

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BLACK VOTER’S MATTER FUND,]	
TRANSFORMATIVE JUSTICE]	
COALITION, THE RAINBOW PUSH]	
COALITION and SOUTHWEST VOTER]	
REGISTRATION EDUCATION]	
PROJECT]	
]	
Plaintiffs]	Civil Action
]	No. 20-cv-4869
V.]	
BRAD RAFFENSPERGER, Secretary]	
of State of Georgia in his official]	
capacity,]	
Defendant]	

MOTION FOR RECONSIDERATION

Plaintiffs, by and through counsel, move this court pursuant to LR 7.2 (E) NDGa for an order reconsidering two of the Court’s factual findings in the December 16, 2020 Order denying Plaintiffs’ Motion for Preliminary Injunction. These findings were central to the Court’s holdings that on Counts I and II Plaintiffs did not show a significant likelihood of success on the merits.

These findings were made without the benefit of the transcript.¹ The findings of fact relate to the 108,306 registrants who allegedly filed change of

¹ See [63] Footnote 20 at p 25.

address requests with the US Post office, or the NCOA group. Plaintiffs claimed that the Defendant did not use a USPS Licensee as required by the National Voter Registration Act, however, the Court stated the evidence at the preliminary injunction “showed that Georgia’s vendor Total Data, utilized change-of-address information supplied by the USPS through its licensee, Anchor Computers. Thus, the Court found, there is evidence that Georgia’s process meets the plain language of the NVRA safe harbor.” Doc. No. [63] p 26. Based on this finding this finding the Court held that Plaintiffs did not show a likelihood of success on the merits of Count I.

The Court also ruled as to Count II, “piggybacking” on the finding as to Anchor Computer in Count I that:

“Plaintiffs have presented evidence, including expert testimony, tending to show that Defendant has cancelled voter registrations for individuals based in part on NCOA information when those individuals in fact have not moved. But as discussed above, Defendant has presented evidence indicating that Georgia relied on NCOA information supplied by the USPS to cancel voter registrations.

The Court went on to state:

Defendant also presented evidence that may account for the discrepancies between Plaintiffs’ expert analysis and the NCOA list apparently used by Defendant in determining who may have moved. For example, at the hearing, Plaintiffs’ expert John Lenser confirmed during cross-examination that the NCOA database is rolling, meaning new entries are periodically added and older entries are maintained for only 24 months. Doc. No. [51]. This means that lists pulled from the NCOA database at different times will include different names. Thus, the information Georgia used to conduct list maintenance may have included names that Plaintiffs’ experts later would not have been able to identify as on the NCOA

database because those names had rolled off the NCOA database by the time the experts conducted their analysis.” [63] pp. 27-28)

Plaintiffs make this motion for reconsideration because Plaintiffs’ submit there is no competent evidence supporting the Court’s finding that Anchor Computer was in any way involved in the Secretary of State in October of 2019 determining to cancel the registrations of 108,306 Georgians for filing a change of address request with the US Postal Service. (Exhibit 2).

The Court’s similar finding that Defendant’s explanation of a “rolling database” could explain the discrepancies between the Defendant claiming 108,306 people had requested the US Postal Service to change their address and Mr. Lenser’s claim that over 68,930 of these people had not made change of address requests cannot be based on Mr. Lenser’s testimony. Mr. Lenser’s testimony **which relied on the unchallenged report from Merkle Inc. that these people were found never to have moved from their address of original registration. There is therefore no competent evidence supporting this Court’s finding as to an explanation of the discrepancies between the Plaintiffs list and the Defendant’s list other than the failure of the Defendant to use a proper licensee.**

Under these circumstances it is absolutely necessary that Plaintiffs seek reconsideration of these clearly erroneous findings of fact.

Plaintiffs file this motion in conjunction with a motion for leave to file a Second Amended Complaint which seeks to add the Palast Investigative Fund as a Plaintiff and which modifies the request for equitable relief. The requested addition of the Palast Investigative Fund as a plaintiff addresses the Court's decision that the current named plaintiffs were not the ones that gave written notice to the Secretary of State regarding the alleged violations of the NVRA. It is uncontested that this notice was first given by the Palast Investigative Fund on September 22, 2020 and the 90-day notice expired on December 23rd 2020 without the Secretary having remedied the violation.

The proposed second amended complaint also modifies the requested preliminary injunctive relief to requiring the Secretary of State to count the provisional ballots filed by people on Plaintiffs' expert's list as having never moved. If both motions are granted there are no legal impediments to providing Plaintiffs the requested relief.

The reasons in support of this motion for reconsideration are stated more fully in the attached memorandum of law.

Respectfully submitted this 28th Day of December 2020,

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