

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

ALPHA PHI ALPHA FRATERNITY
INC., et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION

FILE NO. 1:21-CV-05337-SCJ

**DEFENDANT'S RESPONSE TO PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

Following the filing of Proposed Findings of Fact and Conclusions of Law, Plaintiffs filed a decision by the U.S. District Court for the District of Maryland, finding the Baltimore County commission districts in violation of Section 2 of the Voting Rights Act. Doc. No. [123-1]. This decision offers little assistance to the Court.

First, the defendants in the Maryland case apparently did not allege that the illustrative plans provided were racial gerrymanders. The district court specifically noted that there were no features that “reach out across long distances to include communities that would otherwise fall in other districts.”

Doc. No. [123-1], p. 12. Those types of features mark the districts drawn by Plaintiffs' expert William Cooper in this case.

Second, the defendants in the Maryland case apparently did not raise the issue of partisan polarization in relation to the polarized voting prongs of Gingles. The district court noted that the defendants relied on primary votes and other races to argue voting was not polarized, not that voting was polarized on a partisan basis. Doc. No. [123-1], pp. 13–18. In contrast, the Secretary in this case presented evidence that voting in Georgia is polarized by party, which does not mean there is a denial or abridgement of the right to vote “on account of race or color.” 52 U.S.C. § 10301(a).

Third, the election timeline is completely different in Maryland than in Georgia. The district court noted that the Court of Appeals of Maryland—not a federal court—had already extended candidate qualifying to late in March. Doc. No. [123-1], p. 22 n.8. The primary election is not until June 28, 2022, which is a week after the primary runoff in Georgia. *Id.* at 22. Remedial plans are due in the Maryland court by March 8, 2022—which is after the start of qualifying in Georgia. *Id.* at 23.

Finally, it appears that the defendants in the case submitted little to no evidence on the feasibility of implementing of any relief. Doc. No. [123-1], p. 21 (noting only two pages on “orderly election” issues). That is in sharp contrast

to the extensive testimony provided in this proceeding on the chaos that would ensue if changes were made in the Georgia election schedule by delaying qualifying and/or the primary election.

Ultimately, this case does not assist the Court in its “intensely local appraisal” to resolve the issues in Georgia. Johnson v. De Grandy, 512 U.S. 997, 1020–21 (1994). This Court should deny Plaintiffs’ motion.

This 24th day of February, 2022.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned certifies that the foregoing brief has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

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