

No. 22-12593

In the
United States Court of Appeals
for the Eleventh Circuit

RICHARD ROSE, BRIONTÉ MCCORKLE, WANDA MOSLEY,
and JAMES WOODALL,

Plaintiffs-Appellees,

v.

BRAD RAFFENSPERGER,

in his official capacity as Secretary of State of Georgia,

Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.

No. 1:20-cv-02921-SDG — Steven D. Grimberg, *Judge*

**UNOPPOSED MOTION TO WITHDRAW EMERGENCY
MOTION TO STAY INJUNCTION PENDING APPEAL**

Christopher M. Carr
Attorney General
Bryan K. Webb
Deputy Attorney General
Russell D. Willard
Senior Assistant Attorney General
Charlene McGowan
Assistant Attorney General
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

Bryan P. Tyson
Diane F. LaRoss
Bryan F. Jacoutot
Taylor English Duma LLP
1600 Parkwood Cir., Suite 200
Atlanta, GA 30339
Telephone: 678-336-7249

Counsel for Defendant-Appellant Brad Raffensperger

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Eleventh Circuit Rules 26.1-2(c), counsel for Defendant-Appellant hereby certifies that the Certificate of Interested Persons contained in his August 8, 2022 Motion and supplemented by the individuals contained in the Appellees' August 10, 2022 Response is complete.

Respectfully submitted this 19th day of August, 2022.

/s/ Bryan P. Tyson

Bryan P. Tyson

*Counsel for Defendant-Appellant Brad
Raffensperger*

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STATEMENT

Defendant-Appellant has significant responsibilities related to running elections. These responsibilities matter because “[r]unning elections state-wide is extraordinarily complicated and difficult . . . [and] require[s] enormous advance preparations by state and local officials, and pose[s] significant logistical challenges.” *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring).

Throughout this litigation, Defendant has explained the timeline related to elections. August 12, 2022, was the start of ballot proofing, by

which date Defendant needed to know which races to include on the ballot. A significant number of counties have already approved ballot proofs. Ballot printing is scheduled to start on Monday.

At this point, the risk of disruption to the election process is too great, and that “risk only increases as an election draws closer.” *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 32 F.4th 1363, 1371 (11th Cir. 2022). Even if this Court considers whether to reimpose a stay on the expedited schedule it set, that would likely invite yet another application to the United States Supreme Court. The election system in Georgia needs the uncertainty to end so Defendant and county officials can proceed with the administration of the November election.

ARGUMENT

I. Defendant requests to withdraw his motion.

Now that the United States Supreme Court has vacated this Court’s stay, Defendant’s emergency motion is again before this Court. Under this Court’s Rule 27-1, IOP 7, “If a party no longer requires a ruling by the court on a pending motion, the filing party should file a motion to withdraw the motion.” As explained above, it is now too late to further litigate whether to stay the district court’s order cancelling the November elections for Public Service Commission Districts 2 and 3 while this appeal continues. Ballot printing is scheduled to begin on

Monday, August 22, 2022, and even under the expedited schedule set by this Court, any subsequent stay entered by this Court simply would occur too late to add these elections back onto, or make further changes to, the printed ballots.

Defendant appreciates this Court's efforts to quickly address the Supreme Court's decision. But at this point, Defendant requests that this Court permit him to withdraw his motion and allow the district court's injunction to govern the ballot printing process for the November elections. This Court should allow this appeal to proceed on the expedited timeline already set for this appeal.

Counsel for Defendant has conferred with counsel for Plaintiffs and is authorized to state that Plaintiffs do not oppose this motion.

CONCLUSION

This Court should permit Defendant to withdraw his motion and allow this appeal to proceed on the expedited timeline set for appeal.

Respectfully submitted this 19th day of August, 2022.

Christopher M. Carr
Attorney General
Bryan K. Webb
Deputy Attorney General
Russell D. Willard
Senior Assistant Attorney General
Charlene McGowan

/s/ Bryan P. Tyson
Bryan P. Tyson
Diane F. LaRoss
Bryan F. Jacoutot
Taylor English Duma LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339

Assistant Attorney General
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

Telephone: 678-336-7249

Counsel for Defendant-Appellant Brad Raffensperger

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limitation of Rule 32(a)(7)(B) of the Federal Rules of Appellate Procedure because it contains 445 words as counted by the word-processing system used to prepare the document.

Respectfully submitted this 19th day of August, 2022.

/s/Bryan P. Tyson
Bryan P. Tyson

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2022, I served this Motion by electronically filing it with this Court's ECF system, which constitutes service on all attorneys who have appeared in this case and are registered to use the ECF system.

Respectfully submitted this 19th day of August, 2022.

/s/Bryan P. Tyson
Bryan P. Tyson