

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CORECO JA'QAN PEARSON,
VIKKI TOWNSEND CONSIGLIO,
GLORIA KAY GODWIN, JAMES
KENNETH CARROLL, CAROLYN
HALL FISHER, CATHLEEN ALSTON
LATHAM, and BRIAN JAY VAN
GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as
Governor of Georgia, BRAD
RAFFENSPERGER, in his official
capacity as Secretary of State and Chair of
the Georgia State Election Board, DAVID
J. WORLEY, in his official capacity as a
member of the Georgia State Election
Board, REBECCA N. SULLIVAN, in her
official capacity as a member of the
Georgia State Election Board,
MATTHEW MASHBURN, in his official
capacity as a member of the Georgia State
Election Board, and ANH LE, in her
official capacity as a member of the
Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

EMERGENCY REQUEST TO GRANT INTERVENTION

Plaintiffs filed a Complaint on Friday, November 25, 2020 and a Motion for a Temporary Restraining Order two days later. *See* ECF Nos. 1, 6. The Court held a hearing on the evening of November 29, and it issued an order the same night setting an expedited briefing schedule and partially granting Plaintiffs' Motion. *See* ECF No. 14. The next day, the Democratic Party of Georgia, Inc., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees") filed a Motion to Intervene and Brief in Support of the same. *See* ECF No. 20. On December 1, before the Court could rule on the Democratic Political Party Committees' motion or Plaintiffs responded to the motion, Plaintiffs filed an appeal. *See* ECF. No. 32. For the reasons stated in their Motion to Intervene, the Democratic Political Party Committees respectfully request that the Court immediately grant their Motion to Intervene so they can fully participate in the appeal.

The Court may grant the Motion to Intervene. An interlocutory appeal of an order on a motion requesting injunctive relief does not necessarily divest the Court of jurisdiction. *Rau v. Moats*, No. 4:18-CV-0154-HLM, 2018 WL 11233237, at *1 (N.D. Ga. Aug. 31, 2018). Although filing a notice of appeal ordinarily divests the district court of jurisdiction over issues decided in the order being appealed, jurisdiction is retained when the appeal is from an order regarding injunctive relief. *See id.* Indeed, circuit courts are aligned in the view that an interlocutory appeal does

not automatically stay all district court proceedings. *See, e.g., West Pub. Co. v. Mead Data Cent., Inc.*, 799 F.2d 1219, 1229 (8th Cir. 1986) (In affirming a preliminary injunction, the court voiced the hope that the case would be soon tried, and noted: “Indeed, so far as any requirements of law are concerned, it could have been tried already: the pendency of an interlocutory appeal . . . does not wholly divest the District Court of jurisdiction over the entire case.”); *U.S. v. Price*, 688 F.2d 204, 215 (3d Cir. 1982) (district court erred in staying all proceedings during the pendency of an interlocutory appeal because an appeal from the grant or denial of injunctive relief does not divest the court of jurisdiction); *U.S. v. Lynd*, 321 F.2d 26, 28 (5th Cir. 1963) (there is a “general proposition that an appeal from the denial or granting of a preliminary injunction should not ordinarily delay the final trial of the case on its merits”).

Because the Democratic Political Party Committees’ pending motion to intervene was not an issue decided in this Court’s November 29 order (ECF No. 14), Plaintiffs’ appeal of the latter does not divest the Court of jurisdiction to decide the former.

Dated: December 2, 2020.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance
with the font type and margin requirements of L.R. 5.1, using font type of Times

New Roman and a point size of 14.

Dated: December 2, 2020.

/s/ Amanda Callais
Counsel for Proposed Intervenor-
Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 2, 2020.

/s/ Amanda Callais
*Counsel for Proposed Intervenor-
Defendants*