

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

LUCILLE ANDERSON, SARA ALAMI,)
GIANELLA CONTRERAS CHAVEZ,)
DSCC, and DEMOCRATIC PARTY OF)
GEORGIA, INC.,)

Case No.: 1:20-cv-03263-MLB

Plaintiffs,)

v.)

BRAD RAFFENSPERGER, in his official)
capacity as the Georgia Secretary of State)
and the Chair of the Georgia State Election)
Board; REBECCA N. SULLIVAN, DAVID)
J. WORLEY, MATTHEW MASHBURN,)
and ANH LE, in their official capacities as)
Members of the Georgia State Election)
Board; MARY CAROLE COONEY,)
MARK WINGATE, VERNETTA)
NURIDDIN, and KATHLEEN RUTH,)
AARON JOHNSON, in their official)
capacities as Members of the FULTON)
County Board of Registration and Elections;)
SAMUEL E. TILLMAN, ANTHONY)
LEWIS, SUSAN MOTTER, DELE)
LOWMAN SMITH, and BAOKY N. VU, in)
their official capacities as Members of the)
DEKALB County Board of Registration and)
Elections; PHIL DANIELL, FRED AIKEN,)
JESSICA M. BROOKS, NEERA BAHL,)
and DARRYL O. WILSON, JR., in their)
official capacities as Members of the COBB)
County Board of Elections and Registration;)
JOHN MANGANO, BEN SATTERFIELD,)
WANDY TAYLOR, STEPHEN DAY, and)
ALICE O'LENICK, in their official)
capacities as Members of the GWINNETT)
County Board of Registrations and)
Elections; THOMAS MAHONEY III,)
MARIANNE HEIMES, MALINDA)
HODGE, ANTWAN LANG, and DEBBIE)
RAUERS, in their official capacities as)
Members of the CHATHAM County Board)
of Elections; et al.,)

**CHATHAM COUNTY DEFENDANTS' RESPONSE TO PLAINTIFFS'
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF THEIR MOTION FOR
PRELIMINARY INJUNCTION**

Plaintiffs still cannot demonstrate they have an injury that is traceable to or redressable by the Chatham County Defendants¹. Instead, Plaintiffs largely agree that the Chatham County Defendants have properly allocated equipment to the various precincts in the county and only expect wait times longer than their proposed threshold at two (2) precincts in Chatham County. Accordingly, there is no basis for this Court to order any relief as to the Chatham County Defendants.

ARGUMENT AND CITATION OF AUTHORITY

A. Plaintiffs still cannot show any injury.

In an attempt to show an injury, Plaintiffs largely restate their prior arguments about wait times and continue to assume that a 31-minute wait is unconstitutional while a 29-minute wait is constitutional. [Doc. 148, pp. 3-6]. This argument is particularly important to the Chatham County locations because Dr. Yang, Plaintiffs expert, identifies only one polling location where the wait time in Chatham County exceeded the 30 minute threshold, the “Eli Whitney” location.

That location has 712 registered voters with 3 BMDs and 5 polling pads. [Doc. 141].

As specified in the Declaration of Russell Bridges, Chatham County Election Superintended, Chatham County has ninety-one (91) polling places for its ninety-two precincts. These numbers were both present in the June 2020 primary election and will be present for the November primary election. [Doc.

¹ On October 2, 2020, this Court issued an Order for all parties to appear that afternoon in a telephone conference. Counsel did not appear, nor did anyone other attorney for Chatham County, as undersigned counsel was not notified of the hearing. Notices were emailed to co-counsel, Jonathan Hart. On October 3, 2020, when counsel learned of the hearing, she contacted Plaintiffs and provided the information ordered by the Court on October 1st, 2020. On October 5, 2020, counsel supplemented that information to Plaintiffs as well as formally disclosed all of those materials to the Court. Counsel contacted the Clerk on October 5, 2020 regarding receiving notices through the Court’s electronic filing system.

161, pp. 1]. Stated conversely, Chatham County has 90 out of 92 precincts that have sufficient equipment allocation to ensure that all of the active voters registered can vote with less than a 30 minute wait per the allegations of Plaintiffs. Chatham County also has provided sufficient voting equipment allocations for all of the approximately 194,700 active voters of Chatham County except the potential of 712 voters for a Presidential election during a global pandemic.

The Chatham County Defendants have shown that they are in compliance with all relevant Code Sections and Plaintiffs do not allege otherwise. Instead, Plaintiffs now appear to agree with the policy rationale and allege that "most counties" are not providing one ballot-marking device (BMD) for every 250 voters. [Doc. 148 pp. 9-10]. The number provided herein and by the Declaration of Russell Bridges prove that the Chatham Defendants are not among those counties and any claims against Chatham County Defendants appear to be meritless.

Finally, Chatham County Defendants join in the arguments raised by its fellow county co-defendants in their oppositions to Plaintiffs' Supplemental Memorandum in support of their Motion for Preliminary Injunction.

CONCLUSION

Early voting for the November 3, 2020 election begins on Monday, October 12, 2020. The Supreme Court "has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020). This Court should deny Plaintiffs' motion for preliminary injunction, at least as to Chatham County Defendants.

This 7th day of October, 2020.

/s/ Jennifer R. Davenport
State Bar No. 330328

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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 Times New Roman and 13-point type.

This 7th day of October, 2020.

/s/ R. Jonathan Hart

R. JONATHAN HART

State Bar No. 333692

/s/ Jennifer R. Davenport

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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 7th day of October, 2020.

/s/ R. Jonathan Hart
R. JONATHAN HART
State Bar No. 333692
/s/ Jennifer R. Davenport
State Bar No. 330328

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