

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

3
4 **SOLICITOR GENERAL**
5 **BRIAN W. WHITESIDE**
6 **Plaintiff**

7 **v.**

CIVIL ACTION No.

8
9 **Brad Raffensperger in his official capacity of the Secretary of State for the**
10 **State of Georgia, Rebecca N. Sullivan, David Worley, Matthew Mashburn,**
11 **and Anh Le in their official capacities as members of the State Election Board**

12
13
14 **Defendant.**

15
16 **COMPLAINT FOR INJUNCTIVE AND DECLARTORY RELIEF**
17 **52 U.S.C. 10301, 42 U.S.C. 1983; First, Fourteenth and Fifteenth**
18 **Amendments of the United States Constitution**

19
20 1. Plaintiff files this Complaint for voting rights, pursuant to Section 2 of the
21 Voting Rights Act of 1965 (52 U.S.C. 10301) and 42 U.S.C. Seeking prospective
22 declaratory and injunctive relief
23 against Brad Raffensberger, in his official capacity as the Georgia Secretary of
24 State; Rebeca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Lee in
25 their official capacities as members of the State of Georgia Election Board and
26 shows the following:

29 Defendants are officials employed to regulate election laws and procedures in the
30 State of Georgia. All Defendants and Plaintiffs are within the Jurisdiction of the

31 United States District Court for The Northern District Atlanta Division. The before
32 mentioned Court is the proper jurisdiction for this complaint. All material facts
33 occurred, and all parties reside, in this jurisdiction.

34

35

2

36 Plaintiff is Solicitor General Brian W. Whiteside of Gwinnett
37 County. His job is to prevent harm to Gwinnett Citizens. His duty is to prosecute
38 ordinance violations and misdemeanor criminal cases. He has fifteen years'
39 experience as a Gary Police Officer and Gwinnett Sheriff Deputy. In Gary,
40 Indiana, he was assigned to an "In Progress Response Crime Unit. "(Cruiser Cars)
41 This special response unit calculated possible future crime events or victims. The
42 goal of the unit was to prevent crime by analytical research, and actual rapid on
43 scene response. If crime could not be prevented, the duty of the unit was to
44 instantly respond to crime events. The duty then became to prevent harm to
45 citizens. This unit also responded to bank robberies, home invasions, burglary in
46 progress, assaults in progress, rapes in progress. In Gary, Indiana he had on the
47 scene knowledge of over seventy homicides or murders. The Solicitor General has
48 been involved in two "Civil Disturbances" (Riots) As a Gwinnett County Deputy
49 the Solicitor has experience in Court Duty, Jail Duty, Warrant Service and Crowd
50 Control. The Solicitor General has witnessed "crowd fights' at various events he

51 has been on the scene. The Solicitor General has twenty-two years as a Criminal
52 Defense Attorney, and three years as Gwinnett Solicitor.

53

54

3

55 On March 25, 2021, Voting Bill SB202 was passed by the Georgia legislature. SB
56 202 amended Georgia Code Section 21-2-414, relating to restrictions on campaign
57 activities and public opinion polling within the vicinity of polling place, cellular
58 phone use prohibited , prohibition of candidates from entering certain polling
59 places and penalty as follows: (a) No person shall solicit votes in any manner or
60 by any means or method ,nor shall any person distribute or display any campaign
61 material ,nor shall any person give offer to give or participate in the giving of any
62 money or gift , including but not limited to ,food and drink to an elector, nor shall
63 any person solicit signatures for any petition , nor shall any person, other than
64 election officials discharging their duties, establish or set up or establish or set up
65 any tables or booths on any day in which ballots are being cast.: (1) Within 150
66 feet of the outer edge of any building within a polling place is established ;(2)
67 Within any polling place ;or (3) Within 25 feet of any voter in line to vote at any
68 polling place. These restrictions shall not apply to conduct occurring in private
69 offices or areas which cannot be seen or heard by such electors.(e) This Code
70 section shall not be construed to prohibit a poll officer from distributing materials

71 ,as required by law ,which are necessary for the purpose for instructing electors or
72 distributing materials prepared by the Secretary of State which are designed to
73 solely for the purpose of encouraging voter participation in the election being
74 conducted or from making available self -service water from an unattended
75 receptacle to an elector waiting in line to vote.” Anyone in violation of this Code
76 section shall be guilty of a misdemeanor. The punishment can be up to 12 months
77 in custody or a \$1000.00 fine.

78 The Gwinnett County Solicitor states SB202 Section 33 lacks the criminal
79 elements of both intent and harm.

80 An intent to commit a crime cannot be proven in SB202 Section 33. If there are no
81 political items, speech or actions. The element of harm cannot be proven. There is
82 no victim or damage to property. The “victim” becomes the receiver of a
83 humanitarian act without political purpose. The law is overbroad. Criminal intent
84 cannot be proven by the humanitarian act of giving food or water without any
85 political purpose, materials clothing or speech. The provision of imprisonment or
86 fine violates the 8th Amendment to the Constitution of The United States. This
87 provision is Cruel and Unusual Punishment. SB 202 Section 33 punishes the act
88 of giving nourishment without a criminal purpose. (8TH Amendment; Excessive
89 bail shall not be required, nor excessive fines imposed, nor cruel and unusual
90 punishment inflicted.) The law as revised, commands law enforcement to obey and

91 unlawful order, due a lack of intent and harm. The law as revised gives citizens the
92 right to resist an unlawful arrest. The law destroys trust in law enforcement, and
93 can cause chaos, riots, and resisting arrest at the polls. The Solicitor General has
94 had riot duty. His intent is to protect citizens and police.

95

96

4

97 The adequate remedy at law will be to void the prohibition on gifts of food and
98 liquids by citizens without political purposes. No criminal elements exist to
99 enforce or prosecute the revision

100

101

5

102 The State is also aware that the elements of intent and harm must be present to
103 commit a crime. The 8th Amendment of the U. S. Constitution is violated by the
104 States action.

105

106

6

107 Harm by disturbances and protest caused by an unconstitutional law will injury
108 EMT persons, Fire persons, Police and Citizens.

109

110

7

111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132

Plaintiff has a clear legal right to protect citizens, and first responders from violations of the United States Constitution. Plaintiff has a right to protect citizens, fire, persons and police from possible disturbances.

WHEREFORE, plaintiff prays that the court issue an Injunction and Declaratory relief. Furthermore, the Plaintiff prays this court will adjudge that:

1. The Solicitor has a right to protect human beings in Gwinnett County.
2. By banning the gift of foods and liquids without political purpose Section 33 SB202 is void.
3. The Bill SB 202 Section 33 provisions of fine and imprisonment for non-political actions are void and unconstitutional.
4. By not allowing humanity at the polls imposed by SB 202 Section 33, the State of Georgia endangers the health and safety of the community.

This the 31^h, day of July 2021.

Brian W. Whiteside
Gwinnett County Solicitor General

CERTIFICATE OF COMPLIANCE AND OF SERVICE

133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing COMPLAINT FOR NJUNCTIVE AND DECLARATORY RELIEF has been prepared in Times New Roman 14, a font and type selection approved by the Courtin L.R. 5.1(C), and that I provided notice and a copy of the foregoing using the CM/ECF system which will automatically send e-mail notification of such filing toall attorneys of record.

Respectfully submitted this 1st day of September 2021.

Brian Whiteside
Georgia Bar No. 756040
Solicitor General of Gwinnett County.
75 Langley Drive,
Lawrenceville, GA 30046
Email:
brian.whiteside@gwinnettcountry.com

Counsel for Plaintiffs