

IN THE SUPREME COURT OF ARKANSAS

BRYAN NORRIS, et al.,

Appellants,

v.

No. CV-26-116

INDEPENDENCE COUNTY, et al.,

Appellees.

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On Appeal from the Circuit Court of Independence County, Civil Division  
No. 32CV-26-55 (Hon. Tim Weaver)

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**State’s Response in Opposition to Motion to Expedite, for an Injunction,  
and Alternative Petition for a Writ of Certiorari**

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Norris and other Appellants (collectively, “Norris”) move to preliminarily enjoin a duly enacted jurisdiction-assignment law, so Norris can continue his challenge to different laws related to his desire for hand-marked, hand-counted paper ballots. *See* Appellants Br. 1 (“Br.”). And he wants that all done within the week—in the middle of early voting—to get an answer before the March 3 primary. *See* Br. 2–3, 10. The Court should deny Norris’s motion.<sup>1</sup>

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<sup>1</sup> As Norris’s motion to strike notes, a motion and its brief are limited to 10 total pages. *See* Mot. Strike (Feb. 25, 2026); Ark. S. Ct. R. 2-1(h). His motion and brief are about 13 pages. What’s good for the goose is good for the gander. *Cf. Logan v. State*, 2019 Ark. 373, at 3, 590 S.W.3d 730, 732 (not accepting an untimely response).

## I. EXPEDITED CONSIDERATION IS INAPPROPRIATE.

Norris moves for expedited consideration because “early voting is underway” for the March 3 primary<sup>2</sup>—less than a week after this response is due—and the law he challenged below (which is not at issue here) deals with elections. Br. 2–3. But those two facts are precisely why expedited consideration is inappropriate.

First, the election-related laws are not before this Court, so rushing a decision on Act 975 will not address Norris’s self-created emergency from waiting to challenge those laws. Instead, those issues must, in the first instance, be decided by a lower court—the Court of Appeals, under Act 975—and then appealed. It’s hard to imagine all those dominoes falling before March 3, even if this appeal were expedited.

Second, even if those laws were on appeal or could play a part in this analysis, the fact that voting is already happening would be a separate reason not to expedite. In *Stilley v. Young*, a case about absentee-voting laws, a party requested expedited consideration about a week *before* absentee voting began. 342 Ark. 378, 378 (2000). That timeline would have been “unfair” to litigants and would have given the Court

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<sup>2</sup> Norris incorrectly states the election is on March 6. *Compare* Br. 3, *with* Ark. Sec. of State, *2026 Election Dates* (Rev. June 2025), [https://www.sos.arkansas.gov/uploads/elections/2026\\_Election\\_Calendar\\_Rev.\\_6-2025\\_.pdf](https://www.sos.arkansas.gov/uploads/elections/2026_Election_Calendar_Rev._6-2025_.pdf).

insufficient “time ... for deliberation.” *Id.* at 379. So the Court denied the motion. *Id.* Norris’s timing is even worse; people are currently in-person voting. Br. 2; *see Ward v. Priest*, 350 Ark. 462, 463, 88 S.W.3d 416, 417 (2002) (collecting election-related cases where motions to expedite were denied due to timing).

Additionally, changes to election laws while an election is underway are detrimental to the democratic process. As federal courts note, it “is well established” that “courts should usually refrain from interfering with state election laws in the lead up to an election.” *Carson v. Simon*, 978 F.3d 1051, 1062 (8th Cir. 2020) (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam)). That’s because late-breaking changes can cause “voter confusion” that keeps voters “away from the polls” — an “increas[ing]” “risk” as an election nears. *Purcell*, 549 U.S. at 4–5.

Further, the underlying challenges (again, not at issue here) are related to “election-procedures,” which are “capable of repetition yet evading review,” so there is no risk Norris’s challenges will become moot after March 3. *Shipp v. Franklin*, 370 Ark. 262, 267, 258 S.W.3d 744, 748 (2007).

The Court should deny Norris’s motion for expedited consideration.

## **II. NORRIS IS NOT ENTITLED TO A PRELIMINARY INJUNCTION.**

Next, Norris moves to “enjoin the implementation of Act 975.” Br. 10. But who does Norris want the Court to enjoin? No party here implements Act 975. Only

the circuit court implemented it by dismissing the case, (RP 152-155), but the circuit court isn't a party, so it can't be enjoined. *See Watts v. State*, 2013 Ark. 318, at 4 (explaining the “judicial power” is limited to “adjudicat[ing]” the rights “between the parties”). Even ignoring the “who to enjoin?” problem, it appears only one case has even hinted that this Court can enjoin a party for the first time on appeal, and that authority is limited to “preserv[ing] the status quo.” *Nashville Lumber Co. v. Corbell*, 84 Ark. 596, 597, 106 S.W. 677, 677 (1907) (per curiam). Here, the status quo is that Act 975 is in effect. *Cf. Carson*, 978 F.3d at 1062 (explaining the Legislature “sets the status quo”). And if Norris means to seek a stay pending appeal, there is nothing to stay; the case was dismissed. *See Ark. R. App. P.—Civ. 8*.

Even setting aside those flaws, Norris cannot meet his burden to obtain a preliminary injunction. Under that test, Norris must show both (1) irreparable harm “in the absence of an injunction” and (2) a “likelihood of success on the merits.” *Muntaqim v. Lay*, 2019 Ark. 203, at 2, 575 S.W.3d 542, 545. He can show neither.

**A. Norris is not likely to succeed on the merits of his challenge to Act 975.**

Act 975 is constitutional, assigning the Court of Appeals “exclusive original jurisdiction over a facial constitutional challenge” to state law that is raised in an “initial or amended pleading.” Act 975, §§ 2, 5. That assignment is codified, Ark. Code Ann. § 16-13-201(a)(2), and memorialized in court rules, Ark. S. Ct. R. 1-2(a).

The Legislature has “power to establish jurisdiction of *all* courts ..., unless otherwise provided in this Constitution.” Ark. Const. amend. 80, § 10 (emphasis added); see *All, Random House Webster’s Unabridged Dictionary* 54 (2d ed. 2001) (“every”). Thus, the Legislature has “authority to establish jurisdiction” of *every* court, unless some “other constitutional provision[]” specifically limits that authority. *Daniels v. Dennis*, 365 Ark. 338, 340, 229 S.W.3d 880, 882 (2006).

No provision prohibits Act 975. Instead, it aligns with Amendment 80’s text and the constitutional structure, under which the Legislature has “absolute power,” absent a constitutional restriction. *Pulaski Cnty. Muni. Ct. v. Scott*, 272 Ark. 115, 117–18, 612 S.W.2d 297, 298 (1981) (citation omitted). And, as discussed below, it accords with constitutional history. The three provisions Norris raises do not restrict the Legislature’s authority to assign jurisdiction.<sup>3</sup>

*First*, Norris cites Amendment 80, § 6. See Br. 6–7. It is true that under § 6 circuit courts are usually “the trial courts of original jurisdiction,” but that is not so

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<sup>3</sup> In *Waterman v. State*, No. CAOJ-25-1 (Ark. App. Nov. 3, 2025), the petitioner raised other constitutional provisions. Norris didn’t raise those provisions, so the Court can’t reach them. *Brown v. Lee*, 2012 Ark. 417, at 7, 424 S.W.3d 817, 821. But if necessary, the State incorporates by reference its *Waterman* briefing.

for matters “otherwise assigned pursuant to this Constitution.” Ark. Const. amend. 80, § 6(A). When the Legislature exercises its § 10 authority to assign jurisdiction, it is acting “pursuant to” —that is “in a manner conformable” with or “according” to—the Constitution. *Pursuant*, *Random House Webster’s Unabridged Dictionary*, 1570 (2d ed. 2001). And that is just what it did when enacting Act 975.

Tracing the circuit court’s jurisdictional grants through constitutional history confirms that Amendment 80, § 6 does not establish exclusive original jurisdiction in the circuit courts. Start with the 1868 Constitution, which empowered the Legislature to “change[.]” the inferior courts’ “jurisdiction,” Ark. Const. of 1868, art. VII, § 5, and “to alter and regulate the jurisdiction ... in law and equity,” *id.*, art. V, § 44. As this Court explained, the “jurisdiction” of the inferior courts was “subject to legislative control.” *Maxey v. Mack*, 30 Ark. 472, 481 (1875).

The 1874 Constitution came “largely as a reaction to” the previous status quo. John J. Watkins, *The Right to Trial by Jury in Arkansas after Merger of Law & Equity*, 24 Univ. of Ark. at Little Rock L. Rev. 649, 662 (2002). Thus, the 1874 framers took a different approach to the courts’ jurisdiction. The 1874 Constitution’s original language gave circuit courts “exclusive jurisdiction” over “all civil and criminal cases,” which could “not be vested in some other court.” Ark. Const. of 1874, art. VII, § 11. That all changed with Amendment 80.

After the 2000 election, Amendment 80 restored much legislative authority over jurisdictional assignments. For one, it removed the circuit court’s “exclusive” original jurisdiction. *See* Ark. Const. amend. 80, §§ 6, 22(A). For another, it removed the prohibition on original jurisdiction being “vested in some other court” than the circuit courts. *See id.* §§ 6, 22(a). And—harking back to the 1868 Constitution—it empowered the General Assembly to “establish jurisdiction of all courts . . . , unless otherwise provided in this Constitution.” *Id.* § 10.

Norris’s interpretation of § 6 cannot be squared with Amendment 80’s text or Arkansas’s constitutional history, which shows that Amendment 80—rather than giving circuit courts exclusive, unalterable original jurisdiction—was designed to restore the Legislature’s authority to assign jurisdiction, unless specifically prohibited.

*Second*, Norris invokes Article 4, § 2’s prohibition on anyone in one branch of government from “exercis[ing] any power belonging to either of the others,” unless the Constitution “expressly” allows it. According to Norris, Act 975 violates this provision because it “deprives the courts of the power to decide a judicial question.” Br. 5. But that’s wrong. Act 975 allows the judiciary to adjudicate the facial constitutionality of state laws; it only assigns *where* that adjudication occurs. And assigning jurisdiction is a legislative power. *See Martin v. Humphrey*, 2018 Ark. 295, at 22, 558 S.W.3d 370, 383 (Womack, J., dissenting) (noting that § 10 “addresses legislative

powers”). Even if it were not, § 10 gives the Legislature “express[.]” authority to assign jurisdiction. Ark. Const. art. 4, § 2. Amending the Court’s rules in furtherance of that authority isn’t a constitutional issue either. *Compare* Br. 5, *with* Ark. Const. amend. 80, § 9 (authorizing legislative changes to the Court’s rules). As this Court explained, § 10 is “a positive grant of power” to the Legislature to establish jurisdiction that “controls” if there is “a[.] conflict” with earlier provisions. *Perry v. Payne*, 2022 Ark. 112, at 3. There is no separation-of-powers issue.

*Third*, Norris—with three short, conclusory sentences and a Shakespeare quote—asserts that confirming the Legislature’s § 10 power would make this Court’s superintendent authority under Amendment 80, § 4 superfluous. *See* Br. 7. Undersigned counsel is unaware of any case in which the Court has exercised its superintending authority in a way that would have conflicted with Act 975. *See Steinbuch v. Pulaski Cnty. Cir. Ct.*, 2024 Ark. 101, 689 S.W.3d 56 (disciplinary order); *Parker v. Crow*, 2010 Ark. 371, 368 S.W.3d 902 (writ of certiorari when a circuit court purported to dissolve judicial districts). Instead, it is Norris’s reading of Amendment 80 that would render § 10 meaningless, which this Court should not allow. *See Harris v. Crawford Cnty. Bd. of Elec. Comm’rs*, 2022 Ark. 160, at 4–5, 651 S.W.3d 703, 706 (surplusage canon).

### **B. Norris has not demonstrated irreparable harm absent an injunction.**

Norris fails to argue that Act 975 will irreparably harm him absent an injunction. *See* Br. 3–7. So his claim for a preliminary injunction is dead on arrival. *See Ark. Dep’t of Educ. v. Jackson*, 2023 Ark. 105, at 9, 669 S.W.3d 1, at 8 (no preliminary relief if plaintiffs fail to “meet their burden of proving irreparable harm”). Most charitably, Norris argues he is irreparably harmed by laws he wanted to challenge below (and that are not on appeal) that Act 975 prevented him from challenging in the circuit court. *See* Br. 3–4. But he didn’t argue that he is likely to succeed on the merits of that challenge, or even request an injunction related to that law. *See id.* Thus, even if the Court enjoined enforcement of Act 975, the other laws Norris claims are unconstitutional will still be enforced. So an injunction will not prevent the alleged harm. Instead, the State will “suffer[] a form of irreparable injury” if enforcement of Act 975—a “statute[] enacted by [elected] representatives”—“is enjoined.” *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (citation omitted).

### **III. A WRIT OF CERTIORARI IS INAPPROPRIATE.**

Finally, Norris “[a]lternatively” moves for the appeal to be considered a petition for a writ of certiorari. Br. 8 (bold omitted). But writs of certiorari are not alternatives to expedited consideration or injunctive relief first requested on appeal. Instead, Norris must establish two elements; he establishes neither.

First, the writ must be the only adequate remedy; if there was, is, or will be an appealable order, the petition will be denied. *TikTok Inc. v. State*, 2025 Ark. 97, at 2. The circuit court’s dismissal for lack of jurisdiction is appealable. *See Malone v. Trans-States Lines, Inc.*, 325 Ark. 383, 387, 926 S.W.2d 659, 662 (1996) (reversing an erroneous dismissal based on subject-matter jurisdiction). Indeed, the case before this Court is an appeal. (RP 157-158). And Norris does not argue that it is inadequate.

Second, even if Norris cleared that first hurdle, the circuit court did not (1) make “a plain, manifest, clear, and gross abuse of discretion” or (2) act in excess of or without jurisdiction or conduct facially erroneous proceedings. *Monsanto Co. v. Kilgore*, 2023 Ark. 94, at 4, 668 S.W.3d 475, 478. For this element, Norris reasserts his Act 975 arguments. *See* Br. 9. Those arguments fail. *See supra* pp. 4–8. But even if they had merit, Norris “merely complains that [the circuit] court erroneously interpreted” Act 975, and a mere interpretive complaint—even if it goes to the court’s “jurisdiction of the matter”—is insufficient. *Ark. Game & Fish Comm’n v. Herndon*, 365 Ark. 180, 184, 226 S.W.3d 776, 780 (2006).

The Court should therefore deny the petition for a writ of certiorari because Norris has failed to establish either required element.

### **Conclusion**

For these reasons, the Court should deny Norris’s motion.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with Administrative Order No. 19 and that it conforms to the page limit in Rule 2-1(h).

/s/ Noah P. Watson  
Noah P. Watson

**CERTIFICATE OF SERVICE**

I certify that on February 25, 2026, I electronically filed the foregoing document to the eFlex filing system, which notifies the eFlex participants.

/s/ Noah P. Watson  
Noah P. Watson