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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, GA 30303

Re: *Black Voters Matter Fund et al. v. Raffensperger et al.*,
Case No. 20-13414

Dear Mr. Smith:

Defendant-Appellee Brad Raffensperger (“Defendant”) hereby submits this letter to the Court regarding relevant supplemental authority pursuant to Federal Rule of Appellate Procedure 28(j).

On July 1, 2021, in the matter of *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321 (2021), the United States Supreme Court upheld two Arizona state election laws that (1) required out-of-precinct (OOP) ballots provisionally cast by in-person voters to be discarded, and (2) prohibited third parties from collecting and delivering other individuals’ mail-in ballots. The Plaintiffs in *Brnovich*—a political party national committee, a senatorial campaign committee, and a state political party—had challenged the laws under the Fifteenth Amendment and § 2 of the Voting Rights Act (“VRA”).

The Supreme Court’s ruling in *Brnovich*, while not directly addressing the question of whether postage constitutes a poll tax, is nonetheless relevant to the issues in this case. Specifically, the Court cited Arizona election laws governing early voting, which are very similar to Georgia law, and it found that Arizona “generally makes it quite easy for residents to vote.” 141 S. Ct. at 2333. The Court also held that “every voting rule imposes a burden of some sort. Voting takes time and, for almost everyone, some travel, even if only to a nearby mailbox.” *Id.* at 2338. This speaks to the ease of voting in Georgia and the fact that all voting rules impose at least some incidental burden, both of which are issues in this appeal. (See Def. Br. at 11-12; 18-19.)

David J. Smith, Clerk of Court
U.S. Court of Appeals for the 11th Circuit
August 2, 2021
Page 2

Defendant believes that the Supreme Court's analysis in *Brnovich* is relevant to the issues in this case and provides additional support for the arguments raised in Defendant's brief. An accurate citation to the supplemental authority is accordingly provided herein in accordance with the Federal Rules of Appellate Procedure and this Circuit's local rules.

Respectfully submitted,

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