

## The Right to Vote While Under Guardianship

*Prye v. Blunt (Ortrie D. Smith, W.D. Mo. 2:04-cv-4248)*

A prospective voter filed a federal complaint one month before a general election challenging a state’s disqualification of voters under guardianship. The district judge denied the plaintiff immediate relief because of state-court opportunities to reserve voting rights in limited guardianship. For similar reasons, the judge granted defendants summary judgment against a substituted plaintiff who was erroneously denied the vote because of a misunderstanding about the plaintiff’s reserved voting rights. The court of appeals affirmed the summary judgment because the substituted plaintiff had already received a remedy and an advocacy organization coplaintiff did not have standing to represent the interests of mere constituents.

*Subject:* Nullifying registrations. *Topics:* Registration challenges; matters for state courts.

Steven Prye, a St. Louis resident, filed a federal complaint on October 8, 2004, in the Western District of Missouri challenging a state law preventing the plaintiff from voting in the November 2 general election because he had “been adjudged incapacitated and appointed a guardian of his person and estate because of mental incapacity.”<sup>1</sup> With his complaint, the plaintiff filed a motion for a preliminary injunction.<sup>2</sup>

Judge Ortrie D. Smith set the case for hearing on October 19.<sup>3</sup> The parties agreed to postpone the hearing until October 21.<sup>4</sup> Some briefing on the plaintiff’s treatment for mental illness was filed under seal.<sup>5</sup>

On October 26, Judge Smith denied the plaintiff a preliminary injunction.<sup>6</sup>

Missouri is denying Prye the right to register to vote because the State of Illinois adjudged him mentally incapacitated and appointed him a guardian. In Illinois, such a judgment does not automatically deprive a person of his or her right to vote, but in Missouri it does. . . .

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... Prye had and still has the opportunity to pursue limitations on the Illinois guardianship, and he also has the opportunity to argue that the

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1. Complaint, *Prye v. Blunt*, No. 2:04-cv-4248 (W.D. Mo. Oct. 8, 2004), D.E. 1; *see* Mo. Const. art. 8, § 2 (disqualification from voting); Mo. Rev. Stat. § 115.133.2 (disqualification from voter registration and voting); *see also* Pam Belluck, *States Face Touchy Decisions on Who Is Mentally Fit to Vote*, N.Y. Times, June 19, 2007, at A1; Kelly Wiese, *Suit Challenges Law Denying Vote to Some Mentally Ill*, St. Louis Post-Dispatch, Oct. 9, 2004, at 6.

2. Preliminary-Injunction-Motion, *Prye*, No. 2:04-cv-4248 (W.D. Mo. Oct. 8, 2004), D.E. 3.

3. Order, *id.* (Oct. 12, 2004), D.E. 5.

4. Order, *id.* (Oct. 18, 2004), D.E. 18; *see* Minutes, *id.* (Oct. 21, 2004), D.E. 33.

5. Order, *id.* (Oct. 25, 2004), D.E. 36; *see* Protective Order, *id.* (Sept. 2, 2005), D.E. 95; Motion, *id.* (Oct. 24, 2004), D.E. 30.

6. Preliminary-Injunction-Denial, *id.* (Oct. 26, 2004), D.E. 37; *see* Order, *id.* (Nov. 1, 2004), D.E. 43.

petition for guardianship pending in Missouri should be a limited guardianship, entitling him to vote.<sup>7</sup>

On July 7, 2006, Judge Smith granted the defendants summary judgment against a substituted plaintiff and an advocacy organization.<sup>8</sup> “Missouri affords an individualized determination of a person’s abilities and limitations and denies the right to vote to those who lack the mental capacity to exercise that right and therefore are not qualified to do so.”<sup>9</sup>

The substituted plaintiff was prevented from voting in the November 2004 election because of an erroneous interpretation of a guardianship order that expressly reserved his right to vote, and the error was prospectively remedied after the election.<sup>10</sup> Because the plaintiff did not include a claim for damages, the court of appeals determined on October 18, 2007, that he no longer had an injury to remedy, and he did not have standing to sue on behalf of others for prospective relief.<sup>11</sup>

The court of appeals also determined that the advocacy group did not have standing to sue on behalf of mere constituents.<sup>12</sup> Moreover, determination of whether Missouri denied voting privileges to someone who was under guardianship but who retained the capacity to vote would require the prospective voter’s participation in the case.<sup>13</sup>

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7. Preliminary-Injunction Denial, *supra* note 6, at 5, 8.

8. Summary-Judgment Opinion, *Prye*, No. 2:04-cv-4248 (W.D. Mo. July 7, 2006), D.E. 151, 2006 WL 1888639; *see* Amended Complaint, *id.* (Dec. 6, 2004), D.E. 54.

9. Summary-Judgment Opinion, *supra* note 8, at 10.

10. *Mo. Protection & Advocacy Servs., Inc. v. Carnahan*, 499 F.3d 803, 811 (8th Cir. 2007).

11. *Id.* at 811–12; *see Federal Appeals Court Rules Against Mentally Ill Man in Voting Rights Case*, *St. Louis Post-Dispatch*, Aug. 26, 2007, at C2.

12. *Mo. Protection & Advocacy Servs., Inc.*, 499 F.3d at 810.

13. *Id.*