

In The  
SUPERIOR COURT  
For The  
COUNTY OF WASHINGTON, STATE OF GEORGIA

TRACY WHEELER,  
Petitioner

-VS-

CIVIL ACTION FILE NUMBER  
SUCV2024000212

BALDWIN COUNTY BOARD  
of ELECTIONS AND REGISTRATION,  
GLASCOCK COUNTY BOARD OF  
ELECTIONS AND REGISTRATION,  
HANCOCK COUNTY BOARD OF  
ELECTIONS AND REGISTRATION,  
McDUFFIE COUNTY BOARD OF  
ELECTIONS AND REGISTRATION,  
WARREN COUNTY BOARD OF  
ELECTIONS AND REGISTRATIONS,  
WASHINGTON COUNTY BOARD OF  
ELECTIONS AND REGISTRATION, and  
WILLIE MACK JACKSON, JR.,  
Candidate for State House District 128  
\_\_\_ November 5, 2024  
Respondents

**ORDER ON PETITION TO CONTEST ELECTION RESULTS AND**  
**REQUEST FOR NEW ELECTION**

The Court, having received and considered evidence, citations of  
law, and arguments of counsel, enters the following:

## I. APPLICABLE LAW

-1-

"Elections are critical to our democratic republic. We give great credence to the choices citizens make when they engage in the democratic process by voting to select their representatives. And because we place so much value on that exercise of democracy, we afford great weight to election results. Indeed,

[t]he setting aside of an election in which the people have chosen their representative is a **drastic remedy** that should **not be undertaken lightly**, but instead should be reserved for cases in which a person challenging an election has **clearly established** a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt."

**Martin et. al. v. Fulton County Board of Registrations and Elections**  
**307 Ga. 193, 193-194 (2019).**

-2-

"It is not sufficient to show irregularities which simply erode confidence in the outcome of the election. Elections cannot be overturned on the basis of mere speculation, or an appearance of impropriety in the election procedures." **Fuller v. Thomas** **284 Ga 397, 306, 314 (2021).**



“Elections matter. For this reason, parties wanting a court to throw out the results of an election after it has occurred must clear significant hurdles. And for decades, our precedent has made crystal clear that the first such hurdle is for the parties seeking to undo an election to have done everything within their power to have their claims decided before the election occurred.” **Ponder v. Davis No. S25A0095, 310 S.E. 2d 195, 197, (December 10, 2024)**, quoting with approval **Catoosa County Republican Party v. Henry 319 Ga 794 (2024)**.

“The party contesting the election has the burden of showing an irregularity or illegality sufficient to change or place in doubt the result of the election.” **Meade v. Williamson 293 Ga 142, 143 (2013)**.

“It is a matter of common knowledge and statistical fact that electors frequently refrain from casting votes when in their view no candidate is worthy of support. It is their privilege to do so.” **Miller v. Kirkpatrick 140 Ga App 193, 194 (1976)**. (Trial courts cannot “presume that each of the

A handwritten signature in black ink, appearing to be 'Sme' or similar, located in the bottom right corner of the page.

voters actually voted in the contested race.” *Id.*)

-6-

“When illegal voting has been alleged, ‘it is . . . necessary to show (1) that electors voted *in the particular contest being challenged* and (2) a sufficient number of them were not qualified to vote’ . . . ” (Emphasis, the Court’s.) **McIntosh County Board of Elections v. Deverger** 282 Ga 566, (2007).

## **II. FINDINGS OF FACT**

-1-

Tracy Wheeler, Petitioner herein, was the Republican nominee for Georgia House of Representative, District 128, in the November 2024 election, while Respondent Willie Mack Jackson, Jr., was the Democratic nominee for that district, having also served since 2012 as that district’s representative.

-2-

Mr. Jackson was declared the winner of the election by a margin of 48 votes in an election in which 27,804 votes were cast.

A handwritten signature in black ink, appearing to be "Smc", is located in the bottom right corner of the page.

Three (3) voters<sup>1</sup>, at the time of the election, no longer were legal residents of District 128, having moved out of the district more than thirty days before the election. **Significantly, the three of them all TESTIFIED AT TRIAL and admitted casting votes in the District 128 race<sup>2</sup>.**

On the other hand, Petitioner chooses to call certain other voters “outsiders” \_\_\_a group of 44 people<sup>3</sup>\_\_\_ each of whom received a ballot which included the District 128 contest on their ballot although they did not live in District 128. The record in this case is devoid of any evidence as to whether any of these 44 “outsider” voters actually voted in the District 128 election.

---

<sup>1</sup>Hannah Ruth Bowers, Kristy Rae Hardesty, and Zachary Keith Hardesty.

<sup>2</sup> These three were called “the movers” by the Petitioner, but they are each nonetheless “outsiders” to District 128. The Hardestys had bought a house and moved to Oglethorpe County in August 2024, and Ms. Bowers’ had decided her residence was in Bulloch County, Georgia after graduating from Georgia Southern College there in January 2023 or 2024. Zachary Keith Hardesty was given bad information by some election official in some county concerning how he could vote. It was obvious to the Court that he did not desire to lose his right to vote for President in the 2024 election.

<sup>3</sup> Other than the “movers” who, as shown in paragraph 3 hereinabove, are also properly called “outsiders.”



Of the alleged forty-four (44) outsiders, twenty-four (24) voters<sup>4</sup> lived on White Oak Road, Thomson, Georgia, at the time of the election, in Ga House District 125; however, the voter's certificate or the application for absentee ballot signed by each of such individuals all show the combo code of 132, which combo code is for the ballot containing the District 128 house race, rather than the District 125 house race.<sup>5</sup> Unlike the voters in paragraph II\_1 hereinabove, none of these twenty-four (24) voters were called to testify as to whether they actually voted in the District 128 contest. The Court notes that the street outside the very courtroom in which this

---

<sup>4</sup> These twenty-four voters were commonly referred to in the trial as the "White Oak 24." These voters are William Jacob Brooks, Abigail Taylor Castle, Tony Lee Duckworth, Aaron Matthew Graves, Misty Dene Hawkins, William L. Hawkins, Kelly Lee Hitt, Tonya Hatcher Hitt, A. Bryant Hood, Elizabeth Joane Hood, Jeremy Bryant Hood, Mary Donna G. Hood, McKenzie Aubrey Hood, Randy Jacobs, Bryan Thomas Jones, Jennifer Angel Kent, Katrina Climons Mance, Aaron Joseph Moore, Leon B. Newsome, Jr., Vickie D. Newsome, John David Swint, Leah Montanta Wangness, Randall Eugene Wangness, and Whitney Wangness. These 24 are a part of the 44 outsiders. The other "outsiders" are Grace Elizabeth Barnes, Mark Clifford Barnes, Martha Joann Barnes, Daniel James Compton, Beamon James Crosby, Jr., Vicki Smith Crosby, Theresa P. Ferguson, Donna M. Harris, Edgar Allen Harris, Wesley Allen Harris, Amiee Beth Holliman, Kenneth Dwayne Holliman, Bradley Neal, Jule Reese Neal, David Pilgrim, Sr., Tina Ellen Pilgrim, Sara Camille Rodgers, Connie Lee Sirmans, James Edward Sirmans, Jr., and James Edward Sirmans, III.

<sup>5</sup>The Court finds this is sufficient to show that these "White Oak 24" voters actually received a ballot which contained the contest for the district 128 representative at issue in this case.

A handwritten signature in black ink, appearing to be "Jm1" with a flourish.

trial was held is White Oak Street, which, according to the evidence presented, turns into White Oak Road after a short distance, making it very easy to have had such voters appear at trial.

-6-

Eleven (11) voters<sup>6</sup> were disenfranchised in that they each were residents of District 128 yet did not receive a ballot which contained the contest for that District.

### **III. Conclusions**

-1-

Clearly, the eleven (11) disenfranchised voters (see paragraph II 6 immediately above) count toward the 48 votes which Petitioner needs to show in order to place the election in doubt, as do the three (3) "movers" who testified they voted in the District 128 election (see paragraph II, 3 above), resulting in a total of fourteen (14) votes that count toward the total

---

<sup>6</sup> Helen Davis Daniels, Kelsey Grace Kent, L.C. McCord, Marcus Turmaine McCord, Sandra A. McCord, Margaret Sharp, London Tyler Shelton, Kelli S. Taylor, Kelli Jade Taylor, Christian Elvin Tiller, and Kimberly Eric White. It should be noted that the Court is including the following in this group: (1) Helen Davis Daniels although the evidence shows that her deed and tax records show that this residence is in Jefferson County and out of District 128; Kelli S. Taylor and Kelli Jade Taylor although the tax records show the residence is taxed in Johnson County and out of District 128 as is the residence of London Tyler Shelton.

of 48 that she must show.

-2-

In order to resort to the “drastic remedy that should not be taken lightly” and overturn this election, this Court would have to “presume” that at least 34 of the 44 “outsiders” actually voted in the District 128 contest. Such presumptions are not allowed, and mere speculation as to how many, if any, of these “outsiders” actually voted in this race<sup>7</sup> cannot be used to place in doubt the result of this election. Succinctly stated, voters being provided with an opportunity to vote in the wrong district does not equate to proof by a preponderance of evidence that such voters actually tainted the election by voting in the election at issue.

-3-

Without hearing evidence as to how many, if any, of these 44 “outsiders” actually cast a vote in the District 128 race, there is no showing that the inclusion of that contest on these “outsiders” ballots erodes confidence in the outcome of the election, much less that such inclusion places in doubt the result of the election.

---

<sup>7</sup> It is permissible to ask voters *IF* they voted in a particular election but not for whom the voter voted.

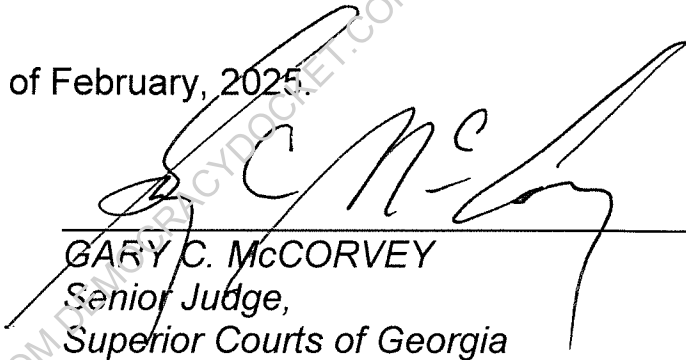
A handwritten signature in black ink, appearing to be 'Jmc' or similar, located in the bottom right corner of the page.



Petitioner also failed to prove “systemic irregularities” warrant a new election or that she acted promptly before the election to address the same.<sup>8</sup>

***IT IS THEREFORE ORDERED AND ADJUDGED*** that Petitioner’s Request for a New Election for Georgia House District 128 be, and the same hereby is, ***DENIED.***

***SO ORDERED***, 10<sup>th</sup> day of February, 2025.



GARY C. MCCORVEY  
Senior Judge,  
Superior Courts of Georgia  
Presiding by Designation as  
Judge,  
Superior Court of Washington County

---

<sup>8</sup> See generally *Ponder*, supra.