

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

NEW GEORGIA PROJECT, *et al.*

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia, *et al.*

Defendants.

Civil Action No. 1:24-cv-03412-SDG

**GWINNETT COUNTY DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Defendants Wandy Taylor, David Hancock, Loretta Mirandola, Alice O'Lenick, and Anthony Rodriguez, named in their official capacity as members of the Gwinnett County Board of Registrations and Elections (hereinafter referred to as "Gwinnett County Defendants") move to dismiss Plaintiffs' Consolidated First Amended Complaint [Doc. 155] in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) and (6) because Plaintiffs lack standing and fail to state a claim upon which relief may be granted.

In support of this motion, Gwinnett County Defendants hereby adopt the arguments set forth in State Defendants' Brief in Support of Motion to Dismiss [Doc. 168-1], except that Gwinnett County Defendants do not adopt State

Defendant's arguments regarding traceability to and redressability by State Defendants in Sections II(D) and II(E) of their brief.

Plaintiffs make one claim (Claim III) only against certain county defendants, including Gwinnett County Defendants. That claim alleges, without any specific factual allegations as to what alleged conduct of Gwinnett County they are referring to, that Gwinnett County Defendants "have engaged in an ongoing practice of immediately removing voters from the registration list on the ground of an alleged change of address" in violation of Section 8(d) of the National Voter Registration Act ("NVRA"). [Doc. 155 ¶ 274]. Similar to Plaintiffs' other claims, Claim III fails because Plaintiffs lack standing as set forth in State Defendants' Motion to Dismiss and, for some plaintiffs, due to their failure to properly comply with the pre-suit notice requirements of the NVRA. [Doc. 168-1, § IV(A)]. Furthermore, State Defendants point out in Section IV(B) of their brief the reasons that Count I, which also alleges violations of the NVRA Section 8(d) removal process, fails to state a claim and should be dismissed. Those same reasons similarly apply to Count III, and they are adopted herein as to Count III.

In addition to the legal shortcomings, Plaintiff's claims in Count III (and throughout the Complaint) are just factually inaccurate, at least in regards to Gwinnett County. Rather than "immediately removing voters" as Plaintiffs' allege, Gwinnett County Defendants' policies in handling O.C.G.A §§ 21-2-229

and 230 challenges both specifically state Gwinnett does not remove voters due to a change in residence other than through the NVRA process. Gwinnett's current policies state:

[Gwinnett County Defendants] shall not hear any challenge based on a challenge alleging that [an elector] was properly registered to vote in Gwinnett County at the time of initial registration but may have moved from the address listed in their voter registration file... The sole procedure to be followed in this circumstance is to send the voter a confirmation notice and wait two federal election cycles for the voter to either vote or update their information before removing them from the rolls as outlined under Section 8(d) of the NVRA.

Gwinnett County Board of Registrations and Elections Voter Challenges Policy for 21-2-230 Challenges, ¶ 4 (attached hereto as Ex. 1). *See also* Voter Challenges Policy for 21-2-229 Challenges, ¶ 4 (attached hereto as Ex. 2).

For all the reasons set forth in State Defendant's Motion to Dismiss and adopted herein, other than the arguments regarding traceability and redressability to State Defendants, this Court should dismiss Plaintiffs' claims.

Respectfully submitted this 17th day of January, 2025.

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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).

/s/ C. Ryan Germany
C. Ryan Germany

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CERTIFICATE OF SERVICE

In accordance with Local Rule 5.1, I hereby certify that on this day I electronically filed the above **GWINNETT COUNTY DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notifications of such filing to all attorneys of record.

Dated: January 17, 2025

/s/ C. Ryan Germany
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