IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JULIE ADAMS, in her official capacity, Plaintiff	* *	CIVIL ACTION 24CV013884
vs.	*	Judge McBurney
NADINE WILLIAMS, in her official capacity, Defendant	* *	

FINAL ORDER DENYING WRIT

Plaintiff, a member of the Fulton County Board of Registration and Elections ("Board"), seeks a writ of mandamus compelling Defendant, the Director of the Board, to provide Plaintiff with election-related information she has requested that she deems necessary for her to fulfill her responsibilities as a Board member and election superintendent. Plaintiff seeks this information immediately, as the general election the results of which Plaintiff is required by law to certify no later than 12 November 2024 is tomorrow (with many days of extremely active early voting already behind us). On 1 November 2024, the Court held an emergency hearing on Plaintiff's application. Based on the arguments and proffers made at that hearing and the pleadings of record, the Court DENIES Plaintiff her writ as currently pled.

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On 14 October 2024, this Court entered a declaratory judgment in Civil Action 24CV011584 that established that an election superintendent's certification of election results pursuant to O.C.G.A. § 21-2-493 is mandatory. But that was not the only area of uncertainty that the Court's Order was meant to clarify. Also bedeviling the Board and its staff was the question of whether Board members, as superintendents, were entitled to ready and complete access to all non-protected election data that the Board's staff collected and

compiled as part of its election work. The Court's Order provided direction there as well: Board members are indeed entitled to prompt and full access to such information so that they can fulfill *all* their many responsibilities, some discretionary, some mandatory.

This latter declaration ought not to strike anyone as remarkable. Indeed, what would be remarkable would be a Board member or superintendent who would disagree with the concept of ready and complete access to such information. Rarely is the answer to hard questions "give the decider less information." And the work of an election superintendent is not one of those rare roles in which operating in the dark (or even dusk) is sound policy. More information yields better informed decisions, policies, and governance -- all of which is the role of a Board member. Thus, while some Board members might choose not to dive into the minutiae, that reluctance to roll up the sleeves and get dirty with data should not mean that another more inquisitive and enterprising Board member is thus prevented from doing so as she endeavors to satisfy the terms of her oath and her many statutory obligations. *See* O.C.G.A. § 21-2-70.

So it was that this Court declared what it did. Unimpressed with or unconvinced by (or both) the Court's reasoning and conclusion, Plaintiff on 23 October 2024 filed a notice of appeal of the Court's Final Order in Civil Action 24CV011584. That discretionary exercise of her appellate rights had several effects. First, and likely of primary interest to Plaintiff, it brought the question of whether her role as certifier of election results is mandatory or discretionary to the higher courts for a more definitive answer. But second, and of greater relevance here, it stayed this Court's ruling. *Burton v. Glynn Cnty.*, 297 Ga. 544, 549-50 (2015); *Cooper v. Pollard*, 370 Ga. App. 550, 552-554 (2023).[1] That is, there is now no

[1] Plaintiff's reliance in ¶ 17 of her application on *Jahncke Serv., Inc. v. Dep't of Transp.*, 137 Ga. App. 179 (1976), to support an argument to the contrary -- *i.e.*, that this Court's declaratory judgment ruling was *not* stayed by Plaintiff's notice of appeal -- mystifies the Court. First, that is not what *Jahncke* says. Second,

judicial declaration in effect that an election superintendent (or Board member) is entitled to prompt and full access to whatever election materials she may request from the Elections Director or her staff.

That is significant here because what Plaintiff asks for in her application is an order directing Defendant "to comply with the Final Order as issued by this Court on October 14, 2024." (Application at ¶ 25). Indeed, Plaintiff quotes in full the pertinent language of that Final Order concerning a superintendent's right of access to election materials in her application. (*Id.* at ¶ 7). The Final Order is also cited in the language of Count I as establishing that Plaintiff has "a clear legal right to have access to election materials and information upon request." (*Id.* at ¶ 31). Plaintiff invokes the Final Order once more when she makes her formal request for a "writ of mandamus ordering Ms. Williams to comply with the Final Order." (*Id.* at ¶ 33). And finally, in her Prayer for Relief, Plaintiff asks the Court to issue "a mandamus absolute requiring Ms. Williams to immediately and fully provide Ms. Adams the election materials and information she requested, as provided in the Final Order." (*Id.* at 9).

While it is flattering to see the Final Order feature so prominently in a subsequent piece of litigation, it is also futile.[2] The Final Order has been stayed -- by Plaintiff's own

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the *Jahncke* decision pre-dates fundamental changes to the constitutional framework of the appellate process that would make *Jahncke's* reasoning (if it did say what Plaintiff claims it does) out-of-date and unpersuasive.

[2] And it is a third "f-word" too: frustrating. This Court *already* granted Plaintiff the relief she is seeking here -- until she cast it aside, at least temporarily, by way of her appeal. As the Court has made plain in its rulings and during its discussions with the thoughtful attorneys representing the two sides in this case (and related cases), there is *nothing* in the Election Code that says superintendents may not or should not have access to as much data as they reasonably believe they need to do their jobs, nor is there a sound policy reason to prohibit such access -- assuming the requests are timely made and not unduly disruptive of the other important work the Board and its staff must perform in the days leading up to and immediately following an election. (Of course, any demand for large amounts of information made now, on the very eve of the election, is almost by definition dilatory.)

doing. There is nothing from that Order for this Court to enforce and thus no relief pursuant to that Order that this Court can provide. For that prosaic reason, and not for any judgment on the merits of her underlying request, Plaintiff's application is DENIED.

SO ORDERED this 4th day of November 2024.

Judge Robert C. I. McBurney
Superior Court of Fulton County
Atlanta Judicial Circuit