



Georgia

P.O. Box 77208, Atlanta, GA 30357

August 3, 2021

Via Electronic Filing

David J. Smith

Clerk of the Court

U.S. Court of Appeals for the Eleventh Circuit

56 Forsyth St., N.W.

Atlanta, Georgia 30303

Re: *Black Voters Matter Fund et al. v. Secretary of State of Georgia et al.*,
Case No. 20-13414

Dear Mr. Smith:

Plaintiffs-Appellants (“Plaintiffs”) hereby respond to Defendant-Appellee’s (“Defendant”) August 2, 2021 letter to the Court pursuant to Federal Rule of Appellate Procedure 28(j).

Defendant argues that Plaintiffs’ claims should fail because voting is “quite easy” and because “every voting rule imposes a burden of some sort,” quoting *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321, 2333, 2338 (2021).

These observations are irrelevant. A poll tax of even \$0.01 is unconstitutional even if it is “quite easy” for every voter to pay it. *See Harman v. Forssenius*, 380 U.S. 528, 542 (1965). And while every voting rule imposes some burden, the Twenty-Fourth Amendment and Equal Protection Clause narrowly prohibit voting rules that condition the franchise on paying a fee. *See id.*; *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 666 (1966). That type of “burden” is unconstitutional.

Defendant also states that postage fees are “incidental”—yet again fails to articulate *what* voter requirement they are incidental to fulfilling. While transportation costs help voters fulfill the requirement of showing up at the polls to vote in-person, postage fees are not “incidental” to fulfilling any voter requirement other than the requirement to pay postage fees itself. (Reply Br. at 22-23.) When voters are essentially asked to subsidize government operations—here, the State’s

vote-by-mail system—those fees are exactly what they look like: a tax that abridges the right to vote.

Respectfully submitted,

/s/ Sean J. Young
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