

IN THE SUPREME COURT OF MISSOURI

No. SC 101541

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
MISSOURI STATE CONFERENCE, et. al.

Appellants,

v.

MIKE KEHOE in his official capacity as Governor of the State of Missouri, et. al.

Respondent.

APPELLANT'S REPLY

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REPLY IN SUPPORT OF APPELLANT'S BRIEF

Pursuant to this Court Order, dated April 8, 2026, Appellants hereby reply in support of their initial Brief:

I. The Circuit Court Properly Agreed that Appellants Have Standing, and Respondents Fail to Address Applicable Supreme Court Case Law

The Circuit Court appears to agree that Appellants have standing and the courts have the authority to resolve the issue at least as to whether the Constitutional requirements have been met. Judgment p 4. Respondents rely heavily on appellate court cases. See, e.g., Respondents Brief, pp. 7. Respondents do not address standing authorities relied upon by Appellants. Petitioners' Pretrial Brief, pp. 4-6.

Appellants are taxpayers or the representatives of taxpayers who are directly affected by the Governor's Proclamation convening the General Assembly. The Missouri Supreme Court "has repeatedly held that taxpayers do, in fact, have a legally protectable interest in the proper use and expenditure of tax dollars." *LeBeau v. Comm'rs of Franklin Cnty.*, 422 S.W.3d 284 (Mo. 2014). The taxpayer's interest does not arise from any direct, personal loss. "[I]t is the public interests which are involved in preventing the unlawful expenditure of money raised by taxation" that give rise to taxpayer standing." *Id.*, citing *E. Mo. Laborers Dist. Council v. St. Louis Cnty.*, 781 S.W.2d 43, 46 (Mo. banc 1989).

A party must have standing to bring an action in a Missouri court. Standing, at its most basic level, simply means that the party or parties seeking relief must have some stake in the litigation. *Ste. Genevieve Sch. Dist. v. Bd. of Aldermen of Ste. Genevieve*, 66 S.W.3d 6, 10 (Mo. banc 2002).

Finding taxpayers had standing, the Missouri Supreme Court in *LeBeau* (emphasis added) further held:

The taxpayer’s interest in the litigation ultimately derives from the **need to ensure that the government officials conform to the law.** [*Citing E. Mo. Laborers*, at 46; see also *Manzara v State*, 343 S.W.3d 656, 659 (Mo. 2011).] “Missouri Courts allow taxpayer standing so that **ordinary citizens have the ability to make their government officials conform to the dictates of the law when spending public money.**” *Ste. Genevieve Sch. Dist.* 66 S.W.3d 6, 11 (Mo. banc 2002).] Taxpayer standing gives taxpayers the opportunity to challenge certain actions of government officials that the taxpayer alleges are unauthorized by law, and it permits challenges in areas where no one individual otherwise would be able to allege a violation of the law. As this Court previously has declared, “[P]ublic policy demands a system of checks and balances whereby taxpayers can hold public officials accountable for their acts.... Taxpayers must have some mechanism of enforcing the law.” *E. Mo. Laborers Dist. Council*, 781 2d at 47.

Giving taxpayers a mechanism for **enforcing the procedural provisions of Missouri’s constitution** is of particular importance because these provisions are designed to assist the citizens of Missouri by providing **legislative accountability and transparency.** These constitutional provisions also serve to “**defeat surprise within the legislative process.** [They prohibit] a clever legislator from taking advantage of his or her unsuspecting colleagues by surreptitiously inserting unrelated amendments into the body of a pending bill.” *Hammerschmidt v. Boone Cnty*, 877 S.W.2d 98, 101 (Mo. banc 1994).

In *LeBeau*, the Missouri Supreme Court recognized resident taxpayer standing to challenge legislation adopted in violation of single subject provision of the Missouri Constitution. “Permitting taxpayers to challenge bills enacted in violation of the procedural constitutional provisions where the **taxpayer’s interests are affected assists in the enforcement of these procedural constitutional mandates.**” *Id.* at 289-290 (emphasis added).

Respondent arguments regarding standing are misguided and incomplete. They incorrectly focus only on expenditures by the General Assembly. While Appellants also

contend that Appellants also have standing due to Respondents' direct expenditure of funds generated through taxation, *Manzara*, 343 S.W.3d at 659, Appellants' standing also arises from the need to ensure that actions of government official conform to the law when spending public money, the public policy interest of checks and balances, taxpayers' mechanism for enforcing procedural provisions of Missouri's constitution, and seeking legislative accountability and transparency. *LeBeau, supra*.

II. Respondents' Arguments Regarding "Mootness" Similarly Fail

Respondents' arguments about "mootness" arising out of a "intervening event" are unfounded. Respondents' Brief, p. 8-9. There is indeed an exception to mootness regarding general public interest and importance.¹ However, again, Respondents do not address the holding of *LeBeau*, nor do they address any the ongoing interests of Appellants, such as seeking "legislative accountability and transparency," that "public policy demands a system of checks and balances whereby taxpayers can hold public officials accountable for their acts," and enforcing the procedural requirements of the constitution. If such interests were suddenly moot merely because wrongful expenditures had already been made, then

¹ The courts have long recognized "an exception to the mootness doctrine ... exists '[w]here the issue raised is one of general public interest and importance, recurring in nature and will otherwise evade appellate review unless the court exercises its discretionary jurisdiction.'" *State ex rel. AG Processing, Inc.*, 276 S.W.3d 303, 306 (Mo.App.W.D.2008) (quoting *Mo. Cable Television Ass'n v. Mo. Pub. Serv. Comm'n*, 917 S.W.2d 650, 652 (Mo.App.W.D.1996)). See also *Jackson County Bd. of Election Comm'rs ex rel. Brown v. City of Lee's Summit*, 277 S.W.3d 740, 745 (Mo.App.W.D.2008); *Gramex Corp. v. Von Romer*, 603 S.W.2d 521, 523 (1980); *Massey v. Normandy Sch. Collaborative*, 492 S.W.3d 189 (Mo. App. 2016).

potentially every wrongful expenditure by the government would be beyond justice or judicial review. Such is not the law. Moreover, Respondents' discussion of a "public policy mootness exception" is inapplicable on its face because this matter is not moot in the first place. *LeBeau, supra*. There is no need for an "exception" for mootness here. It is also notable that the court of appeals cases relied upon by Respondent pre-date *LeBeau*. Respondents' Brief, p. 10.

III. Respondents Untimely Assertion of a "Hadley/Purcell Doctrine" Was Not Preserved and is Not Applicable

Apparently for the first time on this appeal, Respondents assert what they refer to as the "Hadley/Purcell Doctrine." "An issue that was never presented to nor decided by the trial court is not preserved for appellate review." *State v. Davis*, 348 S.W.3d 768 (Mo. 2011). Respondents did not assert such an argument in their Trial Brief, filed December 14, 2026. Accordingly, Respondents' belated arguments should be disregarded.

The circumstances in *Hadley v. Junior College Dist. of Metropolitan Kansas City*, 460 S.W.2d 1 (Mo. 1970) are also distinguishable. In *Hadley*, the Court's ruling was issued a month before a scheduled election. *Id.* at 2 (ruling dated March 5, 1970, while referencing pending elections scheduled for April 7, 1970.) Here, Respondents assert that the upcoming primary is scheduled in Missouri for August 4, 2026. Respondents' Brief, p. 44. Respondents make no showing whatsoever of any "disruption" or difficulties in "adjusting the requirements of the court's decree." *Id.* at 2. Contrary to their arguments about "equitable principles" about "delayed relief," after the trial and judgment, Respondents adamantly objected to Appellants request for an expedited schedule. State's Opposition,

March 28, 2026.

Respondents' arguments regarding this "doctrine" should be met with skepticism, particularly where recent U.S. Supreme Court rulings and responses by various States indicate that any "Hadley/Purcell Doctrine" is no more. On April 29, 2026, in *Louisiana v. Callais*, 608 U. S. ____ (2026), the U.S. Supreme Court struck that State's 2024 election map. The Court did not set any limitations on the speed with which its ruling could be applied to the quickly approaching elections. The Louisiana Governor subsequently suspended congressional house primaries when voting was starting, ordering a do-over at a future date. Other states including Alabama, Tennessee, and South Carolina have similarly sought to redistrict despite approaching primaries.² The U.S. Supreme Court did not apply "Purcell Doctrine" or any other equitable limitation to its ruling. Under the circumstances, this Court is well within its Constitutional authority to put a stop to the unconstitutional conduct and legislation of the Missouri Governor and General Assembly, including but not limited to requiring the Missouri primaries and general election to proceed under the former voting maps.

IV. Respondents Invite This Court to Cede Its Powers to the Governor, Which Should be Rejected

Respondents' lengthy arguments regarding the supposed "exclusive province of the

²Appellants request that this Court take judicial notice of publicly known and widely-reported events: (1) "Louisiana's governor defends decision to suspend congressional primaries." <https://www.msn.com/en-us/news/politics/louisianas-governor-defends-decision-to-suspend-congressional-primaries/ar-AA22Rx8s> ; (2) "These are the Southern red states moving to redistrict after Supreme Court ruling," May 10, 2026, <https://www.yahoo.com/news/articles/southern-red-states-moving-redistrict-160000570.html>

governor” to interpret the language of the Missouri Constitution threaten the very foundation of this Court’s exclusive jurisdiction authority to review and decide questions of constitutional interpretation, to rule the validity of a statute or provisions of the constitution and threaten long-standing principles of separation of powers. See authorities cited in Appellants’ Brief, pp. 29-30.

Respondents argue that definitions of terms in the Missouri Constitution should be left to the “political actors, or here, branches.” Respondents’ Brief, p. 17. Respondents’ suggestion is shockingly contrary to the very essence of this Court’s jurisdiction and authority. Respondents do not cite any Missouri Supreme Court case to support its bald assertion: “Constitutional silence, as in the Missouri Constitution, safeguards gubernatorial discretion.” *Id.*, p. 18. Respondents’ rationale appears to be that since there is not a definitions section under Article IV, then the Governor must have exclusive authority to interpret the bounds his own powers. In essence, Respondents are asking this Court to reject its own longstanding exclusive authority to interpret the constitution and review actions by the other two branches under the constitution, and to cede that authority to the executive branch of this State’s government. When laid bare, Respondents are suggesting that the executive branch is beyond this Court’s jurisdiction. Respondents’ arguments are without constitutional basis and must be rejected in light of longstanding principles of judicial review, authority and separation of powers.

CONCLUSION

For the reasons discussed above, in Appellants' brief, the Governor's Proclamation exceeds the authority entrusted to his office under Art. IV Sec. 9 because it does not properly declare an extraordinary occasion.

Respectfully Submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that a copy of Appellants' brief was filed by the Court's electronic filing system on May 21, 2026, for service electronically on all counsel of record. This brief complies with the limitations contained in Supreme Court Rule 84.06. Relying on the word count of the Microsoft Word program, the undersigned certifies that the total number of words contained in this brief is 1,670, excluding the cover, table of contents, signature block, appendix, and this certificate. The font is Times New Roman 13-point type. The electronic copies of this brief were scanned for viruses and found to be virus free. Pursuant to Rule 55.03, the undersigned further certifies the original of this brief has been signed by the undersigned.

*/s/ Nimrod T. Chapel, Jr.*_____

Nimrod T. Chapel, Jr.