

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Argued November 18, 2025

Decided December 5, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 24-2979

ROCHELLE M. MALY,
Plaintiff-Appellant,

v.

ILLINOIS STATE BOARD OF
ELECTIONS, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 22-cv-04778

Andrea R. Wood,
Judge.

ORDER

Rochelle Maly sued several Illinois officials alleging that the use of the electronic voting systems in Illinois violates her civil rights. *See* 42 U.S.C. § 1983. The district court dismissed Maly's complaint for lack of subject matter jurisdiction because she lacked standing to challenge the voting system. Because Maly has not alleged an injury in fact, we affirm.

Rochelle Maly is an active participant in politics. She has voted in every presidential election for which she has been eligible, volunteered in the presidential

election in 2016, and served as an Iowa Caucus Captain and volunteer recount observer in DuPage County. According to her complaint, in 2021 Maly had publicly expressed interest in serving as a precinct committeeperson, poll watcher, or election judge, and even running for office. But when she learned about the vulnerabilities of the electronic voting system, she became convinced that “it is pointless when it is all rigged” and disavowed pursuing those roles in the political process.

In September 2022, Maly filed this § 1983 suit against the Illinois State Board of Elections and its members. She attached expert testimony that, she says, describes the vulnerabilities present in all electronic voting systems (including Illinois’s) and explains the systems’ susceptibility to vote manipulation. She alleged that this potential for election interference violates her First and Fourteenth Amendment rights and causes her emotional harm, and she seeks injunctive and declarative relief to replace the electronic voting systems in Illinois with “hand-counted secure paper ballot[s].”

The district court dismissed her complaint for lack of standing. The court explained that Maly’s injuries are too speculative (because her complaint does not allege facts about the risk of election interference specific to Illinois) and insufficiently particularized (because any risk of election interference would affect all Illinois voters).

On appeal, Maly argues that her injuries are sufficiently concrete and particularized to establish standing. Foremost among the requirements for standing is an injury in fact, which consists of an “‘invasion of a legally protected interest’ that is ‘concrete and particularized,’ *i.e.*, which ‘affect[s] the plaintiff in a personal and individual way.’” *Gill v. Whitford*, 585 U.S. 48, 65 (2018) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 & n.1 (1992)).

To the extent Maly thinks that the vulnerabilities in Illinois’s electronic voting system violate her rights as a member of the Illinois electorate, she does not allege an injury in fact because such a violation is not particular to her. A particularized injury “must be personal, individual, and distinct, not general and undifferentiated.” *Bost v. Ill. State Bd. of Elections*, 114 F.4th 634, 640 (7th Cir. 2024), *cert. granted*, 145 S. Ct. 2751 (2025) (No. 24-568). While voters have standing to sue when they “allege facts showing disadvantage to themselves *as individuals*,” they lack standing when their claim of injury is statewide. *Gill*, 585 U.S. at 65–67 (emphasis added) (quoting *Baker v. Carr*, 369 U.S. 186, 206 (1962)); *Bost*, 114 F.4th at 641. Here, Maly’s claim—that the electronic voting system in Illinois allows for vote manipulation—affects all Illinois voters and is therefore “a generalized grievance that cannot support standing ‘no matter how sincere.’” *Bost*, 114 F.4th at 640 (quoting *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013)).

Maly also argues that her injury is concrete because she dropped her aspirations to hold an election-related position upon learning of the vulnerabilities in the electronic voting systems. This, too, is insufficient to allege an injury in fact. An injury must be “certainly impending” rather than merely possible. *Clapper v. Amnesty Int’l*, 568 U.S. 398, 409 (2013) (quotation omitted). The risk of the Illinois voting machines getting hacked is hypothetical, not certainly impending. See *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 383 (2024) (speculation about “unfettered choices made by independent actors” too attenuated for causation requirement of standing). And Maly cannot “manufacture standing merely by inflicting harm on [herself] based on [her] fears of hypothetical future harm that is not certainly impending.” *Clapper*, 568 U.S. at 416.

Maly further contends that she satisfied the standing requirements by alleging an emotional injury. In her complaint, she traced her emotional harm to her realization that the voting process is “rigged.” We have recognized emotional harm as a concrete injury only in limited contexts. Compare *Gracia v. SigmaTron Int’l, Inc.*, 986 F.3d 1058, 1064 (7th Cir. 2021) (“humiliation, embarrassment, and like injuries” constitute cognizable and compensable harms in Title VII retaliation context), with *Baysal v. Midvale Indem. Co.*, 78 F.4th 976, 977 (7th Cir. 2023) (“worry and anxiety” are not concrete injuries in credit disclosure context). Regardless, Maly may not skirt the injury-in-fact requirement by framing her general disagreement with Illinois’s vote-counting process as an emotional harm. See *Food & Drug Admin.*, 602 U.S. at 381 (“Article III standing screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular government action.”).

In her reply brief and at oral argument, Maly recasts her injury as harming her First Amendment right to associate with her political party. But arguments made for the first time in a reply brief or at oral argument are waived. *White v. United States*, 8 F.4th 547, 552 (7th Cir. 2021) (reply brief); *Quality Oil, Inc. v. Kelley Partners, Inc.*, 657 F.3d 609, 614–15 (7th Cir. 2011) (oral argument). Regardless, Maly’s connections to the political process do not transform her speculative and generalized harm into a concrete, imminent injury.

Finally, Maly argues that she has standing because of the heightened public interest in assuring the integrity of the electoral process. Because the state has a compelling interest in a properly functioning electoral process, she asserts, threats to the process ought to relax the standard to establish standing. But “[t]he assumption that if [Maly] ha[s] no standing to sue, no one would have standing, is not a reason to find

standing.” *Clapper*, 568 U.S. at 420 (first alteration in original) (quoting *Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.*, 454 U.S. 464, 489 (1982)). The importance of an issue does not relieve a plaintiff from the requirements of establishing standing.

AFFIRMED