

FULTON COUNTY SUPERIOR COURT

DONALD J. TRUMP FOR PRESIDENT, VOTER 1, VOTER 2, and VOTER 3,
Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia,

Defendant. _____

COMPLAINT

Introduction

1. Plaintiffsonlyseekoneremedy:anhonestvote,honestlycounted, with lawful ballots. The means to achieve this remedy is equally simple: an independently confirmed, observed signature-match- check of the absentee ballot envelopes to the pre-ballot voter’s signature in the voter file. The law already requires this as the principal and primary means of election accuracy and integrity.
2. As acknowledged by leading practitioners and procedural guidebooks, a recanvass and audit necessarily includes an independently confirmed, independently observed, signature-match-check of the absentee ballot envelopes to the voter file, a protective procedure also advised by independent, bi-partisan blue ribbon panels and Congressional commissions, such as the Best Practices Manual coauthored by the Election Integrity Project and the guideline publications of the Congressionally commissioned, United States Election Assistance Commission.

JURISDICTION AND VENUE

3. This Court has original jurisdiction and venue pursuant to XXX Statute, as the defendant resides in XXX County. The office contested is for the XXX. This action contests any certification of the election until this signature-match check occurs.

PARTIES

4.

Plaintiff Donald J. Trump for President, Inc. (hereinafter, the “Trump Campaign”), is the principal committee for the reelection campaign of Donald J. Trump, the 45th President of the United States of America (hereinafter, “President Trump”). President Trump is the Republican nominee for the office of the President of the United States of America in the November 3, 2020 General Election. The Trump Campaign brings this action for itself and on behalf of its candidate, President Trump. As the candidate supported by the electors, the campaign is qualified to contest the election.

Voter 1 is a citizen of Georgia, a qualified elector of the state, a registered voter, and voted in the November 3, 2020, General Election. As an aggrieved elector, Voter 1 is qualified to contest the election.

Voter 2 is a citizen of Georgia, a qualified elector of the state, a registered voter, and voted in the November 3, 2020, General Election. As an aggrieved elector, Voter 1 is qualified to contest the election.

Voter 3 is a citizen of Georgia, a qualified elector of the state, a registered voter, and voted in the November 3, 2020, General Election. As an aggrieved elector, Voter 1 is qualified to contest the election.

Georgia’s Secretary of State is a defendant in his official capacity, the chief elections officer responsible for overseeing the conduct of Georgia’s elections, responsible for assuring the elections are conducted in a free, fair, and lawful manner, and is the official responsible for certifying the vote for the Presidential election in the state of Georgia. The Secretary of State certified the results for the Presidential electors on November 18, 2020.

Joe Biden was a candidate for the Presidency in the 2020 General Election in Georgia.

5.

6.

7.

8.

9.

10.

11. 12.

13.

Jo Jorgensen was a candidate for the Presidency in the 2020 General Election in Georgia.

FACTS

The Democratic Party of Georgia agreed that absentee ballots pose the greatest risk of election fraud.¹

The prior President, and Georgian, Jimmy Carter also identified absentee ballots as the greatest risk of election fraud.² According to the Carter Report, mail-in voting is “the largest source of potential voter fraud.” (Id.)

The New York Times identified absentee ballots as the greatest risk of election fraud.³ As reported by the New York Times: “Error and Fraud at Issue as Absentee Voting Rises.” Absentee ballots are “more likely to be compromised” than ballots cast at the polling booth, with a norm of at least 2% of all such ballots being invalid. Increasing the amount of absentee balloting “increases the potential for fraud” as fraud is “vastly more prevalent” in absentee balloting. Indeed, voting by mail is “problematic enough that election experts say there have been multiple elections in which no one can say with confidence which candidate was the deserved winner.” “There is a bipartisan consensus that voting by mail, whatever its impact, is more easily abused than other forms” of voting. The bipartisan commission under former President Carter concurred that “absentee ballots remain the largest source of potential voter fraud.” A consensus of election experts concurred that absentee ballots posed the greatest risk of election fraud. As election experts agree: “all the evidence of stolen elections involves absentee ballots and the like.”

¹The Georgia Democratic Party in 2009: “most of the voter fraud occurring in Georgia has involved **absentee** ballots.” (2009 WL 8748533 (Ga.Super. 2009))

²*Building Confidence in U.S. Election*, Report of the Commission on Federal Election Reform, p. 46 (Sept. 2005) (available at <https://bit.ly/3dXH7rU>, and referred to and incorporated herein by reference) (hereinafter, the “Carter Report”).

³<https://www.nytimes.com/2012/10/07/us/politics/as-more-vote-by-mail-faulty-ballots-could-impact-elections.html>

14.

15. 16.

17.

Many well-regarded commissions and groups of diverse political affiliation agree that “when election fraud occurs, it usually arises from absentee ballots.”⁴

Federal jurists long recognized the fraud risks attendant absentee balloting.⁵

International, universally recognized election integrity standards require the presence of observers for the processing of ballots, as a “necessary safeguard of the integrity and transparency of the election.” Indeed, “the legal framework must

contain a provision for representatives nominated by parties and candidates contesting the election to observe all voting processes.”⁶

As Constitutional Law Professor Jonathan Turley publicly explained, canvassing in public view is critical to testing the integrity of the vote: “It’s like not just being asked to guess the number of jellybeans in a jar, but you have to do it without actually seeing the jar. So in order to find systemic problems, you need access to the

⁴Michael T. Morley, *Election Emergency Redlines*, p. 2 (Mar. 31, 2020) (available at <https://ssrn.com/abstract=3564829> or <http://dx.doi.org/10.2139/ssrn.3564829>, and referred to and incorporated herein by reference) (hereinafter, “Morley, Redlines”).

⁵As one federal court put it, “absentee voting is to voting in person as a take-home exam is to a proctored one.” *Griffin v. Roupas*, 385 F.3d 1128, 1131 (7th Cir. 2004). See also *id.* at 1130-31 (voting fraud is a “serious problem” and is “facilitated by absentee voting.”). Similarly, Justice Souter observed that mail-in voting is “less reliable” than in-person voting. *Crawford*, 553 U.S. at 212, n.4 (Souter, J., dissenting) (“[E]lection officials routinely reject absentee ballots on suspicion of forgery.”); *id.* at 225 (“[A]bsentee-ballot fraud . . . is a documented problem in Indiana.”). See also *Veasey v. Abbott*, 830 F.3d 216, 239, 256 (5th Cir. 2016) (en banc)

(

. See also *id.* at 263 (“[M]ail-in voting . . . is far more vulnerable to fraud.”); *id.* (recognizing “the far more prevalent issue

of fraudulent absentee ballots”).

⁶The International Institute for Democracy and Electoral Assistance issued a publication in 2002 called the *International Electoral Standards: Guidelines for Review the Legal Framework of Elections*. The purpose of the International IDEA standards is to be “used as benchmarks to assess whether or not an election is free and fair.” (83).

“[M]ail-in ballot fraud is a significant threat” — so much so that “the

potential and reality of fraud is much greater in the mail-in ballot context

than with in-person voting.”)

18.

19.

system.... I’ve been reading these complaints and these affidavits. I think it’s clear at this point that voting fraud occurred. There is obviously a record here of dead people

voting. There are obviously problems of keeping observers in places where they really couldn't observe, very effectively. We still don't know. But we wouldn't know — unless we had greater access to the system itself. That is held by election officials and that requires a court to order that information to be turned over.”

The sole safeguard in Georgia against absentee fraud is the signature of the absentee ballot envelope matching the signature of the voter in the voter file. Much like the signature on a bank check, it is all that protects an honest accounting of the vote. Yet, it is the one process counties will not allow any independent confirmation of, any audit review of, any monitored observation of at any stage of the process, any canvassing of, or any recanvassing of.

Despite a massive rise of mail-in ballots, Georgia reports the lowest rate of rejection of such ballots in its history, and a rate more than ten times lower than past Georgia elections.

The Secretary of States assured the public there would be a complete audit, recanvass and recount of the vote.

20. Plaintiffs repeatedly requested the Secretary of State, prior to certification, verify, in the presence of party-designated observers, the validity of the signature of any ballot received absentee or by mail. Despite repeated assurances such verification was forthcoming, and a public statement commanding canvassing and auditing of the vote, no such verification has in fact occurred as of this date.

21.

22. As the Congressionally created United States Election Assistance Commission provided in its guidelines, a critical part of any canvass of the vote must include allowing observers to check any possible "signature mismatches on absentee ballot envelopes or in the poll books."⁷

⁷Election Management Guidelines, Chapter 13, p. 134 (August 26, 2010), Election Management Guidelines (https://www.eac.gov/sites/default/files/eac_assets/1/6/EMG_chap_t_13_august_26_2010.pdf) published by the United States Election Assistance Commission (<https://www.eac.gov/about-the-useac>)

23. In order for Georgia's electors to be included in the Electoral College under the statutory safe harbor, the defendant must certify the election by December 8, 2020. Section 5 of Title 3 of the United

States Code provides a safe-harbor for the adjudication of contested issues concerning any election for the appointment of electors that allows the Governor to certify the election and have their electors included in the Electoral College if that determination is made six days prior to the appointment of the electors. To fall within the safe- harbor, this requires adjudication by December 8, 2020, as the Electoral College meets on December 14, 2020.

24. Georgia treats voters differently depending upon their method of voting: in-person early voters must provide photo identification and a signature to vote, while mail-in absentee voters merely must provide a signature matching their voter file for their ballot to be cast. If the latter is unenforced, then this disparate treatment also dilutes the votes of those lawfully cast in person.

25. In testing the voter signature systems, a news reporter found in Nevada, which reportedly employs a system similar to some counties in Georgia, failed to spot a forged signature 8 out of 9 times in this election.

26. Georgia also reported an unusual number of overvotes – votes only for the President – for just one candidate, as Biden received almost 99% of the overvotes in this election. The overvote constituted a margin of votes more than five times larger than the reported margin of victory in the state for the Presidential election. In prior election contests in Georgia, this fact alone warranted an election contest, and discovery to determine whether it was the product of error.

27.

The hand recount occurred without proper notice to the parties, without effective monitoring of the ballots cast in many counties, without any signature match check of any kind occurring under independently confirmed observation, and without even a hand recount being conducted in some counties. Despite public assurances that the ballots (all scanned) would be made available to the entire public for independent review, no such ballots were ever made so available.

28. Those counties that allowed effective monitoring of the hand recount turned up thousands of uncounted ballots for Donald Trump, revealed miscounts by elections staff incorrectly counting tens of thousands of ballots for Joe Biden, and revealed major glitches in the Dominion software program that tabulated ballots. In other states employing Dominion technology, glitches occurred that changed the outcome of elections, and shifted votes more than 100 times the norm

for a hand recount, including hand recounts conducted in Michigan,

New Hampshire and Connecticut.

29. In counties that strictly enforced personal identification and in

counties that never processed mail in votes for Donald Trump,

thousands of votes for Donald Trump were not counted.

30. Individually, these errors in signature matches, counting the

31.

ballots, and discarding legal ballots, more than 15,000 votes were either illegally cast or not legally tabulated, which is more than the margin of victory in this election with 5 million voters in the state of Georgia. Indeed, a properly enforced signature match itself would have excluded more than 15,000 ballots cast in this election, which is

more than the margin of victory in the election, and is, by itself, sufficient to place the outcome in doubt to qualify this contest.

COUNT I: ELECTION CONTEST

As a blue-ribbon commission confirmed: “Foremost, properly conducted recounts assure candidates and the public that in a close election, there has been a fair examination of the procedures and an accurate count of all legally cast votes.” (Recount Principles & Best Practices, Citizens for Election Integrity, p.1 (2014).

32. Critically, any recount must employ a “consistency of methodology for all ballots recounted” and must provide for “participation of opposing parties to observe and challenge the interpretation of a voter’s intent” (Recount Principles & Best Practices, Citizens for Election Integrity p.4 (2014).Neither occurred here in the manual recount.

33. The failure to conduct signature matches allowed more than 15,000 illegal ballots to be included in the tabulation of the vote for this office, which is more than the margin of victory in this election.

34. The exclusion of monitors from the counting of ballots on Fulton County allowed more than 15,000 illegal votes to be included in the tabulation of the vote for this office, which is more than the margin of victory in this election.

35.

The exclusion of monitors who could see the ballots being hand recounted allowed more than 15,000 illegal votes to be included in the tabulation of the vote for this office, which is more than the margin of victory in this election.

36. The lack of consistent standards for interpreting the intent of the voter in the hand recount allowed more than 15,000 illegal votes

37.

to be included in the tabulation of the vote for this office, which is more than the margin of victory in this election.

The failure of the counties to remove dead people, non-citizens, duplicate votes, and non-residents to vote in this election allowed more than 15,000 illegal votes to be included in the tabulation of the vote for this office, which is more than the margin of victory in this election.

PRAYER FOR RELIEF

38. Plaintiffs seek an emergency order prohibiting Defendants from certifying any results from the General Election for the electors to the Presidency until the Secretary of State confirms an independently observed, monitor-confirmed signature match check occurs for the absentee ballots cast in this election.⁸

39. Plaintiffs seek an emergency order prohibiting Defendants from certifying any results from the General Election for the electors to the Presidency until the Secretary of State confirms the counties conducted the audit, recount, and recanvass, applying uniform standards and allowing meaningful monitoring of the process, as he publicly promised the citizens of Georgia, and the country, he would.

40. Plaintiffs seek a declaration the election for the offices of Presidential electors is in doubt.

41. Plaintiffs seek a declaration no certification of the outcome could validly occur, and enjoin any such certification from occurring.

42. Any other relief to which plaintiffs may be entitled, including declaratory relief, attorneys' fees, and costs.

"It will be an audit, a recount and a recanvass all at once."

<https://www.cbsnews.com/news/georgia-election-hand-recount-audit-presidential-race/>

⁸This remedy has been previously granted, also in the context of requiring counties follow state law for processing absentee ballots, by this court in the last election in the state: "The Secretary of State is **ENJOINED** from certifying the State Election results until she has confirmed that each county's returns include the counts for absentee ballots where the birth date was omitted or incorrect." Democratic Party of Georgia, Inc. v. Crittenden, 347 F. Supp. 3d 1324, 1347 (N.D. Ga. 2018)