

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-12593-J

RICHARD ROSE,
an individual,
BRIONTE MCCORKLE,
an individual,
WANDA MOSLEY,
an individual,
JAMES MAJOR WOODALL,

Plaintiffs-Appellees,

versus

SECRETARY, STATE OF GEORGIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia

Before: JORDAN, ROSENBAUM, and LUCK, Circuit Judges.

BY THE COURT:

Appellees' "Emergency Motion for an Administrative Stay" is DENIED.

The Clerk is directed to treat any motion for reconsideration of this order as a non-emergency matter.

22-12593

ROSENBAUM, J., dissenting

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ROSENBAUM, Circuit Judge, dissenting:

We stayed the district court’s injunction because “the cancellation of the November elections for Districts 2 and 3 ha[d] to be done by August 12, 2022[.]” *See* Order Staying Injunction at 6. I dissented, arguing that the *Purcell*¹ principle wasn’t applicable. *Id.* at 7. In response, the Majority suggested that “if we are mistaken on this point, the Supreme Court can tell us.” *Id.* at 6.

The Appellees have now asked for an administrative stay of our order to allow the Supreme Court to tell us whether the *Purcell* principle applies. To be sure, while the parties agreed—and the district court assumed—that Secretary Raffensperger would suffer administrative burden without a final ruling by August 12, the record shows that there is some wiggle room on the exact date.

Director Michael Barnes—the person in charge of finalizing the ballots—testified that his “preference” was that the final order be entered by August 12, 2022. But he conceded this was a soft deadline, not a hard one. He said that it would be “better” if the election were canceled during the ballot-building phase, which he said would happen in the “[m]iddle of August to early September.” If the district court entered an order in early September, he said, “the work could still be done, but then we’re into a phase where we’re not going to have much time to double-check and proof[.]”

¹ *Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006).

As this testimony makes clear, August 12 is a reasonable deadline—but it is not an absolute one. Because this case involves a finding of liability on the Voting Rights Act—that is, Georgia’s system of electing Public Service Commission members dilutes the votes of Black Georgians—it is crucial that we get it right and that we give the Supreme Court the opportunity (if it wants) to weigh in.

I would grant a short administrative stay through midnight August 16, 2022, to allow the Supreme Court to consider whether it wishes to weigh in while the ballots still have not gone to print. A modest postponement would not create administrative burden on Secretary Raffensperger and would give the Supreme Court the opportunity to tell us if we are mistaken.

I respectfully dissent.

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