaintiffs' Motion for Temporary Injunction.

7. The district court's order judicially altering a Kansas statute setting a ballot receipt deadline was entered 19 days before the August 4, 2026, primary election.

8. Under K.S.A. 25-1123(a) county election officers begin transmitting advance mail ballots 20 days before the election, or July 15, 2026. Those ballots contain instructions comporting with current Kansas law, stating ballots must be returned by 7 p.m. on Election Day.

9. On July 16, 2026, the Secretary appealed the district court's order granting the temporary injunction.

10. Contemporaneously with this Motion to Expedite, under K.S.A. 60-262(f)(1) and (2), the Secretary filed a filed Motion to Stay or Suspend the District Court's Order Temporarily

Enjoining S.B. 4. Therein, the Secretary moves this Court to suspend or stay the temporary injunction during the Secretary's appeal of the same so that the duly enacted statute remains in place during the pendency of the Secretary's appeal.

11. As discussed in more detail in the Secretary's Motion to Stay or Suspend, a stay or suspension is warranted because the Secretary is likely to succeed on the merits; absent a stay, the district court's order *facially* enjoining an election statute 19 days before the primary election will cause resounding confusion and irreparable harm to the State and the public; and a stay will not irreparably harm the Plaintiffs. See, *e.g.*, *New Georgia Project v. Raffensperger*, 976 F.3d 1278, 1280-84 (11th Cir. 2020); *Democratic Party v. Hobbs*, 976 F.3d 1081, 1085-87 (9th Cir. 2020); *Org. for Black Struggle v. Ashcroft*, 978 F.3d 603, 608-09 (8th Cir. 2020); *Common Cause Indiana v. Lawson*, 977 F.3d 663, 664-66 (7th Cir. 2020).

12. Due to the time-sensitive nature of the Secretary's Motion to Stay or Suspend, the Secretary respectfully requests this Court expedite a decision on that motion.

REQUESTED RELIEF

Due to the rapidly approaching August 4, 2026, primary election, and that fact that county election officers began transmitting advanced mail ballots on July 15, 2026 comporting with S.B. 4, the Secretary respectfully requests this Court expedite its consideration of the Secretary's contemporaneously filed Motion to Stay or Suspend the District Court's Order Temporarily Enjoining S.B. 4.

Respectfully Submitted,

By: /s/ Kris W. Kobach

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CERTIFICATE OF SERVICE

I certify that on July 20, 2026, I authorized the electronic filing of the foregoing with the Clerk of the Appellate Courts using the eFlex filing system which will send notifications of such filing to the e-mail addresses on the electronic mail notice list.

By: /s/ Dwight R. Carswell

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