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 Georgia Secretary of State, *et al.*,	CIVIL ACTION NO.: 1:24-cv-03412-SDG

DOUGHERTY COUNTY DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT AS TO THEM AND BRIEF IN SUPPORT OF SAME

COME NOW Doughtery County Board of Elections and Frederick Williams, Benny Hand, Annabelle Stubbs, Price Corr, and Jacob Clawson, in their official capacities as members of the Doughtery County Board of Elections (hereinafter "Dougherty County Defendants"), and, pursuant to Fed. R. Civ. P. 12(b)(1) and (6), move the Court to dismiss Plaintiffs' Amended Complaint as to them, respectfully showing the Court the following:

BACKGROUND

On December 17, 2024, Plaintiffs consolidated three separate complaints filed in this court. (Doc. 155.) The Dougherty County Defendants were not named in any of the three original lawsuits. (Doc. 1, Civil Action No. 1:24-cv-03412-SDG; Doc. 1, Civil Action No. 1:24-cv-04287-SDG; Doc. 1, Civil Action No. 1:24-cv-04659-

SDG.) Instead, the Dougherty County Defendants – and sixteen other county election boards referred to in the Amended Complaint as the "Seventeen County Board Member Defendants") – were added to the Amended Complaint by Plaintiffs Georgia State Conference of the NAACP and the Georgia Coalition for the People's Agenda (hereinafter "Plaintiffs"), apparently without leave of Court.

Aside from naming the Dougherty County Defendants, Plaintiffs only specifically mention the Dougherty County Defendants twice in their 142-page Amended Complaint: in footnotes 4 and 41, Plaintiffs contend that they sent notice to the Dougherty County Defendants of their alleged violation of the National Voting Rights Act ("NVRA") on July 10, 2024. (Doc. 155, pp. 10, 94.) Plaintiffs then set forth claims against the Seventeen County Board Member Defendants in general in Counts I, II, and IV of the Amended Complaint, with no specific allegations concerning the Dougherty County Defendants. (Id. at 95-103, 105.) However, Plaintiffs lack standing to pursue their claims against the Dougherty County Defendants and also fail to state a claim against the Dougherty County Defendants upon which relief can be granted. Accordingly, Plaintiffs' claims against the Dougherty County Defendants should be dismissed.

I. Plaintiffs lack standing.

As set forth in the arguments contained in the motions and briefs filed by the other Seventeen County Board Member Defendants, as well as the State Defendants,

Plaintiffs lack standing to sue the Dougherty County Defendants because they cannot show (1) they suffered an injury-in-fact (2) that is fairly traceable to the challenged conduct of the defendant and (3) that is likely to be redressed by a favorable judicial decision. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61. An injury must be "concrete, particularized, and actual or imminent." Clapper v. Amnesty Int'l USA, 568 U.S. 398, 409 (2013). The threatened injury must be "certainly impending," and allegations of "possible future injury" are not sufficient. Id.

As with the other Seventeen County Board Member Defendants, Plaintiffs do not allege in this case that the Dougherty County Defendants have wrongfully removed any voters from the voter rolls in contravention of the NVRA. They do not even allege that any voters have been challenged in Dougherty County. Plaintiffs simply presume the possibility of these events occurring in the future, which is not a sufficiently imminent action to allow standing. Moreover, it is insufficient to allege challenges in other counties and presume that creates standing as to Dougherty County. Standing is not "dispensed in gross." Murthy v. Missouri, 603 U.S. 43, 61 (2024). Defendants may not be treated "as a monolith." Id. at 69. A plaintiff must demonstrate standing for each claim "against each defendant." Id. at 61. This requires a showing that "a particular defendant" engaged in challenged conduct. Id.

Plaintiffs have not made this showing as to the Dougherty County Defendants,

so they lack standing.

II. Plaintiffs fail to state a claim upon which relief can be granted.

Furthermore, Plaintiffs fail to state a claim against the Dougherty County Defendants upon which relief can be granted. As set forth by the Worth County Defendants:

> [T]o survive a motion to dismiss under Rule 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Establishing plausibility requires "more than a sheer possibility that a defendant has acted unlawfully."

Ga. Ass'n of Latino Elected Offs., Inc. v. Gwinnett Cnty. Bd. of Registration & Elections, 36 F.4th 1100, 1116 (11th Cir. 2022) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) and Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). In this case, there are no factual allegations against the Dougherty County Defendants at all. There are no accusations of past misconduct by the Dougherty County Defendants. There are no accusations of imminent future misconduct by the Dougherty County Defendants. The Complaint does not contain the "sufficient factual matter" to meet the plausibility standards of Twombly and Iqbal, and thus fails to state a claim upon which relief may be granted as to the Dougherty County Defendants.

CONCLUSION

The Dougherty County Defendants hereby adopt and incorporate as if fully set forth herein the arguments made by the other members of the Seventeen County

Board Member Defendants, as well as those set forth in Sections I, II(A),(B), and IV(A),(B),(C) of the State Defendants' Brief in Support of Motion to Dismiss (Doc. 168-1), and move this Court to dismiss the claims against them pursuant to Fed. R. Civ. P. 12(b)(1) and (6).

WHEREFORE, the Dougherty County Defendants respectfully request their Motion be GRANTED.

Respectfully submitted this 24th day of March, 2025.

/s/ Frances L. Clay
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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1 AND CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

This 24th day of March, 2025.

/s/ Frances L. Clay
Frances L. Clay

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2025, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will automatically notify all counsel of record.

This 24th day of March, 2025.

/s/ Frances L. Clay
Frances L. Clay