IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

SARAH E. THOMPSON; and EDWARD T. METZ,

Appellants,

v.

No. 24-13689-J

BRIAN KEMP in his official capacity, acting as the Governor of the State of Georgia;

BRAD RAFFENSPERGER in his official capacity, acting as the Georgia Secretary of State;

BULLOCH COUNTY BOARD OF ELECTIONS; THERESA JACKSON, in her official capacity as MEMBER AND CHAIRWOMAN of the Bulloch County Board of Elections; JIM BENTON, in his official capacity as MEMBER of the Bulloch County Board of Elections; WILLIAM DAUGHTRY, in his official capacity as MEMBER of the Bulloch County Board of Elections; SHONTAY JONES, in her official capacity as ELECTION SUPERVISOR of Bulloch County; COBB COUNTY BOARD OF ELECTIONS AND REGISTRATION; TORI SILAS in her official capacity as MEMBER AND CHAIRWOMAN of the Cobb County Board of Elections and Registration; STEVEN F. BRUNING, in his official capacity as MEMBER of the Cobb County Board of Elections and Registration; STACY EFRAT in his/her official capacity as MEMBER of the Cobb County Board of Elections and Registration; DEBBIE FISHER in her official capacity as MEMBER of the Cobb County Board of Elections and Registration; JENNIFER MOSBACHER in her official capacity as MEMBER of the Cobb County Board of Elections and Registration; TATE FALL in her official capacity as Cobb County Director of Elections,

Appellees.

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP)

Thompson & Metz v. Kemp et al. Appeal No. 11th Cir. R. 26.1-1(a)
Docket No. 24-13689-J

(1) The undersigned, Sarah E. Thompson and Edward T. Metz, Pro Se Co-Plaintiffs, certify to the best of our knowledge that the following is a full and complete list of all parties, including proposed intervenors, that have ever been named in the case, whether or not the party remains in the case:

Jim Benton, Defendant
Steven F. Bruning, Defendant
William Daughtry, Defendant
Stacy Efrats, Defendant
Tate Fall, Defendant
Debbie Fisher, Defendant
Theresa Jackson, Defendant
Shontay Jones, Defendant
Brian Kemp, Governor of the State of Georgia, Defendant
Jennifer Mosbacher, Defendant
Brad Raffensperger, Secretary of the State of Georgia
Tori Silas, Defendant

(2) A complete list of other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of the case.

GoReclaimGA, LLC

(3) A complete list of each person serving as an attorney in the case.

Jeff Akins, Bulloch County Attorney

Julie Fisher, Attorney for the Ga Sec of State
Kristyn Long, Executive Counsel for the Governor
Charlene McGowan, General Counsel for Ga Sec of State
H. William Rowling, Jr., Cobb County Attorney

(4) For every action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a), the citizenship of every individual or entity whose citizenship is attributed to the party or proposed intervenor on whose behalf the certificate is filed.

All named citizens are of the State of Georgia, USA.

This 18th Day of November, 2024.

/s/_____

Sarah E. Thompson, Pro se
150 Timber Cove
Statesboro, GA 30461
(856) 866-6881
freedomwinsusa@protonmail.com

/s/_____

Edward T. Metz, Pro se
6231 Dodgen Rd. SW
Mableton, GA 30126
(404) 831-9288
tedmetz@gmail.com

TIME-SENSITIVE MOTION OF APPELLANTS FOR AN INJUNCTION PENDING APPEAL, TEMPORARY RESTRAINING ORDER AND ADMINISTRATIVE INJUNCTION

There is no greater tyranny than that which is perpetrated under the shield of the law and in the name of justice.

Charles-Louis de Secondat, baron de la Brède et de Montesquieu, *The Spirit of the Laws*

Appellants, Sarah E. Thompson and Edward T. Metz, U.S. Veterans and Georgia voters, bring this Time-Sensitive Motion with a **Nov. 21, 2024 latest deadline** under 11th Cir. R. 27-1 (b)(1)(2.) for protection of the United States. A proper Order will avert further fraudulent acts under the 12th Am., 14th Am., Art. 1 of the U.S. Constitution and other state and federal laws by Appellees at Appellants' expense. Appellants request **leave of this Court to request elevation to <u>Emergency Motion</u> status,** as 11th Circuit docketing did not occur until Day 11 following the Nov. 1st Order of Northern District of Georgia, Atlanta Division; all correspondence was marked "Emergency."

Irreparable harm has been escalating daily. Additional imminent, concrete, and particularized injury necessitates an Order prior to state Appellees attempting to certify the Nov. 5, 2024 Presidential General Election. O.C.G.A. § 21-2-499(b) and concurrent federal law requires these acts be conducted no later than Nov. 22nd, though Appellees may certify at any time. State law requires Appellee Kemp to lawfully certify the slate of presidential electors no later than 5 p.m. on the 18th day,

which is Nov. 23, 2024. (3 U.S.C.; O.C.G.A. §§ 21-2-11, 21-2-12, 21-2-130, 21-2-172, 21-2-499). The Governor cannot issue lawful certificates of election to U.S. Representatives and commissions per O.C.G.A. § 21-2-502 absent lawful county certifications. There are none.

Appellants come now because the District Court abandoned the Rule of Law, most specifically 2 U.S.C. § 9 and O.C.G.A. 21-2-437(a) and (b) in this case. As such, the Court has granted an improper denial of Appellants' voting rights and enabled irreparable injury at a critical, constitutional election juncture.

BACKGROUND WITH FURTHER INJURY

A. The Appellants' Case Against Appellees' Prohibited Federal and State Election Actions that Injure Them

On October 31st, this matter came to the District Court as a **pre-election challenge** to imminent, irreparable deprivation of Appellants' fundamental voting rights in the Nov. 5, 2024 Presidential General Election. Because the District Court supported **"status quo" over state and federal law,** Appellees continued to act unlawfully to wield concrete and particularized to Appellants. (Mot. for TRO, Exhibit F, G). Appellants filed Notice of Appeal based in 42 U.S. Code § 5195c, on Nov. 4th, the day prior to the election, then process served Appellees. **Collaborative acts by Appellees are subversive** and now amplified in the ongoing voting period:

1 : Appellees falsely assert the authority of electronic system reports as

lawful basis for certification of elections under U.S. Const. Art. 1 § 4, cl. 1 with no provision of state or federal law allowing for such action. (Figure F.1).

Elections may "use" electronic technologies, but must be authoritatively and specifically "by" paper ballot or "by" authorized voting machine per 2 U.S.C. § 9. By rules of statutory interpretation, elections "by" electronic system authority are thereby prohibited. Appellees refused to conduct elections by paper ballots per concurrent prescriptive State laws O.C.G.A. §§ 21-2-435 and 21-2-437. (Exhibits F, G, et seq.). Appellees coercively directed poll officers at Appellants' polling places to act as system operators. Appellees failed to conduct an election "subject to statutory provisions governing use of paper ballots," therefore no basis to certify exists. *Rhoden v. Athens-Clarke Cnty. Bd. of Elections,* 310 Ga. 266, 850 S.E.2d 140-141 (2020)(quote is holding 1). See also *U.S. v. Jackson, C.C.Tenn*.1885, 25 F. 548.

2 : Appellees coerced poll officers at Polling Places throughout Georgia to submit to the laws of a foreign government. Appellants made a new injury discovery on Nov. 14th that poll officers at 2,715 polls statewide "certified" "results tapes" under the authority of **foreign law,** not United States and Georgia law. (Exhibit F, H.1, I). They are forced to sign: "We, the undersigned election officials, hereby certify that the above election was held in accordance with The Local Authority Election Act and regulations of this jurisdiction," (Exhibit H.1, I).

Alarmingly, this is part of the Revised Statutes of **Alberta [Canada]** 2000, Chapter L-21. These actions violate 52 U.S.C. § 10307 and directly violate the 10th Am. sovereignty of the State of Georgia. Laws of other states [or nations] have no force in Georgia except on principles of comity. *Gulf Collateral, Inc. v. Morgan,* 415 F. Supp. 319 (S.D. Ga. 1976). This invalidates the certification of the election attempts at every polling place and advance voting location in this state. Also, this false certification is outside of the contract agreement Secretary Raffensperger signed with the Dominion Voting Systems. (See Mot. for TRO Fact 2, n. 2). This is exactly what the U.S. Supreme Court warned against in *West Virginia v. EPA*, U.S. 20-1530, (2022) "... The Constitution does not authorize agencies [nor executives] to use pen-and-phone regulations as substitutes for laws passed by the people's representatives." See also *Fletcher v. Peck*, 6 Cranch 87, 136 (1810).

3 : Appellees coercively relegated prospective and assigned election officials to the unlawful predicament of choosing between state policy and their sworn oath to support the U.S. Constitution. Appellants could not conscientiously pursue a position as election officers in 2024 for fidelity to their oaths. Captain Baron Reinhold (US Navy, Retired) of Gwinnett County chose to resign his election poll officer duties on Nov. 4, 2024 to avoid actions that fail to protect the United States. Appellee Raffensperger had instructed county election superintendents, who then trained poll officers to violate State law by avoiding O.C.G.A. § 21-2-437. CAPT

Reinhold was trained on unlawful procedures with public funds, with threat of job loss and penalties. (Exhibit J, K, L). Election officials using electronic systems in Camilla, Georgia also similarly resigned Nov. 4th citing "coercion… to violate our oaths of office" as their reason.[1]

On Nov. 1st, the District Court refused to intervene to prevent the consummation of violations of 2 U.S.C. § 9 and other prohibited federal acts (See: 8 U.S.C. § 43, 18 U.S.C. § 595, 18 U.S.C. § 241, 18 U.S.C. § 242, 18 U.S.C. § 1018, 42 U.S.C. § 1983, 42 U.S.C. § 1985, 42 U.S.C. § 1986, 52 U.S.C. § 10307(a)(b)). As such, oath-holding Appellees have further accomplished deprivation of voting rights. Though Fed. R. Civ. P. 65 provides for a pre-emptive remedy, superseding local rules, the District Court failed to protect Appellants on Nov. 5th. Next, Bulloch and Cobb Appellees acted on Nov. 12th to falsely certify.[2] (Exhibit G).

In their outlaw "status quo," Appellees have demonstrated **collaborative statewide failure to produce requisite documents for elections,** yet again**.** No poll officer generated pen and ink tally sheets or duly certified precinct return**s** per O.C.G.A. §§ 21-2-437 and 21-2-493(b), which are requisite material to county certification. Stephens and Fulton County officially answered that there were "no

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[1] *Camilla special election voting canceled after election superintendents resign* https://www.walb.com/video/2024/11/05/camilla-special-election-voting-canceled-after-election-superintendents-resign/ (last visited Nov. 17, 2024).

[2] Sarah Hammond and Staff, *All Georgia Counties Certify General Election Results,* https://www.atlantanewsfirst.com/2024/11/12/georgia-counties-set-certify-election-results/ (last visited Nov 13, 2024).

records responsive." (Exhibit O). Bulloch County responded deceitfully that they would provide them after Nov. 22nd. (Exhibit F, P). Appellant provided an eye-witness affidavit consistent with other voters statewide that these required election documents were neither part of the government directive, nor were they created by any poll officer because no votes were lawfully counted at any of the 2,715 Georgia polling locations, nor advance voting locations. (Exhibit F, M, Motion for TRO pgs. 17-19).

The 52 U.S.C. 10101(e) definition of "vote" contains "having such ballot counted and included in the appropriate totals of votes cast." The act of certifying by sworn election officers is a requisite step to protect the federal voting right, under state and federal law. **Certification of vote totals has been falsified by Appellants' poll officers and county election officials** because their votes were **never counted per State law** provisions for voting by paper ballot. This is deprivation by coercion.

There is no verifiable election to audit in the State of Georgia. Falsification of the state returns is near and next if this Court does not act within its judicial power to defend the U.S. Constitution. Injury to Appellants' and all Georgia voters will be compounded if Appellees are allowed to consummate false state election certificates and a false certificate of ascertainment of appointment of electors per 3 U.S.C. §§ 1 and 5. Two amendments to the Ga Constitution will also be unlawful.[3]

[3] Nov. 5, 2024 General Election, Unofficial Results. https://app.enhancedvoting.com/results/public/Georgia/elections/2024NovGen (last visited Nov. 16, 2024).

According to 3 U.S.C. §§ 1 and 5; 2 U.S.C. §§ 7 and 9, both the Secretary of State and Governor must ensure that State Laws are faithfully executed. 3 U.S.C. § 5 requires that each Governor "issue a certificate of ascertainment of appointment of electors, under and in pursuance of the laws of such State." **Non-compliant Certificates cannot be issued.** Appellees have knowledge that state certificates will have no basis (Exhibit B) and act willfully to abrogate state and federal laws in nonperformance of duties, as described in the original complaint and Exhibits A to E.

Gross failures in their public duties include refusal to conduct the uniform State law prescription for the Time, Place, and Manner of Election concurrent with federal law. (52 U.S.C. § 20501(a), U.S. Const Art. 1, § 4, cl. 1)). "The right to vote freely for the candidate of one's choice is the essence of democratic society, and any restrictions on that right strike at the heart of representative government." *Common Cause Georgia v. Kemp,* 347 F. Supp. 3d 1270 (N.D. Ga. 2018). The Electoral Count Reform Act of 2022 limited some possibilities for rogue officials to abridge voting rights, yet at times such as this, the judiciary must intercede.

Appellees and all Ga Election Superintendents have failed in their sworn duty to conduct constitutionally lawful elections. Appellants' county election officials, and no known sworn poll officer in the State of Georgia participated in the **mandatory human counting of votes** and the completion of duly certified precinct return sheets in accordance with O.C.G.A. § 21-2-437, the longstanding, clear statute

from 1863, followed by poll officers to determine voter intent prior to the invention of mechanical, electronic, or computerized devices.[4] As such, the election appears to be devoid of validity and has no basis for certification. The District Court position that this State law is "devoid of any reference to hand counting or any "human method" is erroneous. (See Order, pg 11). A timely judicial order will prohibit filing of false election documents by Appellees into the federal record.

While Appellees duplicitously proclaim to the national press total election "security and transparency," they instruct sworn officials to conduct "elections" outside of the procedures of law. (Mot. for TRO n. 9, 10; Exhibit K.1, K.2). The prescription for counting of votes and the return of totals O.C.G.A. § 21-2-437 (a) and (b) and its force was undeniably affirmed in *Rhoden* on October 19, 2020. Procedures, including reading the votes aloud, **are <u>irrefutable human methods</u> which the District Court acknowledges to be** in legal force and effect by debating in the Order. Poll officers cited in the law are humans.

B. The District Court's Decision

The District Court, in refusing to acknowledge the rule of law prescribing human conduct of the procedures for counting of votes, return of totals, and requisite documents for a duly certified election, erected a judicial roadblock to protecting the

[4] *Voter Intent Laws,* National Conference of State Legislatures. NCSL.ORG, https://www.ncsl.org/elections-and-campaigns/voter-intent-laws and (last visited Nov 10, 2024).

Appellants' rights. In doing so, it permitted Appellees to deny their voting rights under color of law towards them and all Georgia voters.

The District Court guarded what they termed "the status quo" in its refusal to acknowledge state and federal prescriptions to support the U.S. Const. Voting Clause. Its "status quo" knowledge of pending state affairs was that Appellants' civil rights would be violated absent enforcement of the state prescription. Appellants warned of dangerous "status quo" administrative policy superseding State and federal law in Mot. for TRO, pg. 10. In fact, it is Appellees who have disrupted "status quo" of the rule of law by conducting false elections that fail to comply with state and federal law. Protecting unlawfulness is not in keeping with the role of the federal judiciary. Judicial action to restrain state officials is common.

O.C.G.A. § 21-2-437 is a "**clear and longstanding Georgia election statute."** *Rhoden* at 141, 150. The District Court denied clear law, the *Rhoden* Order, and then allowed yet more irreparable injury to Appellants. The clear intent and purpose of Fed. R. Civ. P. 65 is to thwart irreparable injury, absent notice. Local rules are subordinate.

The Court failed to recognize seven clearly enumerated claims on pg 27-30 of the Mot. for TRO. The Court did not accept the factual allegations as true, as it must. *Ashcroft v. Iqbal,* 129 S.Ct. 1937, 1949 (2009). The District Court allowed the conversion of irreparable injury from imminent to concrete.

ARGUMENT

In determining whether to grant an injunction pending appeal under Rule 8(a), this Court considers all four basic factors. The greater the moving party's showing of irreparable harm, the less it needs to show on the merits. *In re Revel AC, Inc.,* 802 F.3d 558, 569-70 (3d Cir. 2015). Each factor favors the extraordinary relief of a temporary restraining order and an injunction here.

A. THE Appellants ARE LIKELY TO SUCCEED ON THE MERITS

The Appellants met their burden of establishing a prima facie case, and that they would suffer irreparable injury absent the relief. (Mot. for TRO pg. 33-35). They did, in fact, suffer repeated injuries by Appellees from Nov. 5th and ongoing. They

anticipate the near and next injuries through the forthcoming, collaborated false certifications by Appellee state officials. (Exhibits F, G, H, M, O, P).

There is a significant history of criminal indictments for acts less substantial than Appellees'. In 1974, the S.D.W. Va. convicted persons for violating a statute making it a crime to conspire to injure, etc., any citizen in the free exercise or enjoyment of a right or privilege secured to him by the Constitution or laws of the United States for casting fictitious votes. *Anderson v. United States,* 417 U.S. 211, 94 S. Ct. 2253, 41 L. Ed. 2d 20 (1974). In *United States v. Classic,* 313 U.S. 299, 318, 61 S. Ct. 1031, 1039, 85 L. Ed. 1368 (1941), the U.S. Supreme Court affirmed "the

[constitutional] right to participate in the choice of representatives for Congress includes, as we have said, the right to cast a ballot and to have it counted at the general election whether for the successful candidate or not." Appellees have violated that right and operated to injure or oppress **the directly petitioning Appellants, and every Ga voter, in the exercise of those rights.**

Finally, a dominant purpose of the constitutional provision commanding that congressmen shall be chosen by the people of the several states… was "to secure to the people the right to choose representatives by the designated electors, that is, by some form of "election" which, from time immemorial, has been in point of substance no more and no less than the expression by qualified electors of their choice of candidates." U.S.C.A. Const. art. 1, § 2. *United States v. Classic,* 313 U.S. 299, 61 S. Ct. 1031, 85 L. Ed. 1368 (1941). Nov. 5, 2024 was no lawful election.

1. The District Court Misapplied Clear State and Federal Laws

a. The District Court Committed Legal Error in Failing to Recognize Human Conduct in State Law Prescribing Election by Paper Ballot

Concurrent with the Voting Clause and 2 U.S.C. § 9, the Justices of the Georgia Supreme Court in *Rhoden* (at 140, 146, 147), unanimously affirmed that Georgia's voting is by paper ballot and "**subject to statutory provisions governing use of paper ballots."** It crystallized the legal fact that optical scanning systems and equipment furnished to all counties by the State of Georgia **are only for USE as "assist" and "adjunct" and "not a substitute."** (Mot. for TRO, Fact 6). 2 U.S.C. §

9 prescribes no election "by" electronic system to elect their U.S. Representatives. Georgia has not adopted voting machines. The Court avoided this critical point.

The District Court disrupted the stability of the rule of State law to argue against Appellants' voting rights. The Court attempted to legislate elimination of humans from voting procedure. On pg. 11 of the Order, beginning, "Appellants cite to no legal authority that support the proposition that votes must be counted by the "human method" is false. O.C.G.A.§ 21-2-437, cited 25 times in *Rhoden*, prescribes **a human method**. It echoes the requisite teller method of voting by paper ballot prescribed in 3 U.S.C. § 15 for U.S. Congress to count our electoral college votes.

Provisions in O.C.G.A. § 21-2-437 are irrefutable human actions without the aid of assistive electronic equipment, i.e. "poll officers shall open the ballot box," "poll officers… counted one by one," "shall read aloud the names of candidates," "person, while handling ballots," "enter each vote as read and keeping account of the same in ink on … tally papers," and "have in his or her hand any pencil," "poll officer **shall duly certify**… and shall prepare in ink … general returns."

In Footnote 4, the District Court attempted to rewrite the *Rhoden* Order.

> District Order, Footnote 4: "The Court noted that "multiple technologies for marking and counting paper ballots can be used in a given election," regardless of whether optical scanning voting systems or electronic ballot markers are used. (Id at 270). *Rhoden* Order actually says: election, **and that the election should still be deemed to have been conducted via paper ballots.** "

The Appellants have been subjected to deceptive processes. In fact, the **human readable written text of the ballot is <u>never read in the election certification process</u>**. (Mot for TRO, Footnote 2). *Curling v. Raffensperger*, 493 F.Supp.3d 1264, 1308-09 (2020). What both Appellants argued to the Georgia Supreme Court in 2022 is consistent with the District Court Order in *Curling.* (See Order, pg 14).

b. The District Court Committed Legal Error in Failing to Recognize Election Fraud by Substituting Electronic "Tapes" for Duly Certified Returns

The District Court failed to acknowledge the true and perfect mandates of law for election procedures in Georgia, handicapping itself from recognizing Appellees' abrogations of law. Prescribing different manner of election is void as conflicting with general law. *County of Dougherty v. Boyt,* 71 Ga. 484, 1883 Ga. LEXIS 203 (1883). No provision for elections by electronic system and certification on "results tape" exists in state or federal law.

Federal law prohibits states from denying the right to vote because of an immaterial "error or omission" on voting or registration forms. This protection is known as the materiality provision. (52 U.S.C. § 10101(a)(2)(B) and See Schwier v. Cox, 340 F.3d 1284, 1297 (11th Cir. 2003)). <u>Appellants' votes being falsely certified based on electronic system "tapes" under foreign law is **material fraud.**</u>

c. The District Court Committed Abuse of Discretion in Preserving termed "State Quo" that Directly Subverts Georgia's System of Government by Denying Appellants' Protected Rights

For the District Court to protect "status quo," it had to first affirm aforementioned unlawful acts. These are not political affairs. Appellants alerted the District Court in Mot. for TRO (pg. 1, fact 8 and 9) to Appellees use of executive rules and policies to subvert state and federal law. Appellants were correct. It appears that force in the form of coercion as defined by 18 U.S. Code § 2384 and 2385 has occurred, supported by judiciary. The U.S. Constitution cannot withstand such acts.

Appellees are "acting" in their official capacities and must be held liable. The immunity of a state from suit has long been held not to extend to actions against state officials for damages arising out of willful and negligent disregard of state laws. *Johnson v. Lankford,* 245 U.S. 541 (1918); *Martin v. Lankford,* 245 U.S. 547 (1918). The District Court cannot legislate immunity from the bench.

B. THE APPELANTS WILL BE FURTHER IRREPARABLY HARMED IF APPELLEES FALSELY CERTIFY

Appellants have clearly demonstrated prerequisites for a TRO, consisting of imminent, concrete, and now active particularized, irreparable injury

Appellant Thompson eye-witnessed the denial of her voting rights on Nov. 5th at Fairground Precinct in Bulloch County. (Exhibit F). The ballot of Appellant Metz received unlawful policy treatment. Appellants warned their counties prior to their false certification. (Exhibit G, N). On Nov. 12th, Appellant Metz handed Dr. Janice Johnston a copy of the *Rhoden* Order prompting her to act with duty at the Cobb County certification. Johnston is corporate appointee to the State Election Board by

the Georgia Republican Party, Inc.[5] Appellants learned a few hours later that both counties had falsified (not certified) based on electronic "results tapes" of the adjunct electronic system.

Furthermore, Appellants iterated extensive irreparable injury on pages 36-39 of the Motion for TRO, which the District Court failed to address in their Nov. 1st Order. This is a repeated injury and Appellees are chronic abusers, wholly prohibiting the free exercise of the elective franchise after requisite registration to vote. Appellants must accept an unlawful and coercive scheme to participate in something resembling a voting process that is actually color of law deprivation. Furthermore, the financial and psychological injuries to Appellants caused by the wrongful conduct is in violation of 42 U.S.C. § 1983.[6]

Because Appellants' voting rights are curtailed, the injury is sufficiently concrete to count as an "injury in fact" for purposes of Article III standing. U.S.C.A. Const. Art. 3, § 2, cl. 1. *Judge v. Quinn,* 612 F.3d 537 (7th Cir.), opinion amended on denial of reh'g, 387 F. App'x 629 (7th Cir. 2010).

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[5] Brief of Susan P. Opraseuth & Sarah Thompson as Amici Curiae in Support of Neither Party, *Catoosa County Republican Party v. Steven M. Henry, et al*, 2024 WL 3326973, *1, Ga. Also, *American Oversight v. The Ga SEB*, Georgia Republican Party, Inc. Motion to Intervene pg. 1, Fulton Sup. Crt. Civ. No. 24CV009124 ("The GRP, Inc. has an appointee to the SEB, to wit, Dr. Janice Johnson").

[6] *Stachura,* 477 U.S. at 307; *Carey,* 435 U.S. at 264 (mental and emotional distress constitute compensable injury in §1983 cases); see also *Gertz v. Robert Welch, Inc.,* 418 U.S. 323, 350 (1974).

All citizens have a right to vote without denial or abridgment. This is fundamental to 28 U.S.C. § 1343. Federally prohibited acts by Appellees that are enumerated in 52 U.S.C. § 10307 include (a) refusal to permit voting and (b) coercion. Appellants' have been subject to government coercion to use the electronic system for the purpose of interfering with the right to vote. Appellees have demonstrated (c) commission constituting a deprivation of a right or privilege. False "certifications" demonstrate a prohibited act (d). Appellees, in their official capacities, consummate a conspiracy to interfere with civil rights appearing to also violate 42 U.S.C. § 1985, 18 U.S.C. § 241, and 18 U.S.C. § 242. Without lawful elections, we have no representative government.

C. APPELLEES WILL NOT BE INJURED BY ENTRY OF AN INJUNCTION PENDING APPEAL

A judicial order to restrain or enjoin Appellee officials ends a long season of their abuse and deviant acts toward Appellants. See Mot. for TRO, pg. 34.

D. THE PUBLIC INTEREST WEIGHS IN FAVOR OF AN INJUNCTION

Nothing Appellant has asked is against public policy or public interest. It is required by state and federal legislation to uphold the U.S. Constitution. See Mot. for TRO, pg. 34, 36 and *United States v. Classic,* 313 U.S. 299, 313 (1941). Appellants "Claims for Relief" enumerate egregious and broad public harm.

E. DEPRIVATION OF APPELLANTS' RIGHTS IS REPETITIOUS AND THEREFORE EXCEPTIONS TO THE MOOTNESS DOCTRINE APPLY

Generally, an appeal is mooted when the appellate court's ruling, either a reversal or an affirmance, will not affect the parties' substantive rights; i.e., when any ruling would have no practical effect and cannot provide any effective relief. This case is unlike past cases, such as *Wood v. Raffensperger,* 981 F.3d 1307 (11th Cir. 2020), where the state had already certified the result. At this moment, this Appeal is not moot, because the final acts upon Appellants' vote have not occurred.

There are three discretionary exceptions to mootness that still apply now and after any unlawful state certification: (1) the case presents an issue of broad public interest that is likely to recur; (2) there is a possible recurrence of the controversy between the parties; and (3) material questions for the court's determination nonetheless persist, sometimes phrased as: The court should continue to rule to "do complete justice." *Environmental Charter High Sch.,* 122 Cal. App. 4th at 144; see *In re David B.* , 12 Cal. App. 5th 633, 652-54 (2017) ("the common thread" is that deciding moot cases "is appropriate only if a ruling on the merits will affect future proceedings between the parties or will have some precedential consequence in future litigation generally").[7]

Appellants have experienced this at least eight times since March 2020. Absent judicial intervention, it will occur again. *Cf. FEC v. Wis. Right To Life, Inc.*,

[7] Benjamin G. Shatz, *Mooting Mootness,* https://www.manatt.com/Manatt/media/Documents/Articles/Civil-Litigation-5-1-18.pdf (last visited Nov 10, 2024).

551 U.S. 449, 463–64, 127 S.Ct. 2652, 168 L.Ed.2d 329 (2007). This is not purely theoretical.

F. ASSERTING DECISIONS OF STATE COURTS REGARDING RULES DEVIATES FROM THE ESSENTIAL RULE OF LAW IN THIS CASE

In an effort to justify violation of O.C.G.A § 21-2-437, Appellees rely Ga. Comp. R & Regs. r. 183-1-12-.12. (Exhibit A). They promote admin rule subsections as authority on the Time, Place, and Manner of elections and deny the rule of state and federal law. The Appellees and Court's reliance on state court orders related to administrative rules is unavailing. This is a matter of State law. When a regulation is contrary to a statute, the statute trumps the regulation.

Another misapplication by the District Court, Ga. Comp. R & Regs. r. 183-1-12-.12 pertains to the specific period of time and place when the vote must be counted, included in vote totals, and then duly certified. That Time was Nov. 5th. The Place was the polling place of the precinct / election district. The Manner is O.C.G.A § 21-2-437. Appellees failed to ensure uniformity of law in their jurisdictions. The District Court avoided the fact that rules do not supersede State Election Laws upholding the Voting Clause of the U.S. Constitution. (See Mot. for TRO pg. 3 and Fact 3).

The Appellees' national publicity stunt involving the state judiciary to "ban" rules for hand counting of paper ballots at Georgia voting precincts fails miserably.

G. APPELLANTS COMPLIED WITH RULE 65

Appellants' followed Fed. R. Civ. P. 65, which supersedes local rules. They included a verified complaint with facts and undeniable irreparable injury. (See Mot. for TRO pgs. 6-28 and 36-38). "Rule 65 (b)(2), which authorizes a ten-day TRO *without notice* to the Appellee, nevertheless includes a requirement that whatever notice is practical be given." *Ciena Corp. v. Jarrard,* 203 F.3d 312, 319 (4th Cir. 2000). To demonstrate (b)(2), the Appellants provided formal letters (reasonable notices) to Appellees and demanded they follow the law. (Mot. for TRO Facts 14(d) & 21(g); Exhibits A to C). They failed to reply in the affirmative.

Appellants provided seven claims and ten options for relief in the Mot. for TRO. Any would have vindicated Appellants' rights and avoided irreparable injury. The District Court has made it "**difficult for citizens to vote**." (*Duncan v. Poythress*, 515 F. Supp. 327 (N.D. Ga.), aff'd, 657 F.2d 691 (5th Cir. 1981)).

It has long been a federal criminal offense at an election for a representative in congress, if any officer makes a false certificate of the result of such election with respect to the representative voted for. *United States v. Green,* 33 F. 619, 620 (C.C.E.D. Mo. 1887). Appellees appear to intend to state "certify" with no lawfully certified returns at county and precinct levels, thus creating grounds for a voidable election. (See Mot. for TRO, n. 5). When the place has been fixed, an election held at a different place is absolutely void. 29 C.J.S. Elections § 331. (Mot. for TRO n. 5).

Appellees have irreparably injured Appellants, since they held no election by State law.

CONCLUSION

It is just and proper that the U.S. Constitution be upheld. Appellants' voting rights are blatantly, and likely criminally, denied by Appellees in a systematic and subversive scheme that is being executed statewide in every county jurisdiction. Appellees refused to uphold State law prescriptions for the fixed Time, Place, and Manner. Georgia votes by paper ballot, and Appellees have prohibited it. As described in *Rhoden*, electronic system assistance does not substitute for provisions of law for voting by paper ballot. Without voting by one of the two methods in 2 U.S.C. § 9, Congress has directed that such votes "shall not be counted." Appellants assert that it is necessary and proper that their verifiable attempts to vote on Nov. 5th and suffering to bring this Time-Sensitive or Emergency Motion be sacrificed this day, as would be their very lives, to support and defend the U.S. Constitution.

At this time, Appellants ask the Court to enjoin Appellees from falsely certifying the Nov. 5th Presidential General Election and that any "certificate" be withheld from further federal action. In doing so, the 11th Circuit Court of Appeals will secure Appellants' voting rights and that of all Georgians. There are also apparent grounds to refer this matter both to the U.S. Attorney General with information under 22 U.S. Code § 2708 and to a federal grand jury for indictments.

Respectfully submitted this 18th Day of November 2024,

/s/_____

Sarah Thompson, Pro se
150 Timber Cove
Statesboro, GA 30461
(856) 866-6881
freedomwinsusa@protonmail.com

/s/_____

Edward T. Metz, Pro se
6231 Dodgen Rd. SW
Mableton, GA 30126
(404) 831-9288
tedmetz@gmail.com

EXHIBITS FOR
Thompson & Metz v. Kemp et al. Appeal No. 11th Cir. R. 26.1-1(a)
Docket No. 24-13689-J

(Exhibits A to E: With Ex Parte Motion to N.D. Ga (ATL) filed 10.31.24).

A Notice Ad Litem to Counties, 10.8.24

B Proposed Executive Order to the Governor and Sec of State, 10.24.24

C Project 437 Enforcement Demand to Sheriffs and Deputies, 10.28.24

D Memo from Blake Evans, 10.6.22

E Email from Shontay Jones indicating no knowledge of "tally papers." 5.29.24

F.1 Violative Basis of Georgia Elections, Mar 2020 to Present

F.2 Nov. 5 Poll Closing Affidavit, Appellant Thompson

G Appellants Warn Bulloch / Cobb / DA of Unlawful Cert. 11.12.24

H.1 Georgia Poll Tapes Certified Under Canadian Law 11.5.24

H.2 Arizona & Michigan Poll Tapes Cert Under CA Law

I The Local Authority Election Act of Province of Alberta, Canada

J Poll Officer Designation of Baron Reinhold (CPT, USN, RET)

K.1 Training Standard Given to CPT Reinhold (RET)

K.2 Election Day Management Newsflash to Poll Managers

L Resignation Letter of CPT Reinhold (RET) 11.4.24

M Nov 5th Poll Closing Affidavits, Multiple Counties

N Correspondence Between Appellant Metz and Cobb County

O No Election Records, Fulton County and Stephens County

P False Representation of Election Records, Bulloch County

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

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1. This document complies with the word limit of FRAP 27(d)(2)(A) because, excluding the parts of the document exempted by FRAP 32(f), this document contains 5,189 words and is 20 pages.
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/s/_____

Pro Se Appellant

Dated: Nov. 18, 2024

/s/_____

Pro Se Appellant

Dated: Nov. 18, 2024

CERTIFICATE OF SERVICE

We hereby certify that I have this date served a copy of the within and foregoing "Appellants Notice of Appeal, Emergency Conditions" pursuant to civil action of the United States District Court for the Northern District of Georgia, Atlanta Division by First Class mail to ensure delivery to the following parties:

Governor Brian Kemp Attn: Rhonda Wilson 206 Washington St. Suite 201, State Capitol Atlanta, GA 30334 brian.kemp@georgia.gov 404-656-1776 Secretary Brad Raffensperger 206 Washington Street Suite 214, State Capitol Atlanta, GA 30334 soscontact@sos.ga.gov 404-656-2881	Bulloch County Elections Office Attn: Shontay Jones, Theresa Jackson, Jim Benton, and William Daughtry 113 N. Main St., Se 201 Statesboro, GA 30458 sjones@bullochcounty.net 912-764-6502 Cobb County Elections Office Attn: Tori Silas, Steven F. Bruning, Stacy Efrat, Debbie Fisher, Jennifer Mosbacher, and Tate Fall 995 Roswell St. NE Marietta, GA 30060 tate.fall@cobbcounty.org 770-528-2312

This 18th Day of November, 2024.

/s/_____

Sarah E. Thompson, Pro se
150 Timber Cove
Statesboro, GA 30461
(856) 866-6881
freedomwinsusa@protonmail.com

/s/_____

Edward T. Metz, Pro se
6231 Dodgen Rd. SW
Mableton, GA 30126
(404) 831-9288
tedmetz@gmail.com