

ELECTIONS

Four voters with disabilities have filed a federal lawsuit to ensure they can vote following Supreme Court ruling



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MADISON – Four Wisconsin voters with significant physical disabilities are asking a federal judge to ensure their absentee ballots may be returned to election clerks by caretakers in upcoming elections after a state Supreme Court ruling banned such practices.

The voters, who are each unable to move their arms or legs or have severely limited mobility, argue the court ruling violates the U.S. Constitution, the Americans with Disabilities Act, the Voting Rights Act and the Civil Rights Act.

"Without ballot-return assistance, many voters with disabilities, including Plaintiffs, would be unable to access Wisconsin's absentee-voting program, rendering this statutorily provided method of voting unavailable to qualified voters with disabilities, even while it would remain available to other Wisconsin voters," the lawsuit alleges.

The lawsuit is brought by Law Forward, a voting rights-focused legal firm, on behalf of Timothy Carey of Appleton who has Duchenne muscular dystrophy; Martha Chambers of Milwaukee, who is paralyzed from the neck down; Scott Lubber of Mequon, who has muscular dystrophy; and Mike Reece of Sun Prairie, who has cerebral palsy.

In a 4-3 ruling that came just four weeks before the Aug. 9 primary election, the state Supreme Court's conservative majority ruled state law does not permit unmanned absentee ballot drop boxes and that voters could not give absentee ballots to someone else to submit to a clerk's office. It did not bar others from dropping absentee ballots in the mailbox for voters.

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Chambers, a 60-year-old Milwaukee woman who has been paralyzed from the neck down for 27 years after a horse-riding accident, said the ruling and the continued focus on voting practices have her concerned her right to vote in future elections could be at risk.

"We should be able to vote just like anybody else," Chambers said about her reaction to the lawsuit from a conservative legal firm that prompted the ruling. "Why make it harder, put more barriers in my life? I have enough just to get up every day. Why are you making one more thing harder for me? So, now I read the ruling and in the ruling it says that they didn't decide on the absentee voter deal at this time. So, to me, I'm more confused."

The ruling was a win for Republicans who now oppose the longstanding use of ballot drop boxes after their use proliferated during the coronavirus pandemic and was heavily criticized by former President Donald Trump, who alleged with no evidence that absentee voting was rife with fraud and led to his reelection loss in 2020.

Hundreds of absentee drop boxes were installed across the state in 2020 to help voters cast their ballots without interacting with other people. More than 40% of all votes cast that year were through absentee ballots, including through drop boxes and mail.

Republicans began scrutinizing their use as Trump launched a baseless campaign against absentee voting ahead of his election loss that continues today.

The plaintiffs are asking a judge to allow them to have caretakers return ballots to clerks' offices, citing a statement Wisconsin Elections Commission administrator Meagan Wolfe made earlier this month, when she interpreted the state Supreme Court's ruling to mean voters must return their own ballots.

"With just over three months to go, many Wisconsin voters with disabilities face the imminent threat of discrimination or disenfranchisement, both of which are prohibited under federal law," the lawsuit alleges, referring to statewide elections in November.

Scott Thompson, an attorney representing the voters, said the state Supreme Court ruling and Wolfe's statement put in jeopardy protections for voters with disabilities.

"Voters with disabilities have bedrock, federal, civil-rights protections that guard their right to vote. These protections include reasonable accommodations at their polling places, and assistance from a third party so that they can cast a ballot," Thompson said.

"Yet, as we head into election season, the State Supreme Court and the State Elections Commission obscured what these rights mean to voters and municipal clerks," Thompson said. "So, we filed suit to resolve uncertainty."

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