

AMICUS ANNOUNCEMENT

THE SUPREME COURT IS SOLICITING AMICUS BRIEFS OR MEMORANDA IN THE FOLLOWING MATTER PENDING BEFORE THE COURT:

Case No. 2023-0097, Daniel Richard v. Governor, State of New Hampshire & a.

The plaintiff, Daniel Richard, filed a complaint in Rockingham County Superior Court against several defendants. The plaintiff's complaint contains six counts: (1) the plaintiff was "deprived of his right to vote in the Town of Auburn" when he was not permitted to vote by hand instead of using an electronic voting machine; (2) the statutes contained in RSA 656:40 *et seq* are unconstitutional because they allow the use of electronic voting machines; (3) RSA 656:40-:42 (2016 & Supp. 2023) are unconstitutional because they permit the use of electronic vote counting devices which lack testing or certification procedures; (4) RSA 21:6 (2020), RSA 21:6-a (2020), and RSA 654:1 (2016) are unconstitutional because they changed the definition of who can vote in New Hampshire; (5) RSA chapter 657 is unconstitutional because it improperly expands access to absentee voting; and (6) the 1976 amendments to the State Constitution resulting from the outcome of a statewide ballot question related to elections are invalid because the amendment process was contrary to the constitution.

The defendants moved to dismiss the complaint on the grounds that the plaintiff lacked standing and that the complaint failed to state a claim upon which relief could be granted. The plaintiff objected to the motion. In its order granting the motion, the Trial Court (Ruoff, J.) stated that the defendants "persuasively argue[d] that Plaintiff lacks standing to bring some or all of his above-described claims," but the court determined that "it need not address" the standing arguments because the court concluded that the complaint failed to state a claim. The plaintiff unsuccessfully moved for reconsideration, and this appeal followed. On appeal, the parties have not briefed the issue of standing. See Hughes v. N.H. Div. of Aeronautics, 152 N.H. 30, 35 (2005) (although on appeal no party disputes the plaintiffs' standing, a party's standing to bring suit is a question of subject matter jurisdiction, which may be addressed at any time); Libertarian Party of N.H. v. Sec'y of State, 158 N.H. 194, 195 (2008).

The Supreme Court is soliciting amicus briefs or memoranda from interested persons on the jurisdictional issue of whether the plaintiff has standing as to each of the specific counts set forth in his complaint. Posted with this announcement are: (1) the plaintiff's notice of appeal, which includes the trial court's decisions; (2) the plaintiff's complaint (3) the defendants' motion to dismiss the plaintiff's complaint; and (4) the plaintiff's objection to the motion to dismiss.

Amicus briefs or memoranda are due on or before April 25, 2024, shall be electronically filed in accordance with the Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing, and shall not exceed 6,000 words. Amicus briefs or memoranda are otherwise expected to comply with the requirements of Supreme Court Rule 16. To assist the court, amicus briefs and memoranda should focus on the ramifications of the court's resolution of the standing issue, and not on the merits of the plaintiff's claims or on the interests of the persons filing such briefs or memoranda.

The Supplemental Rules for Electronic Filing, along with the generally applicable Rules of the Supreme Court, are available on the New Hampshire Judicial Branch website: <https://www.courts.nh.gov/resources/court-rules>. The address for the Supreme Court e-filing system is <https://ctefile.nhecourt.us/login>. The e-filing system is also accessible through the Electronic Services page of the New Hampshire Judicial Branch website: <https://www.courts.nh.gov/resources/electronic-services/supreme-court/attorneys-self-represented-parties-and-other-non>. Prior to registering with the e-filing system, attorneys should review the Quick Guide – Registering as an Attorney E-Filer; nonlawyers should review the Quick Guide – Registering as a Nonlawyer E-Filer. The Quick Guides are available on the Electronic Services page.

**Timothy A. Gudas,
Clerk**