

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

**NEW GEORGIA PROJECT, SANG
HUYNH, GEORGIA MUSLIM
VOTER PROJECT, and A. PHILIP
RANDOLPH INSTITUTE,**

Plaintiffs,

v.

**BRAD RAFFENSPERGER, in his
official capacity as Georgia
Secretary of State,**

**JOHN FERVIER, SARA TINDALL
GHAZAL, JANICE W.
JOHNSTON,
RICK JEFFARES, and JANELLE
KING, in their official capacity as
members of the Georgia State
Election Board,**

**COLIN McRAE, WANDA
ANDREWS,
WILLIAM L. NORSE,
KATHERINE A. DURSO, and
DEBRA GEIGER, in their official
capacity as members of the Chat-
ham County Board of Registrars,**

**BARBARA LUTH, JOEL NATT,
CARLA RADZIKINAS, ANITA
TUCKER, and DAN THALIMER,
in their official capacity as members**

NO.: 1:24-cv-3412-SDG

MOTION TO DISMISS

**of the Forsyth County Board of
Voter Registrations and Elections,
SHERRI ALLEN, AARON V.
JOHNSON, MICHAEL HEEKIN,
TERESA K. CRAWFORD, and
JULIE ADAMS, in their official
capacity as members of the Fulton
County Board of Registration and
Elections,**

**KAREN EVANS-DANIEL,
ROBERT
ABBOTT, JOEL HAZARD,
THOMAS
ELLINGTON, and MIKE KAPLAN,
in their official capacity as members
of the Macon-Bibb County Board of
Elections,**

**WANDY TAYLOR, DAVID HAN-
COCK, LORETTA MIRANDOLA,
AL-ICE O'LENICK, and
ANTHONY RODRIGUEZ, in their
official capacity as members of the
Gwinnett County Board of
Registrations and Elections,
And**

**BEN JOHNSON, JAMES
NEWLAND, ROY McCLAIN,
JAMES A. O'BRIEN, and DEXTER
WIMBISH, in their official capacity
as members of the Spalding County
Board of Elections and Voter
Registration,**

Defendants.

**HALL COUNTY DEFENDANTS' MOTION TO DISMISS PLAINTIFFS'
COMPLAINT AND BRIEF IN SUPPORT**

Defendants Hall County Board of Elections and Registrations and Jack Noa, David Kennedy, Ken Cochran, Johnny Varner, and Gala Sheats in their official capacity as members of the Hall County Board of Elections and Registrations (collectively referred to as "Hall County Defendants") move this Court pursuant to Fed. R. Civ. P. 12(b)(1) and (6) to dismiss them from *Plaintiffs' Consolidated First Amended Complaint for Injunctive and Declaratory Relief* ("Amended Complaint", Doc. 155).

Hall County Defendants should be dismissed for two reasons. Plaintiffs Georgia State Conference of the NAACP, Georgia Coalition for the People's Agenda, and Secure Families Initiative lack standing against Hall County Defendants because no allegations of an injury in fact have been made against Hall County Defendants. Moreover, Plaintiffs failed to state a claim for which relief may be granted.

I. BACKGROUND

The above-styled action arises from allegations that Georgia Senate Bill 189 ("SB 189") violates the National Voter Registration Act of 1993, 52 U.S.C. § 20501 et. seq. (the "NVRA") by subjecting voters to unlawful challenge hearings regarding registrations and unlawful removal from the voter registration list. The

Court consolidated three actions on November 4, 2024, consolidating 1:24-cv-03412-SDG, 1:24-cv-04287-SDG, and 1:24-cv-04659-SDG.

Plaintiffs Georgia State Conference of the NAACP, Georgia Coalition for the People's Agenda, and Secure Families Initiative include Hall County Defendants among seventeen Georgia counties added to this action. Plaintiffs make no specific allegations against Hall County in the Amended Complaint. Plaintiffs Georgia NAACP, GCPA, and SFI provided notice to Hall County on July 10, 2024, purportedly to satisfy the requirements of 52 U.S.C. 20510(b)(2). The July 10, 2024 Notice, however, failed to provide notice of any violation made by Hall County Defendants and contained no specific allegations of NVRA violations.

II. ARGUMENT

Fed. R. Civ. P. 8 requires a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "Factual allegations must be enough to raise a right to relief above the speculative level...on the assumption that all the allegations in the complaint are true." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiffs fail to provide any factual allegations to establish standing to sue Hall County Defendants or a right to relief.

"A proper case or controversy exists only when at least one plaintiff establishes that she has standing to sue." *Murthy v. Missouri*, 603 U.S. 43, 57

(2024) (internal quotation marks omitted). To show standing, Plaintiffs must show that they have suffered, or will suffer, an injury that is “concrete, particularized, and actual or imminent; fairly traceable to the challenged action; and redressable by a favorable ruling.” *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013) (internal quotation marks omitted). “[P]laintiffs must demonstrate standing for each claim that they press against each defendant, and for each form of relief that they seek.” *Murthy*, 603 U.S. at 61.

In this case, Plaintiffs fail to show that they have suffered or will suffer an injury from Hall County Defendants that is concrete, particularized, and actual or imminent. The Amended Complaint makes no averment that Hall County Defendants violated the NVRA. In fact, Plaintiffs only allege that the NVRA violations referenced in the Amended Complaint are traceable to Hall County Defendants because they “adjudicate the challenges brought under O.C.G.A. §§ 21-2-220 and -230.” (Amended Complaint ¶¶ 258 and 266). This statement does not contain facts of an actual or imminent harm that are required for standing, only a statement about the role Hall County Defendants play in complying with SB 189. Courts are “reluctant to endorse standing theories that require guesswork as to how independent decisionmakers will exercise their judgment.” *Clapper*, 568 U.S. at 413. Yet Plaintiffs’ Amended Complaint as it pertains to Hall County Defendants and the other members of the “Seventeen County Defendants” presumes that each

will violate the NVRA. Allegations of possible future injury are not sufficient for standing. *Whitmore v. Arkansas*, 495 U.S. 149, 157 (1990).

Hall County Defendants adopt the arguments regarding standing contained in Section II.A, II.B.1, and II.B.2 of the State’s Brief in Support of Motion to Dismiss [Doc. 168-1 at 24-50].

III. CONCLUSION

WHEREFORE, Hall County Defendants respectfully requests that Plaintiffs’ claims be dismissed, and Hall County Defendants be granted such other relief as this Court may deem just and proper.

This 24th day of March, 2025.

By: /s/ Eric P. Wilborn
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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/ Eric P. Wilborn

Eric P. Wilborn

Georgia Bar No. 563028

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CERTIFICATE OF SERVICE

In accordance with Local Rule 5.1, I hereby certify that on this day I electronically filed the above **HALL COUNTY DEFENDANTS MOTION TO DISMISS AND BRIEF IN SUPPORT** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notifications of such filing to all attorneys of record.

Dated: March 24, 2025

/s/ Eric P. Wilborn
Eric P. Wilborn

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