

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

AMERICAN OVERSIGHT and JOHN DOE,)
)
Plaintiffs,)
)
v.)
)
THE GEORGIA STATE ELECTION)
BOARD; JANICE JOHNSTON, in her)
individual capacity and official capacity as a)
Member of the Georgia State Election Board;)
RICK JEFFARES, in his individual capacity)
and official capacity as a Member of the)
Georgia State Election Board; JANELLE)
KING, in her individual capacity and official)
capacity as a Member of the Georgia State)
Election Board; JOHN FERVIER, in his)
official capacity as the Chairman of the)
Georgia State Election Board; SARA)
TINDALL GHAZAL, in her official capacity)
as a Member of the Georgia State Election)
Board;)
Defendants,)
)
GEORGIA REPUBLICAN PARTY, INC.,)
)
Intervenor Defendant.)

CIVIL ACTION FILE
NO.: 24CV009124

**ORDER DENYING PLAINTIFFS' MOTION TO DROP
JOHN FERVIER AND SARA TINDALL GHAZAL AS DEFENDANTS AND ORDER
GRANTING THE GEORGIA REPUBLICAN PARTY, INC.'S MOTION TO DISMISS**

Presently before the Court is Plaintiffs American Oversight and John Doe's Motion to Drop John Fervier and Sara Tindall Ghazal as Defendants in this Action (the "Motion"). Following consideration of all briefing relating to the Motion, the Court DENIES the motion for the reasons set forth below. This Court, after considering the law and arguments therein, the briefs submitted

by the parties on this issue, the record of the case, and arguments presented by counsel during oral arguments held on September 20, 2024, this Court finds as follows:

On July 19, 2024, Plaintiffs filed their Verified Complaint for Injunctive Relief, Declaratory Judgment, and Damages against the Georgia State Election Board (“GSEB”), and its members Janice Johnston in her individual capacity and official capacity as a Member of the GSEB, Rick Jeffares in his individual capacity and official capacity as a Member of the GSEB, Janelle King in her individual capacity and official capacity as a Member of the GSEB, John Fervier solely in his official capacity as Chairman of the GSEB, and Sara Tindall Ghazal solely in her official capacity as a Member of the GSEB. Plaintiffs failed to name the State of Georgia or local government as the sole defendant while seeking injunctive and declaratory relief.

On August 8, 2024, the Georgia Republican Party, Inc. (“GAGOP”), as an Intervenor Defendant, filed its Proposed Intervenor Georgia Republican Party, Inc.’s Motion to Dismiss Plaintiffs’ Verified Complaint for Injunctive Relief, Declaratory Relief, and Damages and Incorporated Brief In Support Thereof on the basis that sovereign immunity applies and the action warrants dismissal pursuant to Ga. Const. Art. I, Sec. II, Par. V(b)(2) (“Paragraph V”) and the holding of *Lovell v. Raffensperger*, 318 Ga. 48 (2024) (see also *State v. SASS Group*, 315 Ga. 893, 904 (2023)).

Plaintiffs filed their Response in Opposition to the GAGOP’s Motion to Dismiss arguing, *inter alia*, that the declaratory and injunctive relief they originally sought in their complaint are now moot since they are now only seeking relief under the Open Meetings Act. On August 30, 2024, Plaintiffs filed a Plaintiffs’ Motion for Leave to Drop John Fervier and Sara Tindall Ghazal as Defendants in this Action, and the GAGOP responded with the same jurisdictional and

sovereign immunity arguments that Plaintiffs' case should be dismissed in its entirety based on Paragraph V and *Lovell*.

For the reasons discussed below, Plaintiffs' complaint and entire case must be DISMISSED according to Paragraph V and the holding by the Georgia Supreme Court in *Lovell*.

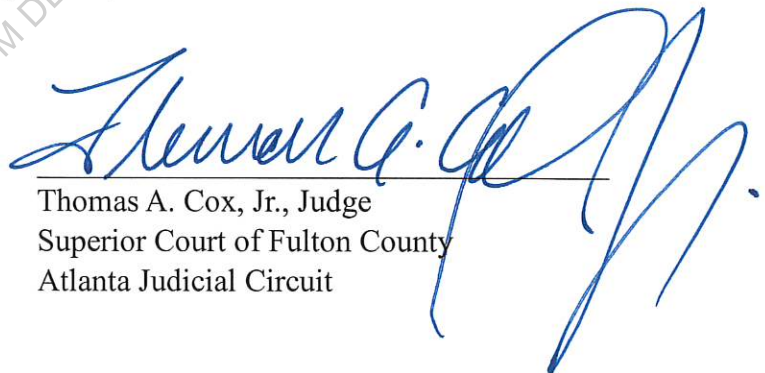
In essence, Plaintiffs' complaint was defective from the beginning under Georgia law because it did not follow the pleading requirements for declaratory relief under Paragraph V. According to the Georgia State Constitution, Paragraph V sets forth simple and straight forward pleading requirements for a declaratory judgment, which Plaintiffs failed to meet making their entire case fatal. Any complaint seeking relief seeking declaratory relief must be brought against the State of Georgia (or local government) only and no other claims for any other form of relief can be included in that complaint. Ga. Const. of 1983, Art. I, Sec. II, Para. V(b)(2); *Lovell* (affirming dismissal of complaint brought pursuant to Paragraph V because it named agency head instead of State of Georgia); *SASS*, at 894 (reversing trial court for failing to dismiss suit that brought Paragraph V claim against both the State of Georgia and a local District Attorney and which had non-Paragraph V claims). Plaintiffs' failure to comply with either requirement is fatal to its entire case, and the complaint "shall be dismissed". See *Paragraph V, Lovell, SASS* at 894.

In the present case, Plaintiffs sought declaratory relief and injunctive relief in their complaint and did not name the State of Georgia or the local government only as the named defendant. Plaintiffs clearly did not follow the pleading requirements as set forth in Paragraph V and as held by the Georgia Supreme Court in *Lovell* and *SASS* for the defendants named and the relief sought. Therefore, Plaintiffs' case must be DISMISSED.

Plaintiffs' Motion for Leave to Drop John Fervier and Sara Tindall Ghazal as Defendants in this Action does not address or cure the defects of their original complaint. Paragraph V is clear that the action must be brought naming the State of Georgia or local government exclusively as the named defendant if seeking declaratory relief. *See Paragraph V*. As such, this is not an amendable defect. Plaintiffs' Motion for Leave to Drop John Fervier and Sara Tindall Ghazal as Defendants in this Action does not attempt to fix the defects as provided in Paragraph V and Lovell because, even if it was granted, the case would still not have the State of Georgia or local government exclusively named as the defendant in this action.

It is hereby **ORDERED** and **DECREED** that the Georgia Republican Party Inc.'s Motion to Dismiss is **GRANTED**, and that Plaintiffs' Complaint is **DISMISSED** in its entirety, without prejudice.

SO ORDERED this 30th day of September, 2024.


Thomas A. Cox, Jr., Judge
Superior Court of Fulton County
Atlanta Judicial Circuit

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