

**IN THE SUPERIOR COURT OF COLUMBIA COUNTY
STATE OF GEORGIA**

Lori Portillo, Pro Se

Petitioner

CIVIL ACTION
No. 22CVE1890

v.

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

CHEROKEE COUNTY GEORGIA
BOARD OF ELECTIONS
ALAN SHINALL
MIKE BYRD
RACHEL KINSEY
CINDY COSTELLO
DONALD SAMS

Respondents

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER

Petitioner, Lori Portillo, has filed her original petition in this case seeking a Declaratory Judgment and Injunctive Relief against Brad Raffensperger, the Cherokee County Board of Elections, Alan Shinall, Mike Byrd, Rachel Kinsey, Cindy Castello, and Donald Sams.

COMES NOW, Petitioner Lori Portillo, pursuant to O.C.G.A. 9-11-65(b), request for an Ex Parte Temporary Restraining Order in the same cause of

action. It appears from facts set forth in Petitioner's original petition and the exhibits and sworn affidavits attached thereto, that unless the Respondents are immediately restrained from the acts prohibited below, Respondents will continue to commit such acts before notice can be given and hearing can be held on Petitioner's request for Declaratory Judgment and Injunctive Relief in this honorable court. Furthermore, Respondents will continue their deceptive tactics and misrepresentations, promulgated by the Secretary of State's office, and continue to use electronic voting equipment to cast and count votes through the upcoming elections before judgment can be rendered. Such injury is imminent and irreparable. Continued use of this voting equipment may well cause votes to be uncounted or reversed, disenfranchising thousands of qualified electors and abridging Petitioner's, the People's of Cherokee County and the state of Georgia right to vote. There is no possibility of adequate compensation or restitution when one's vote is not cast or counted as the voter intended.

1. WHEREAS, It has been determined from Cherokee County's ScanVote Audit Logs (Ex A) that Cherokee County electronic voting systems have the same software errors as reported by Williamson County, TN. These software errors cause a large percentage of votes to be uncounted or reversed, thereby abridging a voter's right to ensure their vote being counted as cast. This is in violation of the First, Fourteenth and Twenty Sixth Amendments of the United States Constitution, Article I, Section I, Paragraphs I, II, and VII, Article II, Section I,

Paragraphs I and II of the Georgia Constitution and O.C.G.A. 1-2-6 *et seq.*, and O.C.G.A. 21-2-365(8). Therefore, since these software issues call in to question the validity of the vote count, do not alert the poll supervisors as to these errors, and do not have the ability to be fixed, the use of these voting systems needs to cease immediately.

2. WHEREAS, These software errors occurred in 97% of counties in Georgia that provided the ScanVote Audit Logs. This provides factual evidence of this software issue being a widespread crisis and not a localized, one-time problem. The evidence shows Georgia vote counts to be off by as much as 19%. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

3. WHEREAS, The evidence proves these counting 'errors' are inherent in the software programming of the electronic voting system and not caused by 'human error' as promulgated by the Secretary of State's office and the voting system manufacturer. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

4. WHEREAS, If there were cause to believe these inaccurate tabulations were due to 'human error', it is happening too often and in too high of a percentage of counties in Georgia to be disregarded. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

5. WHEREAS, The Cherokee County Board of Elections has been informed and aware of said software programming issues as evidenced by the August 1, 2022 BoE meeting where they declined to vote for a hand recount of the May 24, 2022 primary after threat of financial consequences by County Election Board attorney Anne Brumbaugh. I personally attended said meeting as was witness to these events. If the counting of votes continues via the use of the electronic tabulators, the 'Certification of Election' cannot legitimately be perfected or signed without a hand count of each vote on every original ballot cast. This was the method attested to by John Poulos, the voting system manufacturer CEO, as the only way to verify an accurate vote count during the State Board of Elections meeting earlier this month. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

6. WHEREAS, The State Board of Elections has been notified, orally, in writing and by a number of Verified Notices and Demand of Emergency Review. (EX B) These Notices include evidence of vote tabulator 'errors' throughout Georgia. Thus, once again, proving this software programming issue as not being a one-time, localized 'human error' problem but rather a widespread, statewide crisis. The State Board of Elections has thus far ignored or disregarded these software programming issues that disenfranchise thousands of voters. No legitimate 'Certification of Election' for the state of Georgia can be perfected or signed without a hand count of all votes on each original ballot cast. Therefore,

the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

7. WHEREAS, Blake Evans, Elections Director of the Secretary of State's office, is attempting to forestall hand counting of the original cast votes by misrepresenting the software programming 'errors' as only occurring on Dominion 5.5B versus 5.5A which is used in Georgia. The evidence provided in Exhibit A attached, proves this to be a false statement. If this were a true statement or if any of the reasons given by Evans for this 'error' code manifesting were true, then each time a ballot is reversed it would show the 'error' code 'QR Code Signature Mismatch'. The evidence shows there are multiple 'error' codes which are causing the ballots to be reversed. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

8. WHEREAS, Though the 'QR Code Signature Mismatch' is not the only 'error' code causing scanned ballots to be reversed, there is no such thing as a QR Code 'misread'. QR codes have a signature or checksum within the code itself. The QR code contains a mathematical validation method which means a QR code is either read or not read but cannot be 'misread'. And Whereas, the QR code not being human readable was determined to be non-compliant with Georgia law by Federal Judge Amy Totenberg in 2020 during the *Curling v.*

Raffensperger suit. Therefore, the use of these tabulating machines for counting votes in Cherokee County and Georgia needs to cease immediately.

9. WHEREAS, The 'QR Code Signature Mismatch' error code also causes the tabulator's protective counter to not increment. This protected counter is a meter, required by law, which counts every ballot scanned. This protected counter is not supposed to be able to be suspended, manipulated, or reset. It is coded to the hardware of the machine. However, this QR Code Signature Mismatch 'error' causes the protective counter to not incrementally add to the ballots scanned count, nor does it update the count that appears on the poll tape when it happens. Therefore, the only way to ensure every vote cast is counted as intended by the qualified elector is to hand count each vote on each original ballot and immediately cease the use of the tabulating machines.

10. WHEREAS, Despite the Secretary of State's office and the voting system manufacturer's assertion that this coding error is limited to Democracy Suite 5.5B and C, it has been confirmed to exist in the software version used in Georgia on both the Image Cast Precinct and Image Cast Central tabulators.

Therefore, the only way to ensure every vote cast is counted as intended by the qualified elector is to hand count each vote on each original ballot and immediately cease the use of the tabulating machines.

11. WHEREAS, The results of the 2022 Dekalb primaries prove this 'error' pair did in fact change the vote count in the election of Michelle Long Spears when an

additional 2,810 votes were 'found' during a vote recount of the original cast ballots. Thus, the Secretary of State's office and the voting system manufacturer's assertions of this 'error' not affecting the Georgia Democracy Suite version is untrue. Therefore, the only way to ensure every vote cast is counted as intended by the qualified elector is to hand count each vote on each original ballot and immediately cease the use of the tabulating machines.

12. WHEREAS, A 'risk limiting audit' *after* the election is not an acceptable remedy. It does not allow for the confirmation that each vote cast by qualified electors is being counted as intended. It only allows for a very small percentage of votes to be audited. The 'risk limiting audit' will not be necessary if the original votes as cast are hand counted. Per title 52 USC 10310(c) (1) – *The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this chapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.*

THEREFORE, the Petitioner asks:

(a) That, this honorable Court set a hearing as soon as possible and direct Respondents to appear before this Court and show just cause why the demands

of the Petitioner should not be granted; And That, due to imminent irreparable harm to the qualified electors of Cherokee County and the state of Georgia, time is of the essence;

(b) That, this honorable Court restrain and enjoin Respondents from the ability to use the electronic voting system tabulators;

(c) That, this honorable Court direct Respondents to hand count, under the supervision of an equal number of bi-partisan poll watchers, all votes on the original cast ballots;

(d) That, this honorable Court direct Respondents to remove the original ballots cast during early voting from the tabulators so the votes on these ballots can be counted as cast and intended by the qualified elector; And That, any early voting ballots that are cast from this point until the end of early voting be treated the same;

(e) That, this honorable Court direct Respondents to hand count votes as intended by the qualified elector on any and all mailed in ballots, absentee ballots or provisional ballots that have gone through the verification and validation process; And That, these ballots are not to be processed via the electronic tabulators;

(f) That, this honorable Court make findings of fact and conclusions of law concerning the issues in this case;

(g) That, Petitioner have such other and further relief as this honorable Court may deem just and proper; And That, this honorable Court award Petitioner costs for having to bring this action;

(h) That, the Respondents be served a copy of this Petition and Ex Parte Restraining Order as is required by law;

(i) That, this honorable Court enjoin and restrain Respondents from destroying, encumbering, secreting, or otherwise disposing of or removing from the jurisdiction of this Court any and all election documents;

(j) That, this honorable Court issue this Ex Parte Temporary Restraining Order, to protect the rights of qualified electors of Cherokee County and the state of Georgia to cast their vote and have it accurately counted as is protected by the Constitution(s) and the laws of the state of Georgia, and to ensure the accuracy and integrity of our elections, until the original Petition for Declaratory Judgment and Injunctive Relief can be heard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lori Portillo', written over a horizontal line.

Lori Portillo, Petitioner Pro Se
210 Carmichael Road
Woodstock, GA 30189

October 26, 2022