

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LUCILLE ANDERSON, et al.,

Plaintiffs,

VS.

BRAD RAFFENSPERGER, in his
official capacity as the Georgia
Secretary of State and the Chair of
the Georgia State Election Board, et
al.,

Defendants.

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Civil Action No.
1:20-CV-03263-MLB

MACON-BIBB COUNTY DEFENDANTS' RESPONSE IN OPPOSITION
TO PLAINTIFFS' SUPPLEMENTAL MEMORANDUM

COME NOW Defendants Mike Kaplan, Henry Ficklin, Cassandra Powell, Rinda Wilson, and Herbert Spangler, in their capacities as members of the Macon-Bibb County Board of Elections, and make and file their Response in Opposition to Plaintiffs' Supplemental Memorandum in Support of Motion for Preliminary Injunction as follows:

The trouble with Plaintiffs' position, as it relates to Macon-Bibb County, is Plaintiffs' attempt to sidestep the fact that there is no evidence of any injury – past, present, or future – to voters in Macon-Bibb County by lumping Macon-Bibb in with the other counties in this suit. There are no declarations from Macon-Bibb County voters and there is no study involving

Macon-Bibb County voting.

In fact, there is no evidence before the Court that there has ever been a problem in Macon-Bibb County, with the sole exception of the Declaration of Jeanetta Watson, who is the Macon-Bibb County Elections Supervisor. (Doc. 128). As Ms. Watson states, there were a few isolated issues on June 9, 2020 and one issue on August 1, 2020, which delayed voting in the morning only. These issues were due to machines not being booted up and synced by 7:00 a.m. and have been remedied through poll worker training.

There is absolutely no evidence of long lines in Macon-Bibb County in any other election. Not in 2012. Not in 2013. Not in 2014. Not in 2016. Not in 2018. “What’s past is prologue,” indeed.

Macon-Bibb County’s reward for its successful efforts to hold elections without long wait times is to be subject to the scrutiny of an expert who is concerned that Macon-Bibb County may experience peak wait times in two precincts of up to 32 minutes and 30 minutes, respectively. This is Plaintiffs’ basis for federal judicial intervention.

The Macon-Bibb County Defendants ask this Court to review the evidence related to Macon-Bibb County and determine whether Plaintiffs have established anything at all to support their allegation that there is a history of long lines in Macon-Bibb County from 2012 through the present. If there is no history of long lines then there is no basis for jurisdiction and

no basis for injunctive relief.

The purported evidence related to Macon-Bibb County is as follows:

- News articles at Exhibits 21, 22, and 23 to the Declaration of Amanda J. Beane (Doc. 93);
- Declaration of Jeanetta Watson (Doc. 128);
- Expert Declaration of Dr. Yang (Doc. 149); and
- Reference to Dr. Yang's Declaration on pages 16 and 17 of Plaintiffs' Supplemental Memorandum (Doc. 148).

Macon-Bibb County's allocation of resources has been successful in every election dating back to at least 2012. Plaintiff's speculation that wait times might be 30 minutes (30 in one precinct and 32 in another) at peak time does not justify substituting Dr. Yang's judgment for that of Ms. Watson nor does it justify judicial intervention.

Based on the evidence available in the record, there is no injury, no reasonable expectation of injury and no basis for judicial intervention.

This 6th day of October, 2020.

/s/ William H. Noland
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Defendants

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been prepared in accordance with the font type and margin requirements set forth in Local Rule 5.1, using Century Schoolbook font and 13-point type.

This 6th day of October, 2020.

/s/ William H. Noland
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CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

This 6th day of October, 2020.

/s/ William H. Noland
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