

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

**FULTON COUNTY REPUBLICAN
PARTY, INC and GEORGIA
REPUBLICAN PARTY, INC.**

Plaintiffs,

v.

FULTON COUNTY

Defendant.

CIVIL ACTION FILE NO:

VERIFIED COMPLAINT

**VERIFIED EMERGENCY PETITION FOR TEMPORARY AND PERMANENT
INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, MEMORANDUM OF LAW,
AND COMPLAINT FOR VIOLATIONS OF O.C.G.A. §§ 21-2-381 AND 21-2-385**

NOW COMES, Plaintiffs Fulton County Republican Party, Inc., and Georgia Republican Party, Inc. (Collectively “GOP”) by and through their counsel file this, their Verified Emergency Petition for Injunctive Relief and Complaint for Violations of the Georgia Election Code §§ 381 and 385 et seq. and hereby state as their Complaint against Defendant Fulton County (“Defendant” or “Fulton”), as follows:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction over this matter pursuant to O.C.G.A. §§ 9-4-2 and 15-6-8.
2. Venue is proper in Fulton County pursuant to O.C.G.A. §§ 9-10-30 and 9-10-31 in that at Defendant resides in this county and the cause of action accrued in this county.

PARTIES

3. Plaintiff Fulton County Republican Party, Inc is a county political committee that works to ensure elections in Fulton County are conducted in a free and fair manner, seeks to

assist and facilitate the electoral success of the candidates, and works to protect the fundamental constitutional right to vote of its members and all voters of Fulton County.

4. Plaintiff Fulton County Republican Party, Inc has a direct, personal, and substantial interest in ensuring that the sanctity of the election is upheld and that the laws be followed regarding when the ballot boxes can be available for the dropping of off absentee ballots.

5. Plaintiff Georgia Republican Party, Inc. is a state political committee that works to ensure elections in Georgia are conducted in a free and fair manner, seeks to assist and facilitate the electoral success of the candidates, and works to protect the fundamental constitutional right to vote of its members and all voters of the state of Georgia.

6. Plaintiff Georgia Republican Party, Inc. has a direct, personal, and substantial interest in ensuring that the sanctity of the election is upheld and that the laws be followed regarding when the ballot boxes can be available for the dropping of off absentee ballots.

7. Defendant Fulton County is a political subdivision of the State of Georgia and subject to suit.

8. Defendant Fulton County is responsible for overseeing the conduct of elections in Fulton County, including but not limited to the conduct of election personnel at polling locations throughout the county and the regulation of polling places. Its principal place of business for conducting elections is located at 5600 Campbellton Fairburn Road, Fairburn, GA 30213 and its Government Center is Fulton County Government Center, 141 Pryor Street, SW, Atlanta, GA 30303

GENERAL FACTUAL ALLEGATIONS

9. Georgia election law requires that ballot boxes must be closed when advance voting is not being conducted. O.C.G.A. § 21-2-382.

10. Pursuant to O.C.G.A. §21-2-385 (d)(1)(B) the advance voting period ends the Friday prior to the election.

11. O.C.G.A. §21-2-385 (d)(1)(B) further states that “that voting shall occur only on the days specified in this paragraph and counties and municipalities shall not be authorized to conduct advance voting on any other days.”

12. On November 1, 2024, Plaintiff discovered that Fulton County has authorized the Department of Registration and Elections to be opened between the hours of 9 a.m. to 4 p.m on November 2nd and 3rd so that voters can hand return their absentee ballots. **EX 1**, incorporated herein by reference.

13. November 2nd and 3rd are outside the advanced voting period authorized by statute.

14. O.C.G.A. §21-2-382 further provides that “any additional drop boxes shall be evenly geographically distributed by population in the county.”

15. However, Fulton County’s stated intention is to only open some drop boxes tacitly acknowledging that the action of Fulton County is contrary to law as the drop boxes must be closed.

16. Defendants were immediately notified about Defendants' violation of Georgia's ballot box closure laws, but refused to take timely and effective action to ensure that state election laws were complied with.

This Court Should Enter a Temporary Restraining Order Against Defendants.

To obtain a temporary restraining order or preliminary injunction, the movant must show:

- 1) The threat of irreparable harm to the moving party;
- 2) Whether the threatened injury outweighs the harm done to the party being enjoyed;
- 3) Whether there is a substantial likelihood of prevailing on the merits; and
- 4) Whether granting the interlocutory injunction is not against the public interest.

City of Waycross v. Pierce County Board of Commissioners, 300 Ga. 109, 111 (2016).

17. The purpose of temporary restraining order is to “protect[] against irreparable harm and preserve[] the status quo until a meaningful decision on the merits can be made.”

Holmes v. Dominique, No. 1:13-CV-04270-HLM, 2014 WL 12115947, at *2 (N.D. Ga. May 5, 2014) (quoting *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1289, 1297 (11th Cir. 2005)).

18. The duration of the temporary restraint cannot exceed 30 days, as the court fixes, “unless the party against whom the order is directed consents that it may be extended for a longer period.” O.C.G.A. § 9-11-65(b)(2). However, if the Court grants the temporary restraining order, “the motion for a preliminary injunction shall be set down for hearing at the earliest possible time....” *Id.*

19. While the grant of a temporary restraining order is an extraordinary remedy that should not be granted unless the movant clearly carries its burden as to the four aforementioned elements, *Western Sky Financial, LLC v. State ex rel. Olens*, 300 Ga. 340, (2016), it is “designed to preserve the status quo pending a final adjudication of the case.” *Bijou Salon & Spa, LLC v. Kensington Enterprises, Inc.*, 283 Ga.App. 857, 860 (2007); *Poe & Brown of Georgia, Inc. v. Gill*, 268 Ga. 749, 750 (1997).

20. Here, a Temporary Restraining Order is Warranted since all elements are met. The damage to Plaintiffs would begin in only a few hours as soon as the drop boxes are opened. Defendant cannot be harmed simply by following the law as enacted by the General Assembly and therefore the damage to Plaintiffs far outweighs that to Defendant. Additionally, granting the injunctive relief maintains the status quo. As the law is clear on the timing of when drop boxes may be open, here is a substantial likelihood of Plaintiffs succeeding on the merits and all Georgia voters are entitled to having their elections conducted in a manner consistent with law and in an equitable fashion across all 159 counties in Georgia. If Fulton County is permitted to proceed with the clear violations of O.C.G.A. §1-2-382 and O.C.G.A. §21-2-385, it would make the conduct of the election arbitrary. For the aforementioned reasons, the granting of Petitioner’s

prayer for emergency injunctive relief is within the public's interest and consistent with public policy.

COUNT I
EMERGENCY INJUNCTION AND INTERLOCUTORY INJUNCTION
DROP BOXES MUST BE CLOSED WHEN
ADVANCE VOTING IS NOT OCCURRING

21. Plaintiffs repeat and reallege the allegations in Paragraphs 1-20 as set forth above as though fully set forth herein verbatim.

22. The threat of irreparable harm to the moving party is real and immediate as once these illegally cast absentee ballots are accepted, they will be impossible to be separated and not counted;

23. Whether the threatened injury outweighs the harm done to the party being enjoyed is without dispute as the allowance of one county to illegally accept absentee ballots while the other 158 follow the law creates a substantial harm to Republican voters in other counties and Republican candidates, as well as a real and immediate cost to find poll watchers to adequately observe this weekend in Fulton County;

24. Whether there is a substantial likelihood of prevailing on the merits has been met as the code sections at issue are clear and unambiguous and Fulton's actions to allow receipt of absentee ballots at drop boxes while in person voting is not occurring is in violation of Georgia law; and

25. Whether granting the interlocutory injunction is not against the public interest.

City of Waycross v. Pierce County Board of Commissioners, 300 Ga. 109, 111 (2016).

COUNT II
DECLARATORY JUDGEMENT

26. Plaintiffs repeat and reallege the allegations in Paragraphs 1-25 as set forth above as though fully set forth herein verbatim.

27. On account of the foregoing, an actual and justiciable controversy exists between and among the parties regarding their respective rights, status or other legal relations under the above-cited statutes. O.C.G.A. § 21-2-382 and O.C.G.A. §21-2-385.

28. Plaintiffs therefore seek a declaratory judgment that Defendants are not in compliance with their legal obligations under the above-cited statutes.

29. The action of Fulton County in exercising a power specifically denied to them by the General Assembly is a direct violation of state law.

30. As a result of the acts and omissions of Defendants, Plaintiffs have been compelled to hire the services of an attorney to protect their interests and are entitled to reimbursement of attorneys' fees and costs incurred in the prosecution of this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

a. Declaratory judgment that Defendants are in violation of O.C.G.A. § 21-2-382 and O.C.G.A. §21-2-385.

b. A Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction providing that Defendants, as well as their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them shall:

- Cease any and all violations of O.C.G.A. § 21-2-382 and O.C.G.A. §21-2-385;
- Not permit persons to hand-return their absentee ballots in violation of O.C.G.A. § 21-2-382 and O.C.G.A. §21-2-385; to wit; not accept absentee ballots in drop boxes on November 2 and 3, 2024 anywhere within Fulton County, Georgia;

c. Award Plaintiffs' their actual costs and attorney fees, and

d. Any such other and further relief as this Honorable Court deems just, equitable, and necessary under the circumstances.

Respectfully submitted this 1st day of November, 2024.

CHALMERS, ADAMS, BACKER & KAUFMAN,
LLC

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed this day using the Court's electronic filing system which will automatically send notice of same to counsel of record, and I have caused a true and accurate copy of the foregoing document to be served on all parties and counsel of record via statutory electronic service. We have also sent a copy via email to Joseph J. Siegelman at jsiegelman@cglawfirm.com

This 1st day of November 2024,

/s/Alex Kaufman
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