

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANNIE BUSCH, ROSEANN BENTLEY, and JOHN SCHNEIDER,  
APPELLANTS**

**vs.**

**ROBIN CARNAHAN, SECRETARY OF STATE  
RESPONDENT**

**JAMES HARRIS,  
RESPONDENT**

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DOCKET NUMBER WD72257

DATE: SEPTEMBER 28, 2010

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Appeal from:

Cole County Circuit Court  
The Honorable Patricia S. Joyce, Judge

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Appellate Judges:

Special Division: Lisa White Hardwick, C.J., Joseph M. Ellis and Cynthia L. Martin, JJ.

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Attorneys:

George A. Bartlett, for Appellants

Jeremiah Morgan, for Respondent Carnahan

Todd P. Graves, for Respondent Harris

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANNIE BUSCH, ROSEANN BENTLY, and JOHN SCHNEIDER, APPELLANTS**

**v.**

**ROBIN CARNAHAN, SECRETARY OF STATE, RESPONDENT**

**and**

**JAMES HARRIS, RESPONDENT**

WD72257

Cole County, Missouri

Before Special Division Judges: Lisa White Hardwick, C.J., Joseph M. Ellis and Cynthia L. Martin, JJ.

James Harris submitted an initiative petition to the Missouri Secretary of State that, if enacted, would amend the Missouri Constitution by repealing the nonpartisan court plan and require that all judges be elected in partisan elections. The Secretary of State approved the petition as to form and prepared a summary statement for the initiative petition, and the State Auditor prepared a fiscal note and a fiscal note summary. Subsequently, Appellants filed a petition challenging the Secretary of State's approval of the initiative petition. Harris sought leave to intervene in the action, was granted permission to do so, and filed a motion for judgment on the pleadings. After a hearing, the circuit court issued its judgment concluding that the Secretary of State's summary statement was sufficient and fair and that none of the other issues raised by the Appellants were ripe for adjudication. The court concluded that those issues could not be adjudicated under § 116.200 until after signatures were collected and the Secretary of State certified the petition as sufficient or insufficient.

**DISMISSED AS MOOT; REMANDED TO THE TRIAL COURT TO VACATE JUDGMENT.**

**Special Division holds:**

- (1) Subsequent to submission of this matter, the Secretary of State certified of the petition as insufficient because not enough valid signatures were obtained to place the initiative on the ballot, and no timely suit was filed to challenge that determination. As conceded by the parties at oral argument, the Secretary of State's determination renders moot all points raised in this appeal, and the appeal must be dismissed and remanded to the trial court to vacate judgment.

**Opinion by: Joseph M. Ellis, Judge**

Date: September 28, 2010

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