

**IN THE SUPERIOR COURT OF WASHINGTON COUNTY
STATE OF GEORGIA**

TRACY WHEELER,

Petitioner,

v.

**BALDWIN COUNTY BOARD OF ELECTIONS
AND REGISTRATION, GLASCOCK COUNTY
BOARD OF ELECTIONS AND REGISTRATION,
HANCOCK COUNTY BOARD OF ELECTIONS
AND REGISTRATION, MCDUFFIE COUNTY
BOARD OF ELECTIONS AND REGISTRATION,
WARREN COUNTY BOARD OF ELECTIONS
AND REGISTRATION, WASHINGTON
COUNTY BOARD OF ELECTIONS AND
REGISTRATION, and WILLIE MACK
JACKSON JR., Candidate for State House District
128 – November 5, 2024,**

Respondents.

Civil Action No.

**PETITION TO CONTEST ELECTION RESULTS & REQUEST FOR NEW ELECTION
FOR THE NOVEMBER 5, 2024, GEORGIA STATE HOUSE DISTRICT 128 ELECTION**

INTRODUCTION

The results for the November 5, 2024, Georgia State House District 128 election (the “Election”) were highly unusual. The Election was full of irregularities and errors that, in total, cast in doubt the Election’s results, which, out of a total of 27,804 votes, currently show Respondent Willie Mack Jackson Jr. leading by only 48 votes. These irregularities and errors include, but are not limited to: (1) proper votes being wrongfully rejected; (2) irregularities regarding absentee ballots, votes in person, and ballot processing; (3) countless individuals voting that were not eligible to vote in the Election, including, but not limited to, because they reside outside House District 128, and thus illegal votes were counted in the Election; (4) voters that

resided in House District 128, but were districted outside of House District 128 causing them to be disenfranchised; and (5) other election discrepancies. Because the irregularities, wrongly rejected votes, and illegal votes in the Election exceed the margin of victory of 48, the Election must be invalidated, and a new election held.

PARTIES

1. Petitioner Tracy Wheeler ("Petitioner") was a candidate for the Georgia State House District 128 race. She is a resident of Hancock County, Georgia, and resides at 6327 Lake Sinclair Drive, Sparta, Georgia 31087. Pursuant to O.C.G.A. § 21-2-521, she is eligible to file this Petition.

2. Respondent Baldwin County Board of Elections and Registration (the "Baldwin County Board") is the superintendent that conducted the portion of the contested election in Baldwin County, and resides at 121 North Wilkinson Street, Milledgeville, Georgia 31061.

3. Respondent Glascock County Board of Elections and Registration (the "Glascock County Board") is the superintendent that conducted the portion of the contested election in Glascock County, and resides at 62 East Main Street, Gibson, Georgia 30810.

4. Respondent Hancock County Board of Elections and Registration (the "Hancock County Board") is the superintendent that conducted the portion of the contested election in Hancock County, and resides at 9091 East Broad Street, Sparta, Georgia 31087.

5. Respondent McDuffie County Board of Elections and Registration (the "McDuffie County Board") is the superintendent that conducted the portion of the contested election in McDuffie County, and resides at 337 Main Street, Thomson, Georgia 30824.

6. Respondent Warren County Board of Elections and Registration (the “Warren County Board”) is the superintendent that conducted the portion of the contested election in Warren County, and resides at 521 Main Street, Warrenton, Georgia 30828.

7. Respondent Washington County Board of Elections and Registration (the “Washington County Board”) is the superintendent that conducted the portion of the contested election in Washington County, and resides at 132 West Haynes Street, Sandersville, Georgia 31082.

8. Respondent Willie Mack Jackson Jr. (“Jackson”) was the only candidate that opposed Petitioner in the Election. Upon information and belief, Jackson resides at 737 Evelyn Street, Sandersville, Georgia 31082, in Washington County, Georgia.

JURISDICTION & VENUE

9. Jurisdiction is proper in this Court under O.C.G.A. § 21-2-523(a), which is the county where Respondent Jackson presently resides.

10. The Petition was timely filed with this Court. The Election results were certified on November 22, 2024. This Petition was filed on November 27, 2024, within five days of the certification pursuant to O.C.G.A. § 21-1-524(a).

11. Venue is proper in this Court.

12. An affidavit executed by Petitioner verifying this Petition is attached hereto as Exhibit A.

FACTUAL BACKGROUND

A. Background of the Election.

13. The Election was held on November 5, 2024.

14. Petitioner and Respondent Jackson were the only candidates in the Election.

15. After the Election, the Secretary of State's list indicated that 13,878 votes were cast for Petitioner, and 13,926 votes were cast for Respondent Jackson.

16. The Election results were certified on November 22, 2024.

B. The Election.

17. County election officials administer elections in Georgia.

18. The Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board administered the Election.

19. County election officials are responsible for properly administering, evaluating, and accepting or rejecting ballots.

20. County election officials are delegated the statutory and constitutional responsibility to allow all eligible voters to vote in an election that they seek to vote in, and to ensure that all eligible voters have a right to do so.

21. The Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board breached this duty by: (1) wrongfully rejecting proper votes; (2) committing irregularities regarding absentee ballots, votes in person, and ballot processing; (3) allowing countless individuals voting that were not eligible to vote in the Election, including, but not limited to, because they reside outside House District 128; (4) disallowing voters that resided in House District 128, but were districted outside of House District 128, to vote, causing them to be disenfranchised; and (5) allowing other election discrepancies regarding wrongly rejecting multiple ballots, including by unlawfully turning away qualified voters at the polls, turning away qualified voters who wished to vote early, and rejecting proper absentee ballots.

22. When individuals reside in a district and are otherwise eligible to vote in that district, including where voters are assigned to a different district but actually live within the district, they should be allowed to vote in that district and their votes should be counted.

23. Individuals were improperly prohibited from voting even though they reside within House District 128.

24. County election officials are also responsible for not allowing improper votes to be counted.

25. Specifically, County election officials are responsible for determining whether voters reside within the proper district and if voters have moved out of the district and, therefore, whether voters are eligible to vote in an election, determining whether absentee ballots are properly cast, and determining whether early voters are eligible to vote in the district.

26. When individuals reside outside a district, cast improper absentee ballots, or cast improper early votes, they are ineligible to vote in that district and their votes should not be counted.

27. Individuals were improperly allowed to cast their ballots in House District 128, including because they reside outside the district, because they cast improper absentee ballots, and because they cast improper early votes.

28. The Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board wrongly allowed individuals that reside outside House District 128 to vote in the Election, and wrongly rejected votes from persons that resided in House District 128 and were otherwise eligible to vote in the Election.

C. Legal Framework.

29. O.C.G.A. § 21-2-520 *et seq.* permits candidates to contest the result of elections in Georgia.

30. O.C.G.A. § 21-2-522 establishes that elections may be contested on one or more of the following grounds:

- (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
- (2) When the defendant is ineligible for the nomination or office in dispute;
- (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
- (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or
- (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

31. O.C.G.A. § 21-2-527 establishes that a court must declare an election invalid and must call for a second election if one of the above showings are made.

COUNT I: WRONGFULLY REJECTED VOTES

32. Petitioner incorporates and re-alleges the allegations made in Paragraphs 1 through 31 of this Petition.

33. For various reasons, the Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board wrongly rejected several individuals from voting in the Election, including but not limited to because voters were wrongfully turned away at the polls, and because voters were improperly

assigned to a different district even though they reside within House District 128. More will be specifically identified once the requested documents are produced by the Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board, and reviewed.

34. Only 48 votes decided the Election.

35. On information and belief, more than 48 votes were wrongfully rejected or illegally cast.

36. Thus, the wrongfully rejected votes with those illegally cast in the Election are sufficient to change or place in doubt the Election's results. The Election should be set aside, and a new election ordered.

COUNT II: ILLEGAL VOTES CAST IN THE ELECTION

37. Petitioner incorporates and re-alleges the allegations made in Paragraphs 1 through 36 of this Petition.

38. Individuals that did not reside in House District 128 30 days before the Election were not eligible to vote in the Election.

39. Individuals voted in the Election that did not reside in House District 128, did not possess the qualifications to vote in the district, failed to properly sign absentee ballots, or were otherwise ineligible to vote.

40. Those individuals were ineligible to vote in the Election and cast illegal votes in the Election.

41. The number of illegal votes cast and those wrongly rejected exceed the 48 votes that decided the Election.

42. Thus, the illegal votes and wrongly rejected votes cast in the Election are sufficient to change or place in doubt the Election's results. The Election should be set aside, and a new election ordered.

COUNT III: IRREGULARITIES BY ELECTION OFFICIALS

43. Petitioner incorporates and re-alleges the allegations made in Paragraphs 1 through 42 of this Petition.

44. Upon information and belief, irregularities by Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board and their officials caused them to accept illegal votes and to reject eligible votes, including but not limited to issues with voting machines, issues with vote counting, issues with ballot tabulation, and irregularities regarding poll watching.

45. Voters in other districts improperly voted in the Election, directly affecting the result of the Election.

46. Voters that resided in House District 128 and that attempted to vote in the Election were also wrongly rejected due to irregularities.

47. Thus, the number of improperly included and excluded votes resulting from irregularities by election officials are sufficient to change or place in doubt the Election's results. The Election should be set aside, and a new election ordered.

COUNT IV: SYSTEMIC IRREGULARITIES TO CAST IN DOUBT ELECTION

48. Petitioner incorporates and re-alleges the allegations made in Paragraphs 1 through 47 of this Petition.

49. When systemic irregularities take place in an election that cast doubt on the results of an election, the election should be set aside.

50. Such systemic irregularities took place in the Election.

51. Thus, the Election's results have been cast into doubt, and the Election should be set aside, and a new election ordered.

PRAYER FO RELIEF

WHEREFORE, Petitioner respectfully requests that:

- (a) The November 5, 2024, Georgia State House District 128 election be declared invalid and a new election ordered;
- (b) The Petition be decided by the Court in a bench trial;
- (c) The Court award Petitioner reasonable attorneys' fees, litigation expenses, and other costs incurred by filing this Petition against Respondents as permitted under O.C.G.A. §§ 21-2-529, 13-6-11, and 9-15-14;
- (d) The Court order the Baldwin County Board, Glascock County Board, Hancock County Board, McDuffie County Board, Warren County Board, and Washington County Board to abide by specified protocols to be determined at a later date to ensure that the newly ordered election is properly administered; and
- (e) The Court award Petitioner such other, further, and different relief as the Court may deem just and proper.

Respectfully submitted this November 27, 2024.

Respectfully submitted,

/s/ Jake Evans

Jake Evans

Georgia Bar No. 797018

Philip J. George

Georgia Bar No. 441996

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Counsel for Petitioner Tracy Wheeler

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TRACY WHEELER,

Petitioner,

v.

BALDWIN COUNTY BOARD OF ELECTIONS
AND REGISTRATION, GLASCOCK COUNTY
BOARD OF ELECTIONS AND REGISTRATION,
HANCOCK COUNTY BOARD OF ELECTIONS
AND REGISTRATION, MCDUFFIE COUNTY
BOARD OF ELECTIONS AND REGISTRATION,
WARREN COUNTY BOARD OF ELECTIONS
AND REGISTRATION, WASHINGTON
COUNTY BOARD OF ELECTIONS AND
REGISTRATION and MACK JACKSON,
Candidate for State House District 128 -
November 5, 2024,

Respondents.

Civil Action No.

✓ **FIDAVIT OF TRACY WHEELER**

1. Person ~~of~~ appeared before the undersigned attesting officer, duly authorized to administer oaths, name Tracy Wheeler, who, after being duly sworn, deposes and states the following:

2. My name is Tracy Wheeler I am over the age of twenty-one years, I am not suffering from any legal disabilities, and I am competent to make this Affidavit of my own personal knowledge for any and all uses and purposes authorized by law.

3. I reside at 6327 Lake Sinclair Drive, Sparta, Georgia 31087, which is located within House District 128 in Georgia.

4. I was a candidate in the November 5, 2024, election for Georgia State House District 128.

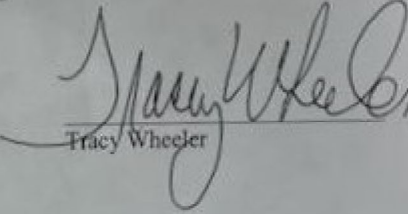
5. I believe the facts in the Petition to Contest Election Results & Request for New Election in the November 5, 2024, Georgia State House District 128 Election, are true and correct.

6. According to the best of my knowledge and belief, the result of the November 5, 2024, election for Georgia State House District 128 is illegal and the return thereof incorrect.

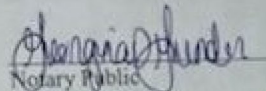
7. The Petition to Contest Election Results & Request for New Election in the November 5, 2024, Georgia State House District 128 Election, is made in good faith.

[Signature on following page]

FURTHER AFFIANT SAYETH NOT


Tracy Wheeler

Subscribed and sworn to me
this 26 day of November, 2024.


Notary Public

My Commission Expires: Apr. 08, 2021



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CERTIFICATE OF SERVICE FOR STATE ELECTION BOARD

This is to certify that on this date, pursuant to O.C.G.A. § 21-2-524(b), this Petition was served on the Chairman of the State Election Board, John Fervier, by certified mail, as follows:

John Fervier
2 MLK Jr. Drive
Suite 802 Floyd West Tower
Atlanta, Georgia 30334

/s/ Jake Evans
Jake Evans
Georgia Bar No. 797018

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