

IN THE SUPERIOR COURT OF OCONEE COUNTY
STATE OF GEORGIA


Angela Elder Johnson, Clerk
Oconee County, Georgia

SUZANNAH HEIMEL,)

Plaintiff,)

v.)

SHARON GREGG - DIRECTOR OF)
BOARD OF ELECTIONS and JAY)
HANLEY - CHAIRMAN OF BOARD OF)
ELECTIONS,)

Defendants.)

CIVIL ACTION NO. SUSR2024000058-LL

**ANSWER OF INTERVENOR
COMMON CAUSE GEORGIA**

Intervenor Common Cause Georgia (“Common Cause”), by and through its attorneys, submits the following Answer to Plaintiff’s Application for Writ of Mandamus (the “Application”) and Cross-Claims. Common Cause responds to the allegations in the Application as follows.

ANSWER

1. Unnumbered Paragraph 1 of the Application appears to state that Defendant Sharon Gregg took actions against Plaintiff, including those set forth in subparagraphs 1-3. Common Cause lacks knowledge or information sufficient to form a belief as to the truth of the allegations that Defendant Sharon Gregg took actions against Plaintiff. Based on information and belief, Common Cause admits that Plaintiff is a resident of Oconee County.

2. Regarding Unnumbered Paragraph 1, Subparagraph 1 of the Application, Common Cause admits that the Oconee County Board of Elections (“the Board”) has continued to register voters after July 19, 2024. Common Cause denies that the Board did not consider the 228 challenged voters set forth on the attachment but admits that the Board did not conduct hearings

on those 228 challenged voters. The allegation that “per OCGA 21-2-229 this is a requirement” calls for a legal conclusion to which no response is required. To the extent a further response is deemed required, Common Cause denies the allegation.

3. Regarding Unnumbered Paragraph 1, Subparagraph 2 of the Application, Common Cause denies the allegations.

4. Regarding Unnumbered Paragraph 1, Subparagraph 3 of the Application, Common Cause denies the allegations.

5. Unnumbered Paragraph 2 of the Application states that the Board received two lists on July 19, 2024, containing 232 challenged voters. Common Cause lacks knowledge or information sufficient to form a belief as to the truth of these allegations. Common Cause admits that the Board did not call a hearing within 10 business days after serving notice of the challenge, that the Board dismissed 230 of the challenges, and that the Board held a hearing on August 15, 2024 on two of the challenges. The allegation that the actions are in “violation of the OCGA Election code and job and responsibilities of the Elections Director and Board of Registrar” calls for a legal conclusion to which no response is required. To the extent a further response is deemed required, Common Cause denies the allegation. Common Cause lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Unnumbered Paragraph 2 of the Application.

6. Unnumbered Paragraph 3 of the Application states, “Such conduct is a threat to the registered voters of Oconee County.” This allegation is vague as to the specific “conduct” to which the allegation is referring and as to the meaning of “threat.” Unnumbered Paragraph 3 of the Application also states that “[s]uch conduct” “prevents [Plaintiff] from having confidence in the election rolls.” Common Cause lacks knowledge or information sufficient to form a belief as to

the truth of this allegation. Unnumbered Paragraph 3 of the Application also states, "It is in clear violation of your duties as Director of Board of Election." This allegation calls for a legal conclusion to which no response is required. To the extent a further response is deemed required, Common Cause denies the allegation.

7. Unnumbered Paragraph 4 of the Application sets forth remedies which Plaintiff seeks and calls for a legal conclusion to which no response is required. To the extent a further response is deemed required, Common Cause denies the allegation and denies that the Plaintiff is entitled to any of the requested relief or any other relief.

8. Unnumbered Paragraph 5 of the Application sets forth Plaintiff's motive or intent. Common Cause lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

9. Unnumbered Paragraph 6 of the Application sets forth Plaintiff's threats of legal action, to which no response is required.

AFFIRMATIVE DEFENSES

Common Cause asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because they fail to state a claim for relief that can be granted.

SECOND AFFIRMATIVE DEFENSE

The relief Plaintiff seeks is barred by state law.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because the relief sought would be futile and fruitless, and thus she is not entitled to the extraordinary remedy of a writ of mandamus that she demands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because she lacks the requisite clear legal right to relief in order for a writ of mandamus to issue.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because relief sought would violate O.C.G.A. § 21-2-230(b)(1), which bars challenges of an elector within 45 days of an election.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

COMMON CAUSE'S REQUEST FOR RELIEF

Having answered Plaintiff's Application, Common Cause requests that the Court:

1. Deny Plaintiff's requested relief;
2. Dismiss Plaintiff's Application with prejudice; and
3. Grant any relief this Court deems just and proper.

Respectfully submitted, this 4th day of October, 2024:

/s/ Jeremy Burnette

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Counsel for Susan Noakes

*motion for admission *pro hac vice*
forthcoming

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CERTIFICATE OF SERVICE

I hereby certify that, on October 4, 2024, the foregoing was served upon the following persons by electronic mail and the Court's electronic service delivery to:

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