

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

PAUL GOLDMAN,
Pro se Plaintiff,

v.

Civil No. 3:21cv420 (DJN)

ROBERT BRINK, *et al.*,
Defendants.

ORDER
(Denying Motion for Reconsideration)

This matter comes before the Court on *pro se* Plaintiff's Motion for Reconsideration (ECF No. 56), moving for the Court to reconsider its denial of Plaintiff's Motion for a Temporary Injunction (ECF No. 53) to enjoin Defendant members of the State Board of Elections ("the Board") Robert Brink, John O'Bannon and Jamilah D. LeCruise ("the Board members") from issuing Certificates of Election indicating that those elected to the House of Delegates in the November 2, 2021 general election will serve a two-year term. (Mot. for Temporary Inj. at 1 (ECF No. 53).)


On November 19, 2021, the Board members responded that Plaintiff's Motion for a Temporary Injunction (ECF No. 53) was moot. (Defs.' Resp. to Pl.'s Mot. for Temporary Inj. ("Defs.' Resp.") at 1 (ECF No. 54).) The Board certified the election results on November 15, 2021, as required by Virginia law, and transmitted the signed certificates of election on November 16, 2021, to the individuals elected to the House of Delegates in this year's election. (Defs.' Resp. at 1 (citing Va. Code Ann. §§ 24.2-679(A), -680).) Plaintiff filed his Motion on November 19, 2021, four days after the Board had already certified the election results. As such, on November 23, 2021, the Court denied the Motion for a Temporary Injunction. (ECF No. 55.)

On October 18, 2021, the Board members and Defendant Christopher Piper (“Piper”), the Commissioner of the Virginia Department of Elections (collectively, “Defendants”), filed a Notice of Interlocutory Appeal (ECF No. 47), appealing the Court’s Memorandum Opinion (ECF No. 40) and Order (ECF No. 41) denying Defendants Eleventh Amendment immunity and granting in part and denying in part the Motion to Dismiss the Second Amended Complaint (ECF No. 23) filed by the current Defendants, as well as former Defendants Virginia Governor Ralph Northam and the Virginia State Board of Elections.

The Motion for Reconsideration raises issues that could potentially implicate the pending Fourth Circuit appeal, including requesting briefing on the Board’s authority to certify the 2021 general election and related issues pertinent to the Board’s power over Virginia elections. “The filing of a notice of appeal is an event of jurisdictional significance — it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (citations omitted). Because the Motion for Reconsideration and the relief that it requests may raise issues on appeal before the Fourth Circuit, the Court lacks jurisdiction over the Motion (ECF No. 56). For these reasons, the Court hereby DENIES the Motion (ECF No. 56).

Let the Clerk file a copy of this Order electronically and notify all counsel of record.

It is so ORDERED.


_____/s/_____
David J. Novak
United States District Judge
*On behalf of the three-judge panel,
with the agreement of United States Circuit
Judge Stephanie D. Thacker and United States
District Judge Raymond A. Jackson*

Richmond, Virginia
Dated: December 6, 2021