Summary of SC98536, *Missouri State Conference of the National Association for the Advancement of Colored People, et al. v. State of Missouri, et al.*
Appeal from the Cole County circuit court, Judge Jon E. Beetem
Argued and submitted June 15, 2020; opinion issued June 22, 2020

Attorneys: The challengers were represented by Sophia Lin Lakin and Jonathan s. Topaz of the ACLU Foundation in New York, (212) 519-7836; Anthony E. Rothert, Jessie Steffan and Kayla Deloach of the Missouri Foundation in St. Louis, (314) 652-3114; Gillian R. Wilcox of the ACLU of Missouri Foundation in Kansas City, (816) 470-9933; and Denise D. Lieberman of the Missouri Voter Protection Coalition in St. Louis, (314) 780-1833.

The state and secretary of state were represented by Solicitor General D. John Sauer, Deputy Solicitor General Christopher R. Wray, Mark Blanton and Jason K. Lewis of the attorney general's office in Jefferson City, (573) 751-3321. Jean Peters-Baker was represented by Ashley N. Garrett, an attorney in Kansas City, (816) 881-3965. The Kansas City board of election commissioners was represented by David P. Raymond, an attorney in Kansas City. The Jackson County election board was represented by James D. Williams Jr., an attorney in Lee's Summit, and Bradley A. Constance, an attorney in Independence. The St. Louis board of election commissioners was represented by James C. Hetlage and Brian J. Malone of Lashly & Baer PC in St. Louis, (314) 621-2939.

Certain doctors and professors filed briefs as friends of the Court. A group of 11 epidemiologists was represented by Michael A. Wolff of the Saint Louis University School of Law Legal Clinics in St. Louis, (314) 691-4377. Professor Lorraine Minnite was represented by Sharon G. Jones of Jones Advocacy Group in Columbia, (573) 808-2156.

This summary is not part of the opinion of the Court. It has been prepared by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Certain organizations and voters appeal the circuit court's judgment dismissing their four-count petition challenging the constitutional validity of a state absentee voting statute in light of the COVID-19 pandemic. In a per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri affirms the judgment in part, reverses it in part and remands the case (sends it back). The circuit court's judgment dismissing count II is affirmed because the challengers did not appeal its dismissal. The judgment is reversed with respect to counts I, III and IV because the challengers sufficiently pleaded claims for declaratory and injunctive relief in those counts upon which relief could be granted; therefore, the circuit court erred in reaching the merits of such counts in ruling on a motion to dismiss.

Facts: The Missouri State Conference of the National Association for the Advancement of Colored People, the League of Women Voters of Missouri and three registered voters (collectively, the challengers) filed a four-count petition against the state, the secretary of state and local election officials (collectively, the state) seeking declaratory and injunctive relief with respect to absentee voting procedures during the COVID-19 pandemic. In their petition, the challengers asserted section 115.277, RSMo, permits voters who fear contracting COVID-19

through in-person voting to vote absentee without a notary seal and alleged construing the statute otherwise would violate their right to vote under the state constitution. The state did not file an answer to the petition; instead, the state filed a motion to dismiss the petition. The circuit court sustained the motion. In doing so, the circuit court held the challengers failed to state a claim upon which relief could be granted but also analyzed the merits of the challengers' claims. The challengers appeal.

AFFIRMED IN PART; REVERSED IN PART; REMANDED.

Court en banc holds: The circuit court erred in dismissing counts I, III, and IV of the challengers' petition. The proper question in a motion to dismiss is the adequacy of the petition; in other words, the claimant merely must allege facts sufficient to state a cognizable cause of action. The challengers sufficiently alleged facts to state claims for declaratory judgment and injunctive relief; therefore, the circuit court never should have analyzed the petition's merits in ruling on the motion to dismiss. Because the challengers abandoned count II on appeal, the circuit court's judgment is affirmed in that respect.