

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

REPUBLICAN NATIONAL
COMMITTEE; FULTON COUNTY
REPUBLICAN PARTY; TIM K.
FLEMING; and KEVIN MULDOWNEY;
Plaintiffs,

v.

SHERRI ALLEN; DOUGLASS SELBY;
TERESA K. CRAWFORD; and JULIE
ADAMS,
Defendants,

v.

DEMOCRATIC SENATORIAL
CAMPAIGN COMMITTEE and JON
OSSOFF FOR SENATE;
Intervening third parties.

CIVIL ACTION FILE
NO. 26CV008750

FINAL ORDER GRANTING MOTIONS TO DISMISS

Believing the Fulton County Board of Registration and Elections (the “Board”) authorized an unlawful process for collecting absentee ballots, the Plaintiffs filed this petition seeking declaratory and injunctive relief. (6/18/26, Dkt. 1; Am. 9/11/26, Dkt. 29). The Defendants and intervening third parties now seek dismissal, raising several jurisdictional and facial challenges. (8/12/26, Dkt. 24-25). Having reviewed these motions, the record, and applicable law, the Court concludes it lacks jurisdiction because the challenged policy is no longer in effect. The petition must therefore be dismissed as moot.

Background

On April 20, 2026, the Board approved a “Policy Regarding Absentee Ballot Drop-Off” establishing local procedures for receiving hand-delivered absentee ballots. (First Am. Pet. ¶¶ 6,

45). The policy designated twenty-two advance voting locations as additional registrar's offices, mass-appointed poll managers and assistant managers as deputy registrars, and authorized electors to present absentee ballots to these poll workers to be date-and-time labeled before deposit into "secured ABM ballot containers" for next-day transport and verification. (*Id.* at ¶¶ 41, 46–48, 62). Filing this action against the current Board members in their individual capacities, the Plaintiffs contend the policy exceeds the Defendants' statutory authority by mass-deputizing poll workers to receive absentee ballots without immediate voter verification upon receipt (O.C.G.A. §§ 21-2-213, 21-2-385(a), 21-2-386(a)(1)(B)), establishing de facto drop boxes beyond Fulton County's seven-box statutory cap (O.C.G.A. § 21-2-382(c)), failing to ensure poll-watcher observation rights (O.C.G.A. § 21-2-408(d)), and designating a non-governmental building as an additional registrar's office (O.C.G.A. § 21-2-382(a); State Election Board Rule 183-1-14-.08(2)). (First Am. Pet. at ¶¶ 1, 6, 10, 16, 42, 52–79). Consequently, the Plaintiffs ask for a declaratory judgment deeming the policy void, alongside interlocutory and perpetual injunctions prohibiting its future enforcement. (*Id.* at ¶¶ 7, 91, 96, 102).

The Defendants raise jurisdictional arguments based on lack of standing, mootness, and sovereign immunity, and further contend the Plaintiffs failed to state a valid claim for declaratory judgment due to the lack of alleged uncertainty and insecurity as to some future act. The intervening third parties largely raise these same issues and additionally assert the petition should be dismissed under O.C.G.A. § 9-11-12(b)(6) because the policy was statutorily authorized. Instead of filing a response to the motions to dismiss, the Plaintiffs submitted an amended petition that

adds Mr. Kevin Muldowney as a named plaintiff.¹ Other than describing Mr. Muldowney as a prospective Fulton County elector with an interest in the lawful administration of absentee voting procedures, the factual allegations remain unchanged. This amendment presumably comes in response to the challenges based on standing, see *Republican Nat'l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771 (2025) and *DeKalb County Republican Party v. Raffensperger*, 376 Ga. App. 757 (2025), however, the new petition makes no attempt to address the issue of mootness. The deadline having passed for the Plaintiffs to respond under Uniform Superior Court Rule 6.2, and because the case concerns the administration of an upcoming election and should be addressed expeditiously,² the Court deems the motions ripe for consideration on the present record.

Standard

Mootness is a jurisdictional issue that must be addressed before reaching the merits.³ *Crary v. Clautice*, 318 Ga. 573, 576 (2024) (citation omitted); *In the Interest of I. B.*, 219 Ga. App. 268, 269 (1995) (physical precedent only) (noting that “[t]hroughout Article VI of the Georgia

¹ Although it has no bearing on the determinative issue of mootness, the Court notes the addition of Mr. Muldowney is currently inoperative. While no pretrial order has been entered in this case, permitting amendment of the petition pursuant to O.C.G.A. § 9-11-15(a) without court approval, O.C.G.A. § 9-11-21 nevertheless requires leave of court to add, drop, or substitute any party after a civil action has commenced. *W. Sky Fin., LLC v. State of Ga.*, 300 Ga. 340, 357 (2016); *Nw. Ga. Contracting, LLC v. St. Germain*, 350 Ga. App. 568, 570 (2019) (leave of court not required until suit commences). The Plaintiffs have not sought such leave, and so Mr. Muldowney’s status as a plaintiff is “without effect.” *Lendr.Online, LLC v. Copeland*, 378 Ga. App. 372, 373 n.1 (2026).

² To this point, it should be noted the Plaintiffs ask to enjoin the absentee ballot process for the upcoming general election. These ballots will be mailed in only a few days on October 5th.

³ Because the alternative challenges based on standing, mootness, and sovereign immunity all dispute “the extent to which a case properly may come before a court at all,” the Court treats them as interchangeable “threshold determination[s]” resolvable in any order. *McConnell v. Dep’t of Labor*, 302 Ga. 18, 18-19 (2017).

Constitution, jurisdictional authority is given over ‘cases’” and “[c]ases’ are live disputes, actual controversies”). The judicial power only allows courts to decide “‘live disputes’ between adverse parties, in which one party has asserted an injury in fact that was caused by the other and that can be redressed by a favorable decision.” *Rampersad v. Plantation at Bay Creek Homeowners Assn.*, 362 Ga. App. 329, 331 (2022) (citations omitted). “When the resolution of a case would be tantamount to the determination of an abstract question not arising upon existing facts or rights, and when the remedy sought in litigation no longer benefits the party seeking it, the case is moot and must be dismissed.” *Crary*, 318 Ga. at 576 (citation modified); *see also* Black’s Law Dictionary (12th ed. 2024) (defining “mootness” as “[t]he lack of any actual controversy between litigants, as a result of which any judicial ruling would have no practical effect.”); *McAlister v. Clifton*, 313 Ga. 373, 745 (2022) (Peterson, J., concurring) (noting in part that because the Georgia Constitution lacks the case-and-controversy language found in Article III of the United States Constitution, “we ought to consider in an appropriate case the proper scope and nature of Georgia’s mootness doctrine.”).

When reviewing such a challenge to subject-matter jurisdiction under O.C.G.A. § 9-11-12(b)(1), the plaintiff bears the burden of establishing that jurisdiction exists by a preponderance of the evidence. *Stillwell v. Topa Ins. Co.*, 363 Ga. App. 126, 126 (2022); *DOT v. Thompson*, 354 Ga. App. 200, 207 (2020). A trial court is not bound by the allegations of the complaint as when considering a motion to dismiss under O.C.G.A. § 9-11-12(b)(6) and can instead receive additional evidence or decide the matter solely upon the written submissions. *See, e.g., Cardinale v. State of Ga.*, 363 Ga. App. 873, 878 n.5 (2022); *James v. Georgia Dep’t of Pub. Safety*, 337 Ga. App. 864,

Application

Thee movants claim this case is moot because the Board unanimously voted to end the entire policy. As evidence, the third-party intervenors ask this Court to take judicial notice of the Board's decision pursuant to O.C.G.A. § 24-2-201(b).⁵ After reviewing the minutes of the relevant meeting posted on Fulton County's official government website,⁶ as well as a public announcement on the same governmental platform that the policy remains "discontinued,"⁷ the Court finds this assertion is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned," that the movants have provided the Court with the necessary

⁴ To be clear, the Court does not decide this as a matter of statutory standing, i.e., that the Plaintiffs failed to state a cause of action under the Declaratory Judgment Act, O.C.G.A. § 9-4-1 et seq., due to the lack of an "actual controversy." There is a distinction between constitutional standing and statutory standing. *Sons of Confederate Veterans v. Henry Cty. Bd. of Comm'rs*, 315 Ga. 39, 64 (2022); *Stillwell*, 363 Ga. App. at 128; *Oldham v. Landrum*, 363 Ga. App. 284, 291 (2022) (Pinson, J., concurring in part). While statutory standing concerns whether a legislative enactment confers a cause of action upon a particular class of litigants, constitutional standing directly limits a court's jurisdictional power. *Sons of Confederate Veterans*, 315 Ga. at 53-54; *Oldham*, 363 Ga. App. at 291. The Supreme Court has previously characterized mootness in a declaratory judgment claim as a threshold matter of subject-matter jurisdiction. *Sexual Offender Registration Rev. Bd. v. Berzett*, 301 Ga. 391, 392 (2017). The distinction is important because of the procedural differences already noted when determining motions to dismiss under O.C.G.A. § 9-11-12(b)(1) versus O.C.G.A. § 9-11-12(b)(6), as well as the ultimate effect of dismissal — one is a matter of abatement, the other a dismissal with prejudice.

⁵ Defendants' motion references a certified copy of the meeting minutes as "Exhibit A," however they failed accompany their motion with any attachments.

⁶ Fulton County Bd. of Registration & Elections, *Approved Minutes* (May 14, 2026), <https://fultoncountygga.gov/-/media/Departments/Registration-and-Elections/2026-BRE-Approved-Meeting-Minutes/BRE-Approved-Minutes-5142026.pdf>.

⁷ Fulton County Registration & Elections, *Early Voting Locations*, Fulton County Ga. Gov, <https://www.fultoncountygga.gov/inside-fulton-county/fulton-county-departments/registration-and-elections/early-voting-locations> (last visited Oct. 1, 2026).

information, and that as a result the Court must take judicial notice. O.C.G.A. § 24-2-2-1(b)(2); *Riley v. Ga. Ass'n of Club Execs.*, 313 Ga. 364, 365-67 (2022) (taking judicial notice of documents found on government websites); *Bd. of Comm'rs v. Brantley Cty. Dev. Partners*, 372 Ga. App. 603, 617 (2024) (same). The Court hereby accepts as an adjudicated fact that the policy challenged by the Plaintiffs was discontinued in its entirety as of May 14, 2026. This fact wholly outweighs the Plaintiffs' assertion that the Defendants intend to employ the policy in upcoming elections. (First Am. Pet. ¶ 81). Although verified, this allegation is conclusory, contains no corroborative support, and the verification itself does not adequately establish personal knowledge of this particular claim.

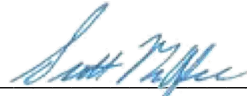
As a result, nothing is left to be redressed by a favorable decision. The Plaintiffs' challenges are moot. Nor does the record show this is a matter capable of repetition yet evading review, thereby evading mootness. *See, e.g., WMW, Inc. v. American Honda Motor Co.*, 291 Ga. 683 (2012). Plaintiffs' allegation the policy will be redeployed is speculative, and even the potential this might occur "is insufficient if there would be ample opportunity for review at that time." *Cardinale*, 363 Ga. App. at 876-79 (citation omitted). The approval and reimplementation of such an election policy would likely take weeks, if not longer, and by nature is a matter conducted in the public sphere well in advance of an election. Any affected party retains the ability to effectively pursue injunctive relief should a similar policy re-emerge.

Conclusion

The motions to dismiss are granted. Pursuant to O.C.G.A. § 9-11-12(b)(1), the declaratory judgment claim is dismissed without prejudice as moot. The injunctive relief sought is dependent on a successful claim for declaratory judgment, and so the Plaintiffs' motion for an interlocutory injunction (8/7/26, Dkt. 22-23) is denied and the claim for a perpetual injunction is dismissed. *See*

Berzett, 301 Ga. at 396. There being nothing further to adjudicate, the Clerk of Court is directed to close this action.

SO ORDERED, October 1, 2026.



Judge Scott McAfee
Superior Court of Fulton County
Atlanta Judicial Circuit

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