

THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

CANDIDATE KEISHA WAITES and)
CANDIDATE LINDA PRITCHETT)
Plaintiffs,)

v.)

BRAD RAFFENSBERGER IN HIS)
OFFICIAL CAPACITY AS GEORGIA)
GEORGIA SECRETARY OF STATE)
FULTON COUNTY BOARD OF)
REGISTRATIONS AND ELECTIONS,)
RICHARD BARRON, and JOHN DOE)
Defendants.

CIVIL FILE ACTION NO.

2020CV337073

AMENDED PETITION FOR EMERGENCY INJUNCTIVE RELIEF TO DELAY
CERTIFICATION OF ELECTION RESULTS BY FULTON COUNTY; AND REQUEST
FOR AN EMERGENCY HEARING AND OTHER RELIEF

COMES NOW, Plaintiff Keisha Waites and Linda Pritchett and file this Petition for
Emergency Injunctive Relief to Delay the Certification of Election Results by Fulton
County, and Request an Emergency Hearing and Other Relief, pursuant to O.C.G.A § 9-11-
65.

1.

Plaintiff Keisha Waites, hereinafter referred to as "Plaintiff Waites", is a resident of Fulton
County, Georgia; and was a Qualified Candidate for the Democratic nomination for the
Thirteenth U.S. Congressional District in the June 09, 2020 Primary Election.

2.

Plaintiff Linda Pritchett, hereinafter referred to as “Plaintiff Pritchett” is a resident of Fulton County, Georgia; and was a Qualified Candidate for the Democratic nomination for State Senate District 39.

3.

Ben Raffensberger, in this official capacity as Secretary of State for the State of Georgia, located at 214 State Capitol, Atlanta, GA 30334 hereinafter referred to as “Defendant SOS”.

4.

The Fulton County Board of Registration and Elections board, hereinafter referred to as “Defendant Fulton County”, located at 141 Pryor Street, Atlanta, GA 30303, pursuant to 1989 Ga. Laws p. 4577, is a proper party to the supervision and conduct of elections in Fulton County. This board includes the following members: Mary Carole Cooney, Chairperson, Mark Wingate, Vice Chair, Vernetta Nuriddin, member, Kathleen Ruth, member and Aaron Johnson, member who all reside in Fulton County.

5.

Richard Barron, in his official capacity as the Elections Chief for Fulton County located at 141 Pryor St, Atlanta, GA 30303, hereinafter referred to as “Defendant Barron”, who is also a resident of Fulton County.

6.

John Doe is any unidentified individual at this time who may be a party to or liable for actions that took place surrounding the circumstances and incidents before and during the June 9th Primary Election.

JURISDICTION AND VENUE

7.

Fulton County Superior Court has subject matter jurisdiction over the events that took place in Fulton County per the Constitution of the State of Georgia, Article VI, Section IV; and O.C.G.A. § 15-6-8.

8.

This court has proper jurisdiction and venue over the Defendants.

BACKGROUND

9.

The State of Georgia had previously scheduled a Primary Election for the nominee for President of the United States on March 24, which was subsequently moved to May 19, 2020.

10.

The statewide election for Qualified Candidates for various offices including the Congressional seat for U.S. House of Representatives, District 13, and State Senate District 39 were originally scheduled for May 19, 2020 and subsequently moved to June 9, 2020.

11.

Due to the Coronavirus (COVID19) Pandemic, and various orders from the respective municipalities with both previously mentioned districts, to “Shelter in Place”, the Presidential Primary Election and the State Primary Election was rescheduled to June 9, 2020 by the Georgia Secretary of State.

12.

Due to the concern for individual voters and in the interest of “social distancing”, Defendant SOS sent out over 7 million applications to “Vote by Mail” to active voters registered to vote in the State of Georgia.

13.

It was reasonably anticipated that there would be a great increase in the numbers of applications received and processed in Fulton County for which they were under an obligation to fulfill or make special accommodations in the alternative.

14.

The State of Georgia held a Presidential Primary and statewide Primary Election on June 09, 2020. During elections, pursuant to O.C.G.A. § 21-2-403 requires the polls to be open on Election Day from 7am to 7pm.

15.

Prior to the aforementioned election date, requests for Absentee Ballots went unanswered, and many individual voters did not receive their ballots in time to cast their votes and return said ballot to the Defendant Fulton County.

16.

Defendant Fulton County had a duty to the individual voters to fulfill the requests for absentee ballots, and provide timely and accurate updates to said voters of the status of their submitted applications as stated by their offices.

17.

Defendant Fulton County failed to fulfill those requests and to keep individual voters updated of their absentee application status available to them via their Georgia Secretary of State's Website (www.mvp.sos.ga.gov) as promised to voters.

18.

This negligence on behalf of Defendant Fulton County deprived a great number of individual voters in Fulton County the ability to vote for the candidate of their choosing.

19.

There have also been instances where a great many individuals received their requested absentee ballots from Defendant Fulton County after the election deadline, therefore depriving these individual voters the ability to fairly cast their vote for the candidates of their choice.

20.

On election day, June 9th, many of the precincts in Fulton County experienced extreme irregularities such as: precincts not opening by 7am, in violation of O.C.G.A. § 21-2-403, machines malfunctioning, and precincts running out of paper to cast the ballots in violation

of O.C.G.A. § 21-2-375, which requires machines to be operational and that precincts are adequately supplied with materials needed to execute an election.

21.

Due to the irregularities, Defendant County extended voting times to 9pm to all of the precincts in Fulton County.

22.

Some of the precincts, in particular St. Stephens Church, claimed they did not know about the change in voting times and proceeded to shut down their location which resulted in many individual voters were being deprived the right to vote.

23.

Many of the precincts were making decisions independent of Defendant Fulton County which harmed voters because it was not consistent and did not allow for all the individual voters in Fulton County to have an equal opportunity to vote.

24.

Many of the precincts in Fulton County that ran out of paper were not equipped nor prepared although they knew that there would be a great increase in voter turnout.

25.

An extraordinary number of Fulton County residents cast provisional ballots; and a great many provisional ballots have not been counted and will not be counted by the certification deadline.

CITATION OF LAW AND RATIONALE

26.

“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.”
Reynolds v. Sims, 377 U.S. 533, 555 (1964).

27.

“No right is more precious in a free country than that of having a voice in the election of those who make the laws ... Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).

28.

The right to vote includes “the right of qualified voters within a state to cast their ballots and have them counted.” *United States v. Classic*, 313 U.S. 299, 315 (1941).

29.

Georgia's counties are required by O.C.G.A. § 21-2-493 to certify the results of each statewide Primary Election in their county.

30.

The deadline for Fulton County, Georgia, to certify the results of the June 09, 2020 Primary Election for races in Fulton County is Monday, June 15, 2020.

31.

Neither Defendant Fulton County nor Defendant Barron will be able to honestly and accurately count all the votes in the June 09, 2020 Primary Election due to an incomplete number of votes and extraordinary and extreme irregularities that took place during the election process but particularly on election day. These irregularities are in violation of O.C.G.A. § 21-2-375 and O.C.G.A. § 21-2-386.

32.

A great many of these absentee ballots have not been counted and will not be counted by the certification deadline. Many individual voters are in possession of absentee ballots received after the election date and have no effective way to cast their vote.

33.

Any total amount of votes declared will be an inaccurate representation of the will of the people because the people who were trying, prepared and willing to vote were deprived of that opportunity because of the negligence of Defendant Fulton County.

34.

On several occasions, both Plaintiff Waites, and Plaintiff Pritchett spoke with the assigned representative of the Secretary of State's Office, and alerted them about the difficulties that voters were experiencing in their attempts to get their absentee ballots or the status of the applications they submitted.

35.

On June 11, 2020 it was reported that Defendant Fulton County was still in the process of counting absentee ballots. A credentialed poll watcher named Erik Fleming went to the location where the ballots were being counted asking to observe the count in progress and was told that they had finished counting all ballots.

36.

Defendant SOS knowing the complexity of these elections and numerous issues that Defendant Fulton County has had during this election cycle and in the past, did nothing to protect the voters by interceding on their behalf to ensure that the June 9th election was properly executed in violation of O.C.G.A. § 21-2-375.

37.

Defendant Fulton County is preparing to certify the incomplete and inaccurate results of the June 09, 2020 Primary Election administered in Fulton County in violation of O.C.G.A. § 21-2-497.

38.

With regards to all the problems that Defendant Fulton County has experienced, throughout the election process including not having been able to fulfill the requests of the voters who requested absentee ballots, not being able to keep voter machines operational, and not being able to have the appropriate and adequate amount of paper stocked for the ballots cast which resorted to giving out provisional ballots and paper ballots which are not intended to be used for those purposes, Defendant Fulton County cannot wholeheartedly or with any certainty present any accurate number of votes to be certified for this election and outlined in O.C.G.A § 21-2-375.

CONCLUSION

This instant action has been filed to preserve the integrity of the election process. This election is incomplete as many individual voters have received their requested absentee ballots well after Election Day. These individuals, and the individuals who could not vote because of non-functioning machines and no paper, should be allowed to cast their ballots. If the process to make this election whole outweighs the process of administering a new election that would not pose these threats and harms to voter's rights, a new election should be scheduled and held at the next available date possible.

If the incomplete and inaccurate results of this election are allowed to be certified, this will cause irreparable harm to voters and the candidates invested in their respective races, and the integrity of free and fair elections in a democratic society.

WHEREFORE, Plaintiff demands judgment in Plaintiff's favor and against the Defendants as follows:

- a) that the Court grant an Order to enjoin Defendants from certifying the results of the June 09, 2020 Primary Election until such time that all individual voters who requested absentee ballots receive them, persons who attempted to vote but were not able to can vote, and ballots can be fully accounted for and accurately tabulated; and
- b) that the Court grant an Order to enjoin Defendant SOS from receiving a sealed and permanent record of the June 9, 2020 Primary Election results until an independent review is made of all the ballots and their supporting verifying documentation; and
- c) that the Court grant an emergency hearing be set; and
- d) that pursuant to O.C.G.A. § 21-3-423(c), and Administrative Judge be assigned to hear this matter; and
- e) that the Court grant an Order for the independent review of ballots cast thus far; and
- f) that the Court grant an Order Defendant Fulton County to accept any absentee ballots that are outstanding to be submitted by the voter and counted towards the total count of ballots cast; and
- g) that the Court grant an Order requiring Defendants to administer a new election; or

- h) in the alternative an additional week of voting to cure the disenfranchisement of the individual voters who were unable to cast their ballots on election day; and
- i) that the Court grant an Order providing for additional time to be made available so that all eligible and willing voters can vote without the duress and in the midst of extreme irregularities; and
- j) any and all other relief deemed necessary and appropriate by the Court.

Submitted on this 12th day of June, 2020.

P.O. Box 162972
Atlanta, GA 30321
404-538-3479

/s/ Keisha Waites
Keisha Waites, Pro Se'

P.O. Box 91658
East Point, GA 30364
678-561-2263

/s/ Linda Pritchett
Linda Pritchett, Pro Se'