No. 18-11510

In the United States Court of Appeals
for the Eleventh Circuit

MATHIS WRIGHT, JR.,

Plaintiff-Appellee

v.

SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,

Defendant-Appellant.

On Appeal from the United States District Court
For the Middle District of Georgia
No. 1:14-cv-00042
The Honorable W. Louis Sands

Emergency Motion To Vacate or Stay Injunction Pending Appeal

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CERTIFICATE OF INTERESTED PERSONS

Pursuant to Rule 26.1-1 of this Court, Appellant certifies that the below listed persons and entities have interests in the outcome of this case:

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Defendant:

Sumter County Board of Elections and Registration

Emergency Motion To Vacate or Stay Injunction Pending Appeal

On August 17, the court below issued an order enjoining Sumter County from conducting school-board elections in November. *See* District Court Electronic Filing Numbers ("ECF Nos.") 237, 238, Exs. A, B. This order comes **after candidates qualified and as ballots are being printed**. The court in March ordered Sumter County to hold the election it now enjoins. By state law, the election was scheduled for May, and, in late March, the court found the Sumter County School Board plan to be in violation of the Voting Rights Act, enjoined the May elections, and rescheduled them for November 6. Sumter County dutifully complied with the court's order, conducted a second candidate-qualification period, and prepared to conduct a November election. Now the court has now enjoined that election.

Its injunction should be vacated or, alternatively, stayed. The injunction affords no amelioration for any Section 2 violation because it prolongs the terms of school-board members elected under the plan the court found to be discriminatory. On the other hand, the injunction inflicts severe harm on the County, the School Board, candidates, and the general public by again frustrating the right of citizens to vote for the school-board seats. And, by enjoining the election after candidates qualified to run for the second time this

year, the court has again frustrated their election hopes after their campaigns commenced.

For these reasons and those articulated below, the Court should issue a stay or summarily vacate the injunction. Because **ballots are currently being printed** and the relief requested in this motion will be moot in approximately one week, Defendant Sumter County respectfully requests that the Court treat this as an emergency motion under Circuit Rule 27-1(b).

Background

This cases arises from a Section 2 challenge to two at-large seats in Sumter County's seven-member school-board plan. County-wide, black voting-age persons and registered voters outnumber white voting-age persons and registered voters. Nevertheless, the single plaintiff in this case ("Plaintiff") contends that the at-large seats are dilutive of black voting strength.

After a trial in December 2017, the district court on March 17, 2018, issued an order concluding that the current Sumter County school-board plan violates Section 2 of the Voting Rights Act. ECF No. 198, Ex. C. The court acknowledged that, given their numerical superiority, "of course,…were more African Americans to…turn out to vote…, they would likely be able to elect their preferred candidates" to the at-large seats. *Id.* at 25. It concluded, however, that Eleventh Circuit precedent renders that fact irrelevant. *Id.* at 26.

The court concluded that this Circuit's law is in direct conflict with the law of the Fifth Circuit, *see Salas v. Sw. Tex. Jr. College District*, 964 F.2d 1542 (5th Cir. 1992), on this question, ECF No. 198 at 26.

Additionally, while conceding (1) that Plaintiff had the burden to show an effective remedy as part of his *prima facie* Section 2 case and (2) that there was "no support" for the central premise behind the one Plaintiff proposed—which proffered a single remedial district a mere five percentage points of BVAP higher than that in the at-large seats—the court found the alternative proposal viable because Sumter County did not present evidence proving it was *not* viable. *Id.* at 34. The court admitted, however, that the remedial district was based on "guesswork." *Id.* at 16.

On March 30, the Court issued an injunction barring the County from conducting the school-board elections scheduled for May 22, 2018. ECF No. 204, Ex. D. In that ruling, the Court acknowledged that "[r]elief is not automatic," even after a finding of liability, given the near proximity of the election date. *Id.* at 5. The Court, however, issued an injunction based on three considerations. First, the Court found that the Section 2 violation is "severe" by measuring the discrepancy between the County's percentage black voting-age population, 49%, and the percentage of seats won in actual elections by black-preferred candidates, 29%. *Id.* at 6. Second, the Court found that an

injunction would "cause minimal disruptions to the ordinary process of government" because "school board members do not begin their term until the January following the election." *Id.* Third, the Court found that Plaintiff "is not proposing to move the election to an unusual, specially set election date," so, while "acknowledge[ing] that voters may be confused by the changed election date," the Court found that "a number of races will already be on the ballot" on November 6, and "the addition of a school board election is unlikely to disrupt the election process." *Id.*

Accordingly, the Court issued a permanent injunction. It (1) cancelled the May 2018 school-board elections, (2) ordered the County to conduct school-board elections on November 6, and (3) announced that it would issue an order setting interim boundaries for the school-board districts no later than July 23, 2018. *Id.* at 7. The court scheduled a candidate-qualifying period for the week of August 6 through 10 and set September 21 as the deadline for ballots to be made available.

On April 11, Sumter County filed a notice of appeal from the district court's permanent injunction and the underlying liability finding. On April 18, the Plaintiff moved to dismiss this appeal, asserting that it was moot. On May 9, a panel of this Court (Tjoflat, Marcus, J. Pryor, JJ.) unanimously denied that motion in a one-sentence order.

On June 21, the district court issued an order amending its judgment. ECF No. 214. It concluded that the notice of appeal deprived it of jurisdiction to issue a remedial plan and that it lacked authority under Federal Rule of Civil Procedure 62(c) to add to its injunction by ordering new district lines. Accordingly, the court removed its self-imposed July 23 deadline to redraw the lines, stated that "[c]ompliance with the Court's March 30, 2018 injunction requires only that the Sumter County Board of Education elections previously scheduled for May 22, 2018 be held on November 6, 2018," and provided that "[a] series of reset deadlines will be ordered upon remand from the Court of Appeals, if appropriate." *Id.* at 6.

The Plaintiff responded on June 22 with a renewed motion to dismiss in this Court.

Subsequently, the Plaintiff filed a separate motion in the district court asking it to reconsider its June 21 order. ECF No. 215. The court denied the motion to reconsider, concluding again that the notice of appeal deprived it of jurisdiction to issue a remedial plan. ECF No. 217 at 6–7. But, in response to Plaintiff's concern that allowing the November 6 election to proceed under the current districts "does not serve the interest of judicial economy," ECF No. 215 at 5, the court observed that an injunction against the November 6 would better preserve that interest than would a new map, ECF No. 217 at 7.

Consequently, on July 31, Plaintiff filed a motion for an injunction pending appeal. ECF No. 218.

Then, on August 9 and before the injunction-motion briefing was concluded, a motions panel of this Court (Marcus, W. Pryor, and Jordan, JJ.) issued a ruling on Plaintiff's renewed motion to dismiss the appeal. The panel denied the motion. But it construed the Court's orders finding that it lacked jurisdiction to issue remedial district boundaries as indicative rulings under Federal Rule of Civil Procedure 62.1(a)(3) and remanded the appeal under Federal Rule of Appellate Procedure 12.1. It instructed:

> On remand, the district court should first determine whether it is still feasible to issue a new map with interim boundaries for the November election in a timely manner. If so, the district court should then proceed to determine such interim boundaries for the November election, as it previously contemplated doing by July 23, 2018, and enter any orders necessary to effectuate its ruling before returning the case and the record to this Court. If the district court concludes, however, that it is too late at this juncture to issue an order setting any boundaries for the November election other than the ones currently in place, then it should enter an order to that effect, resolve any motions filed by the parties regarding the operation of the November election, and then return the case to this Court.

On August 17, the district court issued an order in response to this directive. ECF No. 237, Ex. A. First, the court found "that it is not feasible for it to timely issue a new map with interim boundaries." *Id.* at 1. Second, the court found "that the balance of equities weighs toward enjoining the

November 2018 election as to the Board of Education." *Id.* The court therefore enjoined the November 6 election that it had previously scheduled and stated that it "will be reset at a later date." *Id.* On August 20, the court issued a memorandum opinion stating its reasons for enjoining the election, 238, Ex. B, and an order returning jurisdiction to this Court, ECF No. 239, Ex. E.

Ballots are currently being printed by the Georgia Secretary of State.[1] Because of those time constraints and because the district court has addressed the question of what interim relief it believes is appropriate pending appeal, Defendant respectfully submits that "moving first in the district court" for the relief requested here "would be impracticable." Fed. R. App. P. 8(A)(2)(a)(i).

Argument

I. The Court Has Jurisdiction To Stay the Lower Court's Injunction

This Court has jurisdiction over this appeal under 28 U.S.C. § 1292(a)(1), based on the district court's March 30 injunction and its latest injunction. And, as two separate motions panels have held, the case is not moot. Jurisdiction over this matter has now been returned to this Court. ECF No. 239. The Court has authority to stay the district court's injunction pending appeal under FRAP 8(a), and to vacate it under 28 U.S.C. § 2106. *See Frith v.*

[1] Ballot printing in Georgia is centralized at the Georgia Secretary of State's Office. Sumter County has no ability to print ballots.

Blazon-Flexible Flyer, Inc., 512 F.2d 899, 900 (5th Cir. 1975); *see also Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (summarily vacating injunction pending appeal).

II. The Court Should Stay or Vacate the District Court's Injunction Pending Appeal

In granting an injunction pending appeal, the district court awarded an "extraordinary remedy" that is only available if the party seeking it can show "(1) a substantial likelihood that they will prevail on the merits of the appeal; (2) a substantial risk of irreparable injury to the [party seeking an injunction] unless the injunction is granted; (3) no substantial harm to other interested persons; and (4) no harm to the public interest." *Touchston v. McDermott*, 234 F.3d 1130, 1132 (11th Cir. 2000) (en banc). "Failure to show any of the four factors is fatal." *Am. Civil Liberties Union of Fla., Inc. v. Miami–Dade County Sch. Bd.*, 557 F.3d 1177, 1198 (11th Cir. 2009). Plaintiff showed none of them.[2]

A. This Court Is Likely To Reverse the District Court's Liability Determination

This appeal presents two legal questions for *de novo* review on which Defendant is likely to obtain reversal.

First, because black registered voters outnumber white registered voters in Sumter County, Plaintiff must be required to meet "an obvious, difficult burden" to prove "that [the black community's] inability to elect results from

[2] Even if the Court places the burden on Defendant, the factors all weigh heavily in favor of a stay or vacatur.

white bloc voting." *Salas v. Sw. Texas Jr. College District*, 964 F.2d 1542, 1555 (5th Cir. 1992). Low turnout does not suffice because, "[o]bviously, a protected class is not entitled to § 2 relief merely because it turns out in a lower percentage than whites to vote." *Id.* at 1556. At least three circuits have ratified this principle. *See also Ortiz v. City of Philadelphia Office of City Comm'rs Voter Registration Div.*, 28 F.3d 306, 314 (3d Cir. 1994); *Smith v. Brunswick Cty., Va., Bd. of Sup'rs*, 984 F.2d 1393, 1400 (4th Cir. 1993). Plaintiff presented no evidence to meet this burden, and the district court did not find it satisfied.

The court instead found this Circuit's precedent to be in direct conflict with that of the Fifth, Fourth, and Third Circuits because this Court held in *United States v. Marengo County Commission*, 731 F.2d 1546, 1550 (11th Cir. 1984), that the Defendant in a Section 2 case bears the burden to show why black turnout is lower than white turnout. But *Marengo County* did not address the unusual situation present here, where the black community enjoys, not only a voting-age population advantage, but a *registration* advantage over all other racial groups. And *Marango* relied on *Cross v. Baxter*, 604 F.2d 875, 881-82 (5th Cir. 1979), for its burden-shifting rule and this precedent, and it holds that the burden shifts only when the plaintiff shows "a present disproportion in voting registration." That is not the case here. The district court committed

legal error in applying the rule in *Marango*, not the rule in *Salas*. And that error alone is dispositive of this entire case.

Second, the district court erroneously "twisted the burden of proof beyond recognition" by requiring Sumter County to *disprove* that Plaintiffs' remedial districting map was effective. *Abbott v. Perez*, 138 S. Ct. 2305, 2333 (2018). Under Section 2, "[t]he inquiries into remedy and liability…cannot be separated: A district court must determine as part of the *Gingles* threshold inquiry whether it can fashion a permissible remedy in the particular context of the challenged system." *Nipper v. Smith*, 39 F.3d 1494, 1530-31 (11th Cir. 1994). That burden follows from Section 2's prohibition only of practices that "abridge[] the right to vote," which "necessarily entails a comparison." *Reno v. Bossier Par. Sch. Bd.*, 528 U.S. 320, 334 (2000). Because a Section 2 case challenges "the status quo," a "comparison must be made with a hypothetical alternative." *Id.*

Plaintiff proposed two remedial single-member districts of approximately 41% and 54% BVAP to replace the two at-large seats of 49% BVAP. It is undisputed that the proposed 41% BVAP seat is not an improvement. Plaintiff attempted to show that black turnout would improve in the 54% BVAP seat, but the district court (correctly) found "no support" for this conclusion, which was—as Plaintiff's expert admitted—founded on "guesswork." ECF No. 198

at 25. But the court found the alternative satisfactory simply because Defendant presented no evidence against the plan. *Id.*

That erroneous burden-shift is identical to the burden shift the Supreme Court condemned just two months ago in *Abbot v. Perez*. There, like here, the plaintiffs attempted to show a remedial plan could include an extra performing minority district, and, like here, their expert's analysis was plainly insufficient. And, like here, the district court found the remedy sufficient because of the absence of evidence to the contrary. The Supreme Court, exercising *de novo* review of this pure question of law, reversed, criticizing the court for having "twisted the burden of proof beyond recognition." 138 S. Ct. at 2333. "Courts cannot find § 2 effects violations on the basis of *uncertainty*." *Id.* But, here, as in *Abbott*, the court found a Section 2 effects violation on the basis of "guesswork." This error, too, is dispositive of this entire case.

B. The Equitable Factors Weigh in Favor of Vacatur or a Stay

Again and again, the Supreme Court has warned that, in weighing the equities related to injunctions near elections, courts must be attentive to "considerations specific to election cases." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). "'[I]ntervention by the federal courts in state elections'" is a "'serious business.'" *Chisom v. Roemer*, 853 F.2d 1186, 1189 (5th Cir. 1988) (quoting *Oden v. Brittain*, 396 U.S. 1210 (1969) (Black, J., opinion in chambers)).

Accordingly, an injunction requires a weighing of equities, "even after an adjudication on the merits that a legislative apportionment plan violate[s] the Constitution." *Id.*; *Sw. Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003) ("The decision to enjoin an impending election is so serious that the Supreme Court has allowed elections to go forward even in the face of an undisputed constitutional violation."); *see also Reynolds v. Sims*, 377 U.S. 533, 585 (1964).

For example, just last year, the Supreme Court summarily vacated a district court's decision—after it invalidated a redistricting plan as unconstitutional—ordering special elections under a remedial plan outside the normal elections schedule. *North Carolina v. Covington*, 137 S. Ct. 1624, 1625 (2017) (per curiam). The Court cautioned lower courts that they "must undertake an equitable weighing process" before issuing any injunctive relief, and that "there is much for a court to weigh," including "the severity and nature of the particular constitutional violation, the extent of the likely disruption to the ordinary processes of governance…, and the need to act with proper judicial restraint when intruding on state sovereignty." *Id.* at 1625-26 (quotation marks omitted). On remand, the district court found that those factors weighed against a special election, even though the invalidated plan was "among the largest racial gerrymanders ever encountered by a federal

court," because a special election "would generate voter confusion and, likely, poor voter turnout." *Covington v. North Carolina*, 270 F. Supp. 3d 881, 884, 898, 901 (M.D.N.C. 2017).

In this case, the court's injunction—for the second time in five months—halts campaigns in process, requires a special election on some non-traditional date yet to be determined, and elongates term lengths of current Board members. Every election-related concern weighs against an injunction, and the Court should intervene to allow the elections to proceed.

1. The Injunction Imposes Irreparable Harm to Sumter County and Protects Plaintiff From No Irreparable Harm

Sumter County has "a compelling interest" in conducting its election in an orderly manner. *Purcell*, 549 U.S. at 4 (quotation marks omitted). Enjoining the election irreparably harms the County. *See Maryland v. King*, 133 S. Ct. 1, 3 (2012).

Furthermore, "[c]ourt orders affecting elections…can themselves result in voter confusion and consequent incentive to remain away from the polls." *Purcell*, 549 U.S. at 4. "As an election draws closer, that risk will increase." *Id.* at 5. Thus, judicial intervention is more harm than good when it is imposed as candidate nomination and qualification process is ongoing. *Klahr v. Williams*, 313 F. Supp. 148, 152 (D. Ariz. 1970), *aff'd sub nom. Ely v. Klahr*, 403 U.S. 108

(1971). Accordingly, courts routinely hold that federal intervention in elections at this stage is too late:

- July 7 too late to enjoin October 1 election. *Chisom*, 853 F.2d at 1190 (vacating *Chisom v. Edwards*, 690 F. Supp. 1524 (E.D. La. July 7, 1988)).
- May 19 too late to interfere with November election. *Klahr v. Williams*, 313 F. Supp. 148, 152 (D. Ariz. May 19, 1970), *aff'd sub nom. Ely v. Klahr*, 403 U.S. 108 (1971).
- February 2 too late to implement remedy for that year's elections. *Kilgarlin v. Martin*, 252 F. Supp. 404, 444 (S.D. Tex. 1966), *aff'd in relevant part sub nom. Kilgarlin v. Hill*, 386 U.S. 120 (1967).
- February 25 too late to interfere with June primary. *Cardona v. Oakland Unified Sch. Dist., Cal.*, 785 F. Supp. 837, 843 (N.D. Cal. 1992).
- March 23 too late to interfere with May 18 primary. *In re Pennsylvania Cong. Districts in Reapportionment Cases*, 535 F. Supp. 191, 195 (M.D. Pa. 1982).
- July 17 too late to interfere with November election. *Diaz v. Silver*, 932 F. Supp. 462, 469 (E.D.N.Y. 1996).
- May 28 too late to interfere with November elections. *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1362 (M.D. Ala.1986).
- August 9 too late to interfere with November elections. *Watkins v. Mabus*, 771 F. Supp. 789, 805 (S.D. Miss. 1991).
- June 8 too late to enjoin September primary or November elections. *Ashe v. Bd. of Elections in City of New York*, 1988 WL 68721, at *1 (E.D.N.Y. June 8, 1988).

The district court effectively conceded that it is too late for federal-court meddling in this election by concluding that a new districting plan cannot now be feasibly administered.

On the other hand, the injunction does nothing for Plaintiff. While he has repeatedly cited the right to vote in requesting an injunction, *see* ECF No.

218, Ex. F, ECF No. 228, Ex. G, forbidding the voters from voting abrogates, rather than vindicates, the right to vote. Moreover, this injunction cures no vote dilution because it only prolongs the terms of current school-board members who were elected under the current plan that Plaintiff believes is discriminatory. ECF 153-22 at 3. And, if any of those members choose not to remain on the Board, then voters in some districts will go unrepresented indefinitely.

As just one example of how counter-productive the district court's injunction is, the court now requires that Dr. Michael Busman, a white representative of the challenged at-large seat who (the court concluded) received very little electoral support from Sumter's black community, remain on the School Board—even though (1) he chose not to run again and (2) an African American candidate, Marcus Arnett, has qualified to run for his seat. *See* ECF No. 233-1 at 3, Ex. H. Guaranteeing further representation from a white member whose election was (the court believed) the result of vote dilution and frustrating the hopes of a black candidate is not a tailored way to ameliorate vote dilution. It is the opposite.[3]

[3] While the district court believes it has provided "an opportunity to vote in the near future," ECF No. 238 at 9, it is unknown how long in the future that will be or whether it will occur at a time corresponding with any other elections that drive voter participation.

Indeed, even if the current plan violated Section 2—it plainly does not—the violation is not severe. *See Covington*, 137 S. Ct. 1626. Although the district court concluded the violation was severe in enjoining the May election, *see* ECF No. 238 at 10, its decision was erroneously predicated on a view that Section 2 requires proportional representation—because it measured severity by comparing the percentage of black voting-age persons in Sumter County with the number of black members on the School Board. ECF No. 204 at 6. Section 2, however, does not afford proportional representation. 52 U.S.C. § 10301(b) ("nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.").

Rather, the measure of severity is the proposed alternative, because that shows what the right to vote "*ought to be*." *Reno*, 528 U.S. at 334 (emphasis added). Even under the district court's view, Plaintiffs' alternative afforded three opportunity districts out of seven, or about 43%. Currently, black-preferred candidates hold two, or about 29%. So the difference is approximately 14 percentage points, and it is—at best—a "close call" whether the additional seat will perform. ECF No. 198 at 15. The violation is not severe. Moreover, the Court found that Sumter County did not harbor discriminatory intent in enacting the current plan. ECF No. 198 at 30-31.

2. The Interests of Other Parties and the Public Weighs Against the Injunction

The injunction harms individuals interested in the election, the School Board, and the general public. It affords them zero benefit.

First, the injunction harms the functions of the School Board by interfering with member term lengths. Four seats are up for election in November: Districts 1, 3, and 5 and one at-large seat. ECF No. 223-1 ¶ 8. The winning candidates will take their seats starting January 1, 2019. *Id.* ¶ 9. The next scheduled election for the Sumter County Board of Education is May 26, 2020. *Id.* ¶ 10. Either members will choose to remain on the Board and continue their work, even when they plainly would prefer to move on to other endeavors, or they will voluntarily resign, leaving their posts indefinitely unoccupied. In its March 30 Order, the district court found that moving the election to November "would cause minimal disruptions" because "[n]ew school board members do not begin their term until the January following the election, so moving the election date from May to November will not interfere with the regular terms of board members." ECF No. 204 at 6. But now the court has suspended elections indefinitely, and this may potentially cripple the Board's functions.

Second, the order poses a severe risk of voter confusion and may depress future participation. In its March 30 Order enjoining the May election, the

court acknowledged "the voters may be confused by the changed election date," but reasoned that a "November school board election will not be an unusual sight for Sumter County voters" and distinguished the request for a November election from one "to move the election to an unusual, specially set election date." ECF No. 204 at 6. But this second injunction will necessitate an "unusual, specially set election date" to which voters are not acclimated. The indefinite suspension of elections in favor a special election at some unknown date in the future "would likely confuse voters, raise barriers to participation, and depress turnout." *Covington*, 270 F. Supp. 3d at 902.

Third, the court's injunction again harms candidates. As of the first injunction, candidates had already qualified to run for office and were in the midst of their campaigns. *See* ECF No. 205-1 ¶¶ 3(f), (g), 4, Ex. I. This meant completing qualifying documents, paying fees, forming committees and volunteer groups, buying signs, attending forums, shaping platforms, obtaining voters lists, and campaigning in their districts, securing permission to place signs on public and private property, and so on. *Id.* ¶ 4. By order of the district court, a duplicative set of qualification efforts were mandated to begin in August—as this very motion is being briefed. Thus, the same activities are now taking place a second time in the same calendar year. Now the court demands

that these efforts and expenses also be aborted mid-year and ordered to restart again at some unknown time in the future.

This erratic intrusion into local affairs has a high likelihood of depressing interest in participation on the School Board. Frustrating a candidate's efforts to run once may have modest consequences, but a candidate who, for the second time, invests time and money into a race only to have it cancelled mid-cycle will experience understandable frustration. Furthermore, redistricting before a special election will compound the confusion, as candidates may be drawn out of the districts where they expected to run, or be paired with incumbents or opponents they did not anticipate or with constituencies who are unlikely to vote for them. ECF No. 205-1 ¶ 8.[4]

Fourth, the Court's March 30 Order, in aligning the school-board special election with the November general elections, did not require the expense and burden of a "specially set election date." ECF No. 204 at 6. Unless the board is to go until May 2020 without an election, the court's injunction will necessitate one. This means that the County will be required to fund a special election, which is costly and confusing for the electorate. ECF No. 205-1 ¶ 12. This

[4] The district court found that Sumter County's black residents have comparatively low economic opportunity, so the burdens of uncertainty and duplicative campaign efforts may be felt especially hard on candidates from the black community.

entails, first, the burden of administering new lines. ECF No. 205-1 ¶ 7. It means, second, that even seats not up for election will be redrawn, some residents will end up with duplicative representation because old lines overlap with new, and some will fall through the cracks as old and new lines both omit territory; some residents will be doubly represented and some will have no representation. ECF No. 205-1 ¶ 9. So it remains unknown whether terms will be cut short to account for the new map or whether the board will proceed with members elected from two different maps. This uncertainty and potential for confusion inherent in the court's first order will be compounded by this latest federal-court intrusion into local affairs.

Conclusion

For these reasons, the Court should vacate or stay the injunction pending appeal.

Dated: August 20, 2018 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be filed electronically with the Court by using the CM/ECF system on the 20th day of August, 2018. I further certify that the foregoing document will be served on all those parties or their counsel of record through the CM/ECF system.

Dated: August 20, 2018

Respectfully submitted,

/s/ E. Mark Braden

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Rule 27(d)(2)(A) of the Federal Rules of Appellate Procedure because, excluding the cover page, tables, certificates, and signature blocks, this document contains 4,685 words. This document complies with the typeface and type-style requirements of Local Rule 27-1(a)(10) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Calisto MT font.

Dated: August 20, 2018

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Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	

ORDER

Plaintiff previously filed a Motion for an Injunction (Doc. 218). Following the filing of Plaintiff's motion, the United States Court of Appels for the Eleventh Circuit remanded this case and instructed this Court to "first determine whether it is still feasible to issue a new map with interim boundaries for the November election in a timely manner," but, if this Court determines that it is too late to do so, "then it should enter an order to that effect, resolve any motions filed by the parties regarding the operation of the November election, and then return the case to [the Eleventh Circuit]." (*Id.* at 3.) Because the Parties have informed the Court that the deadline for changing ballots as to the currently scheduled November 6, 2018 election for the Sumter County Board of Education is August 17, 2018[1], and to prevent unnecessary expense, confusion, and delay, the Court issues this order to summarize its conclusion regarding the November election.

The Court finds that it is not feasible for it to timely issue a new map with interim boundaries and finds that the balance of equities weighs toward enjoining the November 2018 election as to the Board of Education. Accordingly, the Sumter County Board of Education election scheduled for November 6, 2018 is **ENJOINED** and will be reset at a later date.

[1] The Court is aware that while it may technically be able to enjoin the election after this date, such an injunction would be untimely according to Defendant and may cause substantial burdens on the State and Sumter County to comply.

Defendant Sumter County Board of Elections and Registration is hereby **ORDERED** to promptly inform voters and all other necessary parties that the November 6, 2018 election for the Sumter County Board of Education has been cancelled and will be rescheduled. Defendant Sumter County Board of Elections and Registration is **ENJOINED** from tabulating any votes cast in the November 6, 2018 election for any position on the Sumter County Board of Education.

The Court will enter a detailed order setting out and explaining its analysis and conclusions and providing further instructions to the parties as soon as practicable and consistent with the remand of the United States Court of Appeals for the Eleventh Circuit. The Court's forthcoming order is hereby made part of this order by reference.

SO ORDERED, this 17th day of August 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	
_____	:	

ORDER

On July 31, 2018, Plaintiff filed an Emergency Motion for an Injunction Pending Appeal. (Doc. 218.) On August 9, 2018, the United States Court of Appeals for the Eleventh Circuit remanded this case to this Court with instructions. (Doc. 225.) The Eleventh Circuit instructed this Court to "first determine whether it is still feasible to issue a new map with interim boundaries for the November election in a timely manner," but, if this Court determines that it is too late to do so, "then it should enter an order to that effect, resolve any motions filed by the parties regarding the operation of the November election, and then return the case to [the Eleventh Circuit]." (*Id.* at 3.) Following the remand order, Plaintiff moved this Court for a telephonic status conference "to discuss how to comply with the Eleventh Circuit's instructions" or an evidentiary hearing. (Doc. 226 at 2.) The Court granted the motion, but the short timeframe made an actual hearing unfeasible, so the Court set this matter for a telephonic conference so that it could hear from the Parties. (Doc. 227.) The Court also asked the Parties to provide a succinct description of their positions on the issues to be discussed during the conference, with which the Parties complied. Plaintiff stated during the conference that it believed it was feasible for the Court to set interim boundaries for the November election, but stated that if the Court found it was not feasible, then the Court should enjoin the election. Defendant asserted that it was too late to set interim boundaries, stating that candidates had already been qualified, and argued reasons why an injunction was not justified

either. Although the Parties were provided ample opportunity to state their respective positions and make arguments, the Court also allowed both Parties to file supplemental information regarding the November election, which Defendant did (Doc. 236).

BACKGROUND

Plaintiff Mathis Kearse Wright, Jr. brought this action to challenge the method of electing members of the Board of Education in Sumter County, Georgia. (Doc. 1.) Plaintiff contends that the current election plan's two at-large seats and high concentration of African-American voters in Districts 1 and 5 dilute African-American voting strength in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301. (*Id.*) The Court held a bench trial in this matter beginning on December 11, 2017. (*See* Doc. 144.) Following the trial, the Court issued an order not only recounting the history of racial discrimination and segregation in Sumter County, but specifically finding that the current voting map for Sumter County Board of Education gives African-American citizens "less opportunity to elect candidates of their choice than" white citizens. (Doc. 198 at 33.) After analyzing the relevant factors, and based on the totality of the circumstances, the Court found that "the at-large districts of the Sumter County Board of Education dilute African-American voting strength in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301." (*Id.* at 37.) The Court determined that an alternative election plan would need to be enacted but given that the General Assembly was still in session, ordered the Parties to first confer with Sumter County's legislative delegation regarding its inclination to enact a remedial plan before adjourning. (*Id.*)

After Defendant notified the Court that the Georgia General Assembly would be unable to pass legislation on Sumter County's redistricting during its 2018 session (Doc. 201), Plaintiff moved for an injunction of the May 2018 election. Because the Court had already resolved the Parties' dispositive motions, held a bench trial and post-trial hearings, and reviewed "extensive and ongoing briefing by the parties," the Court resolved Plaintiff's motion for an injunction and allowed Defendant an opportunity to respond to the order. (Doc. 204 at 3.) The Court first found that because it had already decided the merits of the action—that Defendant's plan violated the Voting Rights Act—the only appropriate injunction would be a

permanent injunction. (*Id.*at 4.) The Court determined that all three requirements for a permanent injunction had been met: Wright had prevailed on his claim, there was no adequate remedy at a law for a violation of Section 2 of the Voting Rights Act, and the loss of a meaningful right to vote created an irreparable harm. (*Id.* at 5.) The Court then enjoined Defendant's election scheduled for May 22, 2018 and reset it to November 6, 2018, ordering that voters be informed that races for the Sumter County Board of Education had been enjoined. (*Id.* at 7.) The Court stated that it would enter an order setting interim boundaries for the new districts by July 23, 2018. *Id.* Defendant appealed that order and the Court's order as to liability. (*See* Docs. 207 & 209.) The Court found that the notice of appeal conferred jurisdiction on the Eleventh Circuit and divested it of jurisdiction to set interim boundaries, a subject involved in the appeal, and therefore removed its self-imposed deadline to set interim boundaries. (Doc. 214 at 3). Plaintiff then moved the Court to reconsider its ruling and to issue a remedial order or, alternatively, "to make clear that the County may not hold any more elections under the unlawful plan." (Doc. 215 at 5.) The Court denied Plaintiff's motion to reconsider but stated that it would "consider the request for a further stay of elections at a later date." (Doc. 217 at 7.)

On July 31, 2018, Plaintiff filed the pending Emergency Motion for an Injunction Pending Appeal (Doc. 218) and a Motion to Expedite briefing on the emergency motion (Doc. 219). Plaintiff states that according to defense counsel, the "drop-dead date" to remove the election from the November ballot is Friday, August 17, 2018. (Doc. 218.) Plaintiff argues that the factors the Court should consider in determining whether to enter an injunction pending appeal weigh in favor of granting an injunction to maintain the status quo between the Parties. *Id.* The Court granted the motion to expedite and also ordered the Parties to inform the Court whether a hearing would be necessary. (Doc. 220.) Plaintiff argued that a hearing would be necessary and that it intended to subpoena Sumter County's Supervisor of Elections, Robert Brady, but Defendant argued that a hearing was not necessary because there was no material dispute of fact. (Docs. 221 & 222.) Thereafter, Defendant responded to Plaintiff's Motion for an Injunction arguing that this Court lacks jurisdiction to enjoin the election (an issue involved in the appeal) and that equities favor denying Plaintiff's motion. Doc. 223.) Defendant also

attached a declaration from Robert Brady stating that by Court Order, the qualifying period for candidates was scheduled between August 6 and 10, 2018 and that he had contacted the Secretary of State Center for Election Systems to ask for additional time and was informed that the last day to provide ballot information to the Secretary of State was August 17, 2018. (Doc. 223-1.) The next day, the Court issued an order finding that "a hearing would be unnecessary in view of the available record and prior orders of the Court." (Doc. 224.) The following day, the Eleventh Circuit remanded this case to this Court, instructing as follows:

> On remand, the district court should first determine whether it is still feasible to issue a new map with interim boundaries for the November election in a timely manner. If so, the district court should then proceed to determine such interim boundaries for the November election, as it previously contemplated doing by July 23, 2018, and enter any orders necessary to effectuate its ruling before returning the case and the record to this Court. If the district court concludes, however, that it is too late at this juncture to issue an order setting any boundaries for the November election other than the ones currently in place, then it should enter an order to that effect, resolve any motions filed by the parties regarding the operation of the November election, and then return the case to this Court.

(Doc. 225 at 3.) The same day, Plaintiff moved for a telephonic conference or hearing. (Doc. 226.) The Court granted that motion and asked the Parties to provide their positions on the issues to be discussed during the conference. (Doc. 227.) The Parties complied and after hearing from the Parties during the conference, the Court directed that Robert Brady contact the State regarding the last day for ballots to be printed for November's elections and also allowed the Parties to file supplemental information no later than Thursday, August 16, 2018 at 5:00pm. (*See* Docs. 234 & 235.)

DISCUSSION

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). "Because of the central importance of the right to vote in our system of representative democracy, 'any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized,' . . . and that is the duty of the courts." *Siegel v. LePore*,

234 F.3d 1163, 1200 (11th Cir. 2000) (quoting *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964)) (explaining that the right to vote "in a free and unimpaired manner is preservative of other basic civil and political rights"). In other words, "the right to vote is [] a right of paramount constitutional significance, the violation of which permits federal court intercession." *Hall v. Holder,* 117 F.3d 1222, 1231 n. 18 (11th Cir. 1997). As such, courts are obligated to ensure that a state does not engage in "arbitrary and disparate treatment" by valuing "one person's vote over that of another." *Bush v. Gore,* 531 U.S. 98, 105 (2000); *Wesberry*, 376 U.S. at 18. Where, as here, a court has already determined that a plan infringes on the right to vote, that court should be reluctant to allow the infringement to continue. *Reynolds*, 377 U.S. at 585 ("[I[t would be the unusual case in which a court would be justified in not taking appropriate action to [e]nsure that no further elections are conducted under the invalid plan."). Indeed, the Voting Rights Act "should be interpreted in a manner that provides 'the broadest possible scope' in combating racial discrimination." *Chisom v. Roemer*, 501 U.S. 380, 403 (1991) (citation omitted). It is for such reasons that so many courts have prevented elections from occurring under unconstitutional plans[1], and it is for these reasons that this Court finds that Sumter County's school board elections should not continue under the current plan.

The Court, however, declines to adopt one of the remedial plans proposed by Plaintiff[2], especially given the strong objections to the plans announced by Defendant and the obligation of the Court to ensure that a remedial plan is constitutional. This means that the only remaining options would be for the Court to draw a new plan timely in advance of the November election or let the General Assembly redistrict the current boundaries. The Court finds that it cannot feasibly redistrict the boundaries timely before the November election. The candidates have already qualified (per the Court's order and Plaintiff's recommendation),[3]

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[1] *See*, *e.g.*, *Ga. State Conference of the NAACP v. Fayette Cty. Bd. of Comm'rs*, 118 F. Supp. 3d 1338, 1347-48 (N.D. Ga. 2015), *Brown v. Detzner*, 895 F. Supp. 2d 1236, 1243-44 (M.D. Fla. 2012), and *Bowser v. McCrory*, No. 1:13CV949, 2016 U.S. Dist. LEXIS 174564, at *3 (M.D.N.C. Feb. 9, 2016) (denying motion to stay injunction pending appeal); *see also Wilson v. Minor*, 220 F.3d 1297, 1301 n.8 (11th Cir. 2000) (denying motion to stay district court's order implementing new plan pending appeal).

[2] Although the Court finds that Plaintiff's proposed plans provide helpful information for developing a remedial plan, the Court has never determined that one of Plaintiff's proposed plans should be implemented. (*See* Doc. 206 at 6.)

[3] (*See* Docs. 204 at 7 & 189.)

and the asserted deadline to change ballots is August 17, 2018[4]. Furthermore, the redistricting process would require the Court to receive objections and feedback from the Parties, and then somehow put the ultimately approved plan into place sufficiently in advance of the scheduled election to still allow for campaigning in these new districts and voter awareness of their new districts. The Court determines that although it is possible that the Court could establish an interim map, it is realistically too late for the Court to do so now. Defendant has persuasively articulated the many difficulties that would result if the Court changed the boundaries at this late juncture and allowed the November election to proceed based thereon, including the difficulties in changing a ballot process scheme and the increased burdens placed on the State and County to comply in the midst of campaign season. Therefore, the Court should not and practically cannot effectively set interim boundaries in time for the November election.

It is also well-established, as the Parties and Court have previously found, that the legislature should have the first opportunity to remedy an unlawful election plan "whenever practicable." *Wise v. Lipscomb*, 437 U.S. 535, 539-40 (1978) (finding "that redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt"); (Docs. 140; 141 at 3-4; 198 at 37). The Court previously found that it was not practicable or appropriate to defer to the Assembly for the then-scheduled May 2018 election since the Assembly would be adjourned until January 2019. (Doc. 204 at 6.) Therefore, the Court decided it would issue interim boundaries until the Assembly reconvened. But now, the Assembly will be sitting a mere two months after the currently-scheduled election in November, meaning that it is now practicable for the Assembly to craft the first remedial plan before a future election.

Defendant previously notified the Court that "[t]he General Assembly reconvenes its next session in January 2019 and, as noted by Senator Sims, could take up this matter during that session." (Doc. 201 at 2.) School board elections regularly occur in May of even-numbered years. (Doc. 198 at 6.) However, dates for special elections are already set in March, June, and September of 2019, and general municipal elections will apparently be held in November of 2019. (*See* Docs. 218 at 8; 223-1 at 5, 228 at 4.) Although the Court is hopeful that the

[4] (*See* Docs. 218 & 221.)

legislature may be able to draw new boundaries for Sumter County by March 2019, the Court finds that there should be sufficient time to at least enact a constitutional districting plan in time for the June, September, or November election dates—either by the legislature, or if not, by this Court.[5]

In determining whether to enjoin an election, courts "should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles." *Reynolds*, 377 U.S. at 585. Courts may allow an election to proceed under an unlawful plan when "an impending election is imminent and a State's election machinery is already in progress." *Id.*; *New York v. Cathedral Acad.*, 434 U.S. 125, 129 (1977) (same); *see Covington*, 137 S. Ct. at 1625. But, in doing so, courts should endeavor to prevent future elections from violating the statutory or constitutional rights of voters. *See Reynolds*, 377 U.S. at 585-87 (affirming the district court's action as "an appropriate and well-considered exercise of judicial power" where it first allowed the legislature an opportunity to remedy the plan and then set an interim plan while waiting for the legislature).

The Court has already found that the three factors warranting a permanent injunction exist in this case (Doc. 204 at 5), and the Court so finds again now. Wright has prevailed in his claim (Doc. 198); there is no adequate remedy at law if the election occurs (s*ee Dillard v. Crenshaw Cty.*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986)); and the loss of a meaningful right to vote creates an irreparable harm (*id.*). Furthermore, because the appeal in this case has been held in abeyance, the Court further finds that the factors warranting an injunction pending appeal exist here. Plaintiff is likely to succeed on appeal because the Court has already found in a detailed, 38-page order that the Defendant's current plan is unconstitutional. (Doc. 198.)[6]

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[5] "Legislative bodies should not leave their reapportionment tasks to the federal courts; but when those with legislative responsibilities do not respond, or the imminence of a state election makes it impractical for them to do so, it becomes the 'unwelcome obligation,' *Connor* v. *Finch,* [431 U.S. 407, 415 (1977)], of the federal court to devise and impose a reapportionment plan pending later legislative action." *Wise*, 437 U.S. at 540 (referring also to redistricting).

[6] The Court finds there is a basis for the likelihood of Plaintiff's success on appeal because "[d]espite African Americans constituting 49.5% of the voting age population in Sumter County, they are only able to elect their candidates of choice to 29% of the school board seats," meaning that their voting strength is diluted in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301. (Docs. 204 at 6 & 198 at 2, 37.) Of course, notwithstanding this Court's finding regarding Plaintiff's likelihood of success, this Court is not presuming the result of the Circuit's independent review of the record in this case.

Plaintiff will be irreparably harmed absent an injunction. *See Bowser*, 2016 U.S. Dist. LEXIS 174564, at *3 ("To force the plaintiffs to vote again under the unconstitutional plan . . . constitutes irreparable harm to them, and to the other voters . . . ."); *Dillard*, 640 F. Supp. at 1363. An injunction would only minimally, if at all, harm other parties – Defendant's arguments about voter confusion and costs to Sumter County, although due some weight, are not persuasive. Here, the election is almost three months away and the election machinery, though in progress, has only just begun. Candidates were qualified just one week ago, and the Parties have informed the Court that ballots may be changed until August 17, 2018.[7] (*See* Docs. 233 & 234.) Thus, voter confusion, costs, and burdens on election administration will be minimized by the Court issuing this order very early in the election preparation process and by the deadline provided by Defendant to do so. *See Brown v. Detzner*, 895 F. Supp. 2d 1236, 1242 n.8 (M.D. Fla. 2012) (finding similar arguments insufficient to warrant denying injunctive relief).[8] Furthermore, Defendant has offered no substantiation for its conjecture that one or more incumbents may resign, leaving voters unrepresented, where it otherwise appears that vacancies are filled and incumbents remain in office until succeeded. (Doc. 153-22 at 2-3) (House Bill 836). Finally, an injunction is in the public's interest because "[t]he public has an interest in having [] representatives elected in accordance with the Constitution." *Bowser*, 2016 U.S. Dist. LEXIS 174564, at *4 (finding that "the public interest aligns with the plaintiffs' interests"). The Court has considered Defendant's supplemental argument that an injunction would prevent an African-American candidate the opportunity to be elected because a white incumbent has decided not to run for reelection and there are two at-large candidates, one of whom is white and one of whom is African American. (Docs. 236 at 2 & 233-1 ¶ 7.) But this argument, while somewhat relevant, is incongruous to this case because the key finding made by the Court is not that African-American candidates disproportionately *run*, but that they are

[7] The Court notes that it enjoined the May 2018 election with far less time remaining before the election.
[8] According to Wright, there has been little advertising of the November school board election and "very little people in Sumter County are aware that there are school-board elections scheduled for the November ballot." (Doc. 228-1.) Although Defendant shows that on August 1, 2018, Robert Brady published a "Notice of Special Called Election" regarding the School Board election for November 6 and candidate qualification period for August 6-10, these factors further persuade the Court that the County has only recently begun preparing for the School Board's November election such that an injunction would not cause substantial voter confusion or burdens on election administration.

disproportionately *elected* because African Americans' voting strength is diluted by the current election plan. (*See* Doc. 198.) In other words, even where African Americans run for the County's School Board, African Americans are less likely than white voters to be able to elect the candidate of their choice. Any candidate elected in November 2018 would, unless something changes other than the existing districting plan, be in office for another four years. (Docs. 198 at 6 & 218 at 7.) By issuing an injunction, the Court is giving African-American voters an opportunity to vote in the near future under a constitutional election plan when they are more likely to be able to elect the candidates of their choice. Accordingly, the aforementioned factors weigh in favor of an injunction.

Defendant's arguments that this Court lacks jurisdiction to enter an injunction are unavailing. Not only has the Eleventh Circuit remanded this case to this Court, but it recounted that Plaintiff had requested "an order enjoining the County from conducting the November election under the current boundaries" and then instructed this Court to "resolve any motions filed by the parties regarding the operation of the November election." (Doc. 225 at 3.) As such, this Court clearly has jurisdiction to enter an injunction. Furthermore, the status quo at the time this matter was appealed was that Sumter County Board of Education's election was enjoined, and the Court finds that a continuing injunction of elections under the current unlawful plan would further preserve the status quo. Defendant's argument that "this Court represented on two occasions since late March that an election would go forward on November 6," presumably even with the current unconstitutional district boundaries, misconstrues the Court's prior orders. (Doc. 223 at 17, 18.) The Court's order in late March enjoined the May 22, 2018 election and reset it for November 6, 2018 with the specific notice that the Court would be setting interim boundaries in time for the November election. (Doc. 204 at 7.) After this order, Defendant filed a notice of appeal (Doc. 207), which this Court found divested it of jurisdiction to set interim boundaries because the Court's finding of liability and its injunction order were on appeal. (Doc. 214.) The Court specifically found that Federal Rule of Civil Procedure 62(c) permitted the district court only to preserve the status quo and, at that time, the status quo was the existing boundaries and an election set for November. *Id.* The Court stated that the Eleventh Circuit had declined to expedite the appeal

or remand the case and, therefore, the Court could not change anything with regard to the November election without jurisdiction to do so. *Id.* at 5-6. Now, however, the Court has jurisdiction and, with such jurisdiction, finds that the November election should be enjoined.[9]

The case cited by Defendant in arguing against a special election is distinguishable from this case. In *Covington*, the Supreme Court agreed with the defendant that the district court's remedial plan should be vacated "for the simple reason that the district court failed to meaningfully weigh any equitable considerations." *North Carolina v. Covington*, 137 S. Ct. 1624, 1625 (2017). The Supreme Court found it "most cursory" that the court "simply announced that 'while special elections have costs,' those unspecified costs 'pale in comparison' to the prospect that citizens will be 'represented by legislators elected pursuant to a racial gerrymander.'" *Id.* at 1626. This Court not only analyzed and weighed the relevant equities before granting a prior injunction (Doc. 204), but it has done so again here. Although the district court in Covington ultimately determined that Plaintiff's motion for a special election should be denied, this case warrants a different result. *Covington v. North Carolina*, 270 F. Supp. 3d 881, 902 (M.D.N.C. 2017). A special election on a date next year would not necessarily be unjustified because of the risk of generating voter confusion and low voter turnout, although that is a factor that the Court finds weighs against setting a special election. *See id.* But other "obvious considerations" must be taken into account, including "the severity and nature of the particular constitutional violation, the extent of the likely disruption to the ordinary processes of governance if early elections are imposed, and the need to act with proper judicial restraint when intruding on state sovereignty." *Covington*, 137 S. Ct. at 1626. This Court has already found that "the infringement of black voters' right to vote in Sumter County is severe." (Doc. 204 at 6.) The Court would not be imposing an early election or "unduly abbreviating the process for enacting and reviewing new legislative districting plans," but would set a special election, if necessary, after giving the legislature time to enact a new districting plan. *Covington*, 270 F. Supp. 3d at 902. Furthermore, the Plaintiff in *Covington* asked the court to "truncate the terms of legislators . . . and order a special election to fill those seats with representatives

[9] To be clear, the Court has not varied since late March on its finding that the current district boundaries for Sumter County Board of Education's elections are unlawful.

elected under constitutional districting plans," and asked for this to be done under a rushed schedule. *Covington*, 270 F. Supp. 3d at 884. Again, the Court is not doing that here, and for these same reasons, the Court is exercising proper restraint by not intruding unnecessarily on state sovereignty. Thus, the Court finds that these factors weigh in favor of granting the requested injunction and setting a special election after Sumter County Board of Education's district boundaries are constitutionally drawn.

The Court recognizes that "citizens are entitled to have their rights vindicated as soon as possible so that they can vote for their representatives under a constitutional [] plan." *Smith v. Beasley*, 946 F. Supp. 1174, 1212 (D.S.C. 1996); *Cosner v. Dalton*, 522 F. Supp. 350, 364 (E.D. Va. 1981). Yet, the Court will not impose "unreasonable or embarrassing demands on a State" to accomplish that goal. *Reynolds*, 377 U.S. at 585. Rather, this Court will remain flexible and will allow the legislature the first opportunity to enact a new districting plan for the Sumter County Board of Education, consistent with the well-established principles of equity in election cases. In the meantime, the status quo remains.[10] This case will now be immediately returned to the Eleventh Circuit per that court's instructions.

CONCLUSION

For the foregoing reasons, the Court finds that it is not feasible for it to timely issue a new map with interim boundaries and finds that the balance of equities weighs toward enjoining the November 2018 election as to the Sumter County Board of Education. Accordingly, Plaintiff's Motion for an Injunction (Doc. 218) is **GRANTED**. The Sumter County Board of Education election scheduled for November 6, 2018 is **ENJOINED** and will be reset at a later date. Defendant Sumter County Board of Elections and Registration is hereby **ORDERED** to promptly inform voters and all other necessary parties that the November 6, 2018 election for the Sumter County Board of Education has been cancelled and will be rescheduled. Defendant Sumter County Board of Elections and Registration is **ENJOINED** from tabulating any votes cast in the November 6, 2018 election for any position on the Sumter County Board of Education.

[10] This order is consistent with and was made part of the Court's prior order (Doc. 237) by reference.

The Parties shall confer expeditiously and as soon as feasible in good faith with the General Assembly to aid it in drawing new boundaries for Sumter County Board of Education's elections in view of the Court's findings on the merits with regard to Plaintiff's complaint. The Parties shall keep the Court timely advised of relevant developments, including whether the Assembly intends to enact new boundaries during its 2019 session and, if so, when that will be completed, and the deadlines for creating ballots for election dates in 2019. Whether the boundaries are redrawn by the legislature or this Court, an election should be set for the next possible election date after a constitutional districting plan is in place.[11]

SO ORDERED, this 20th day of August 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

[11] The Court acknowledges that the injunction order on appeal contemplates the Court drawing and implementing its own plan, rather than the legislature. To clarify, due to reasons stated herein, the Court now finds that it would be more appropriate for the legislature to have the first opportunity to develop a new districting plan and seeks to make the Circuit Court aware of the Court's position on this issue as part of the appeal before that court. Since a new plan was intended in the initial injunction order (Doc. 204) and is contemplated in this order, the Court does not believe the status quo is substantively altered simply because the legislature would have the first opportunity to craft a plan rather than the Court setting an interim plan while waiting for the legislature. Rather, this order allows the legislature to act first with respect to the remedy the Court previously determined was necessary.

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	
_____	:	

ORDER

This case is a challenge to the method of electing members of the Board of Education in Sumter County, Georgia. (Doc. 1.). The plaintiff, Mathis Kearse Wright, Jr., contends that the current election plan's two at-large seats and high concentration of African-American voters in Districts 1 and 5 dilute African-American voting strength in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301. (*Id.*)

The Court held a four-day bench trial on December 11–14, 2017. (Docs. 144; 145; 146; 148.) In issuing these findings of fact and conclusions of law, the Court has considered the evidence presented at trial, the Parties' written closing arguments (Docs. 161; 162; 163), their proposed findings of fact (Docs. 169; 172), and their trial briefs. (Doc. 170; 171.)

FINDINGS OF FACT

Plaintiff Mathis Kearse Wright, Jr. is an African-American resident and registered voter in Sumter County.[1] (MUF at ¶ 1.) Defendant Sumter County Board of Elections and Registration was established by state law in 2001 and is responsible for conducting elections for members of the Sumter County Board of Education. 2001 Ga. Laws 3865.

[1] The Parties submitted a set of material undisputed facts as Exhibit A to their proposed pretrial order. The Court has adopted the proposed pretrial order. (Doc. 134.) All references to Exhibit A will be to "MUF."

I. County Demographics

Sumter County has a total population of 31,070 people.[2] Of those, 12,399 (39.9%) are non-Hispanic white and 16,122 (51.9%) are non-Hispanic black; 13,095 (42.1%) are white and 16,159 (52.0%) are black. (Doc. 164-1 at 1, 3). Most—23,541—of those people are voting-age. (Doc. 164-1 at 5–10.) Their demographics are similar to the general population: 10,991 (46.7%) are white and 11,652 (49.5%) are black. *Id.* Sumter County has 15,683 total active registered voters, 7,327 (46.7%) are white and 7,604 (48.5%) are black. (Doc. 166 at 2.)

The socioeconomic disparities between black and white residents of Sumter County are striking. Only 13.6% of white residents lack a high school diploma. The rate is over double—29.9%—for African Americans. (Doc. 164 at 4.) White residents are over three times more likely to have a bachelor's degree or higher—30.9% versus 8.8% of African Americans. (*Id.*.) The educational differences are reflected in employment numbers as well. Among those in the workforce aged sixteen years or over, the unemployment rate is 7.1% for white residents and 18.2% for African Americans. (*Id.*) Only 15.3% of white residents live in poverty compared to an astonishing 46.2% of African Americans. (*Id.* at 5.) Three in four African American households receive Supplemental Nutrition Assistance Program benefits. (*Id.*) The number is reversed for white residents: only one in five households receive the same benefits. (*Id.*) The median African American household earns $22,736, less than half of the median $48,672 for white households. (*Id.*)

These disparities result in decreased political participation. (*See* Doc. 157 at 110:18–111:25.) Despite African Americans outnumbering white residents in population, voting-age population, and registered voters, white voters have outnumbered black voters in school-general elections by an almost two-to-one margin since 1996. (Docs. 153-38–153-60.)

II. School Board

A. Historical Composition

Before passage of the Voting Rights Act, members of the Sumter County Board of Education were appointed by the Sumter County grand jury. *See Edge v. Sumter Cty. Sch.*

[2] All demographic data is the most up-to-date available to the Court.

Dist., 775 F.2d 1509, 1510 (11th Cir. 1985). In 1964, the General Assembly reorganized the Board to consist of seven members elected from four single-member districts, one two-member district, and one member elected at-large. *See Edge v. Sumter Cty. Sch. Dist.*, 541 F. Supp. 55, 56 (M.D. Ga. 1981). The composition has changed some times since. In 1973, it moved to at-large elections for the entire Board after a federal judge concluded the prior districts were unconstitutionally apportioned. 1992 Ga. Laws 5171; *see Edge*, 541 F. Supp. at 56. The United States Attorney General found the at-large system would "have a racially discriminatory effect," but it continued nonetheless until 1981. (Doc. 153-62); *see Edge*, 541 F. Supp. at 56. That year, a three-judge panel found the system violated the Voting Rights Act and enjoined its further use. *Edge*, 541 F. Supp. at 56.

The Board struggled to make a permissible change. It first proposed six single-member districts and one at-large seat, but the Attorney General found that the evidence "suggests that the submitted plan was designed with the purpose of minimizing minority voting strength in the school district." (Doc. 153-63 at 2.) The Board proposed another "six-one" plan, but again the Attorney General objected. (Doc. 153-64.) The district court eventually proposed its plan for all single-member districts, but the United States Court of Appeals for the Eleventh Circuit vacated because the district court had failed to consider whether it violated Section 2 of the Voting Rights Act. *Edge*, 775 F.2d at 1510. Eventually, in 1986, all parties involved settled on a six-one plan with three majority-black districts. (Doc. 153-65.)

The composition was short-lived: following the 1990 census, the Georgia General Assembly adopted a new election plan consisting of seven single-member districts. (Doc. 153-81.) Four years later, the Assembly upped the count to nine single-member districts. (Doc. 153-83.) The Board stuck with nine single-member districts after the 2000 census, though the district borders changed. (Doc. 153-84.) Under the updated plan, four districts were majority African American in voting-age population. (Doc. 153-23 at 13.)

B. Recent Changes to the Board

The Board had five white members and four black members in 2010. (Doc. 153-61.) That year, it began discussing redistricting and downsizing. In June, it approved a plan—with

a 5-3 vote along racial lines—to reduce the size of the Board to five or seven members with details to be worked out later. (Docs. 153-67 at 3; 159 at 39:10–18.) The nine-member School Board at the time was the largest in the state, despite Sumter County's relatively small population. (Doc. 159 at 14:3–18.) The Southern Association of Colleges and Schools (SACS), the organization which accredits Sumter County's schools, said on several occasions that the School Board was large. (*Id.* at 15:1–16.) Defendants assert that the Board's size put Sumter County's accreditation at risk. (*See* Doc. 172 at ¶ 45.) This assertion is not credible. Michael Busman, the School Board's chairman and whose testimony Sumter County relies on, testified that SACS accredits the schools and that a loss of accreditation would be detrimental to the students. (Doc. 159 at 15:1–11.) He did not testify that SACS's observation regarding the Board's size would have any impact on the accreditation process.

It is somewhat unclear the justification for landing on the number seven, however. The five single-member districts mirror the five single-member Board of Commissioners districts—a reason cited by the School Board when it submitted the new plan for preclearance. (Doc. 153-23 at 2.) But the Board of Commissioners doesn't have any at-large districts. (Doc. 159 at 16:8–15.) Busman testified only that it was "easier" to go from nine to seven members rather than down to five. (*Id.* at 16:10–15.) The Court infers, based on the testimony, that the smaller shift was "easier" because fewer incumbent seats were put at risk.

On November 2, 2010, an African-American candidate, Kelvin Pless, defeated a white incumbent, Donna Minich, in District 3. (Doc. 153-61 at 3.) For the first time, the Board had an African American majority.

On December 9, 2010, before Pless was installed, the Board unanimously approved a resolution calling for the legislature to move it to a five-two plan—five district seats and two at-large seats. (Docs. 153-67 at 3; 154-11; 159 at 17:14–16.) African American board members testified that they did not knowingly vote to support the addition of two at-large seats. (Doc. 158 at 154:5–10, 174:2–10.) The Court does not find them credible on this point. The resolution was covered extensively in both newspapers and on the radio. (Doc 159 at 40:6–10.) Moreover, the resolution was reviewed by the members before the vote. (*Id.* at 17:3–13.) The Court does not believe that responsible Board members would vote in

support of a resolution to change the Board composition with no knowledge of what the change entailed.

The General Assembly adopted the change, and the Governor subsequently signed it into law. 2001 Ga. Laws 4020.

On July 31, 2011, the incumbent in District 7, who was not African American, resigned his seat. (Doc. 153-24 at 44.) Michael Lewis, an African-American, was appointed to fill the seat, bringing the racial makeup of the Board to six African American members and three white members. (Doc. 158 at 143:21–144:8.)

Shortly after that, the General Assembly redrew the new district boundaries based on the 2010 census. 2011 Ga Laws. 280. The changes were submitted to the Department of Justice for preclearance under Section 5 of the Voting Rights Act. (Docs. 153-23; 153-24.) The Department found the information submitted insufficient for its analysis and requested additional information from the Board. (Doc. 153-23.) The Board refused. On January 12, 2012, the Board voted to move from the five-two plan to seven single-member districts, and on January 18, 2012, it voted to withdraw its request for preclearance. (Docs. 153-23 at 43; 159 at 22:20–23:7.)

The decision to withdraw the request for preclearance left the nine single-member districts configuration in place, but following the 2010 census, they were malapportioned. In June 2012, this Court granted the plaintiff's motion for a preliminary injunction and thereby canceled the 2012 elections for members of the Board of Education. *See* Order, *Bird v. Sumter County Board of Education*, 1:12-cv-76-WLS (M.D. Ga. June 21, 2012). Board members whose terms were set to expire after the 2012 elections were held over—maintaining the six-three black majority.

On June 25, 2013, the majority's strategy backfired. The Supreme Court struck down Section 4 of the Voting Rights Act in *Shelby County v. Holder*, 570 U.S. 2 (2013). Preclearance was no longer required, and the General Assembly's post-census plan went into immediate effect. *See* Order, *Bird v. Sumter County Board of Education*, 1:12-cv-76-WLS (M.D. Ga. Oct. 28, 2013). The General Assembly—perhaps out of an abundance of caution—then readopted the same five-two plan through House Bill 836 on February 17, 2014. The bill also moved

school board elections from the November general election to the nonpartisan general election held in May. It also adopted a transition procedure: a special election would be held for Districts 1, 2, 4 and 6 as those districts existed under the nine-member plan. Members elected at that special election were to serve only until December 31, 2014, when the new plan would be put in place. (Doc. 153-22); 2014 Ga. Laws 3503.

That brings us to today. The Board still has its five-two composition. Elections take place in May of even-numbered years, with candidates running on a staggered four-three basis. One at-large seat is filled each election, and a majority vote is required for all Board members. African Americans constitute a majority of the voting-age population in two of the five existing school-board districts. (MUF ¶ 8.) They represent 62.7% of the voting-age population in District 1 and 70.6% of the voting-age population in District 5. (Doc. 153-87 at 4.)

C. Elections Under the Current Plan

Wright relies on a racial bloc voting analysis of Sumter County elections performed by his expert, Dr. Frederick G. McBride, and contained in McBride's supplemental report. (Doc. 153-87.) Dr. McBride has a doctorate in Political Science from Clark Atlanta University. His work has focused on quantitative and qualitative research in redistricting and voting rights. He has drawn and evaluated redistricting plans, performed racially polarized voting studies, performed demographic analysis, and presented at redistricting hearings for over 100 jurisdictions in twenty-two states, and the District of Columbia. (Docs. 153-1; 153-87 at 2; 157 at 23:6–28:10.)

McBride's analysis in this case used three statistical methods to estimate the voting patterns of black and white voters in Sumter County: (1) homogeneous precinct analysis; (2) bivariate ecological regression analysis; and (3) Ecological Inference (EI). (Doc. 153-87 at 8–9.) All three methods have been accepted by the courts as reliable for use in voting cases, and their reliability is not at issue here. *See*, *e.g.*, *Thornburg v. Gingles*, 478 U.S. 30, 53 n.20 (1986) (discussing ecological regression and homogeneous precinct analysis). There is also no dispute that the EI method is currently the "gold standard" for use in racial bloc

voting analyses, so the Court will include only the results of Dr. McBride's EI analyses unless otherwise noted. (Docs. 157 at 40:3–10; 159 at 207:24–208:3.)

The data for Dr. McBride's analysis consisted of precinct election returns and racial turnout data from the Georgia Secretary of State. (Doc. 153-87 at 10.) There is no dispute as to the data used in Dr. McBride's analysis. (Doc. 159 at 209:2–210:4.) Dr. McBride analyzed a total of twelve Sumter County elections in his supplemental report. These included all three general elections and one runoff election held under House Bill 836 for the at-large seats on the Board of Education, plus a variety of other local elections. (Doc. 153-87 at 11.)

Dr. McBride's analysis shows that African-American voters have been highly cohesive in ten of the twelve elections analyzed by Dr. McBride. The two exceptions are first, the District 4 race on May 20, 2014, when 53.9% of black voters supported Rick Barnes and 46.6% of black voters supported Gary Houston. Both Barnes and Houston are white. The second race was the March 18, 2014, District 6 election. There, 68.8% of black voters supported Sarah Pride while 52.1% of black voters supported Michael Mock. Pride is an African American; Mock is white. Of the remaining races, the lowest level of support for the black-preferred candidate among black voters was an astonishingly high 85.3%.

Of particular note is the November 2, 2004 race for Sheriff. There, Nelson Brown—the only African American candidate in the race and the black-preferred candidate—won the support of 96.5% of black voter despite being a write-in candidate.

The results of McBride's analysis are shown below. First, the Court shows the general demographic and turnout data provided by McBride:

Table 1. Demographics of the Sumter County School Board's Districts.

Seat	Population	% White	% Black	% 18+ White	% 18+ Black
1	6,432	31.1%	65.9%	34.4%	62.7%
2	6,654	56.4%	34.6%	62.2%	30.3%
3	6,546	54.1%	38.8%	57.8%	36.2%
4	6,679	44.8%	47.7%	49.1%	43.9%
5	6,508	24.1%	72.8%	27.0%	70.6%
At-Large[3]	31,070	41.2%	51.0%	46.7%	49.5%

Table 2. Voter Turnout Data for the Elections Analyzed.

Election Date	Seat	White Turnout	Black Turnout
May 20, 2014	1	9.4%	8.6%
May 20, 2014	2	20.7%	4.4%
May 20, 2014	3	12.9%	5.4%
May 20, 2014	4	6.9%	4.1%
May 20, 2014	5	6.7%	9.3%
May 20, 2014	At-Large #1	11.1%	6.7%
May 20, 2014	At-Large #2	11.2%	6.7%
July 22, 2014	At-Large #1	8.2%	4.7%
May 24, 2016	At-Large #2	14.3%	8.4%
November 2, 2004	Sheriff	29.1%	18.4%
November 2, 2010	3	12.9%	10.8%

Next, the Court lists the elections analyzed by McBride, categorized by election date. African American candidates are denoted with an asterisk.

[3] For the at-large seats, the Court accepts the updated 2012–2016 American Community Survey date rather than that in McBride's report.

1. May 20, 2014 Elections

Table 3. District 1 Results.

Candidate	Overall Support	White Support	Black Support
Alice Green*	52.8%	15.0%	94.2%
E. Lockhart	11.6%	21.2%	1.2%
Allen Smith	35.4%	66.8%	1.1%

Table 4. District 2 Results.

Candidate	Overall Support	White Support	Black Support
Everette Byrd	28.9%	30.1%	23.3%
Meda Krenson	48.7%	59.0%	0.0%
Sarah Pride*	22.2%	5.8%	99.3%

Table 5. District 3 Results.

Candidate	Overall Support	White Support	Black Support
W. Fitzpatrick*	30.5%	4.6%	92.3%
J.C. Reid	69.4%	95.0%	8.5%

Table 6. District 4 Results.

Candidate	Overall Support	White Support	Black Support
Rick Barnes	54.4%	54.7%	53.9%
Gary Houston	45.5%	44.9%	46.6%

Table 7. District 5 Results.

Candidate	Overall Support	White Support	Black Support
Edith Green*	55.4%	13.9%	85.3%
Mark Griggs	44.5%	86.4%	14.3%

Table 8. At-Large Seat #1 Results.

Candidate	Overall Support	White Support	Black Support
Michael Coley*	36.7%	4.1%	89.1%
David Kitchens	20.4%	32.7%	0.0%
Sylvia Roland	36.4%	53.0%	9.7%
Patricia Taft*	6.3%	6.5%	6.2%

Roland is a career public school educator having served as an English teacher in middle and high school in Arkansas for twelve years and a literacy coach in middle school in Florida for six years. (Doc. 159 at 43:15–22.) She moved to Sumter County in 2012 and became a school improvement specialist in Americus High School in Sumter County. (*Id.*) Roland never had a child in Sumter County schools and had never voted in a city election. (Doc. 159 at 54:10–17.)

Coley has lived in Sumter County for almost his entire life. (Doc. 158 at 33:23–37:11.) He served on the Sumter County Board of Education from 1996 until 2005, but never worked in Sumter County schools. (*Id.* at 42:1–8.) Coley's three children all graduated from Americus High School. (*Id.* at 38:3–10.)

Table 9. At-Large Seat #2 Results.

Candidate	Overall Support	White Support	Black Support
Michael Busman	59.8%	94.4%	3.0%
Kelvin Pless*	40.1%	5.8%	96.7%

Busman has lived in Americus, Georgia for over 19 years and is a family medicine and sports medicine physician. (Doc. 159 at 8:19–20, 9:2–4.) He is the volunteer team physician for the high school, and he performs free physicals for the school athletes and Special Olympics athletes. (*Id.* at 9:15–22.) Busman has four children—one graduated from Americus Sumter High School, and the other three are now homeschooled. (Doc. 159 at 28:11–20.)

Pless has lived in Americus, Georgia his whole life. (Doc. 158 at 60:23–24.) He was elected to the School Board as the representative for District 3 in 2010. (*Id.* at 65:25–66:4.) Pless has a degree in education, though he has never worked for the Sumter County schools. (*Id.* at 66:22–23.)

2. July 22, 2014 Elections

Table 10. At-Large Seat #1 Runoff Results.

Candidate	Overall Support	White Support	Black Support
Michael Coley*	41.0%	7.5%	99.5%
Sylvia Roland	58.9%	92.4%	0.0%

3. May 24, 2016 Elections

Table 11. At-Large Seat #1 Results.

Candidate	Overall Support	White Support	Black Support
Michael Coley	44.5%	15.3%	93.6%
Sylvia Roland	55.4%	84.7%	6.2%

4. Other Elections

Table 12. November 2, 2004 Sheriff Election Results.

Candidate	Overall Support	White Support	Black Support
Pete Smith	40.3%	54.6%	0.0%
James Driver	32.3%	39.9%	6.3%
Nelson Brown* (Write In)	27.3%	4.4%	96.5%

Table 13. November 2, 2010 School Board District 3 Results

Candidate	Overall Support	White Support	Black Support
Donna Minich	44.4%	76.7%	6.3%
Kelvin Pless*	55.3%	22.9%	94.0%

Table 14. March 18, 2014: School Board District 6 Results

Candidate	Overall Support	White Support	Black Support
Michael Mock	71.0%	85.1%	52.1%
Sarah Pride*	28.9%	28.8%	68.0%

In addition, there were other races presented during the trial that were not analyzed by Dr. McBride. The Court notes the races in which there was a contested choice between an African American and a white candidate.[4]

In the 2012 general election, Barack Obama (African American) defeated Gary Johnson (white) and Mitt Romney (white) in Sumter County for President. (Doc. 154-10 at 21; Doc. 159 at 103.) Sanford Bishop (African American) defeated John House (white) in Sumter County for a United States House of Representatives seat. (Doc. 154-10 at 21; Doc. 159 at 102–03.) Kevin T. Brown (African American) defeated Michael Arthur Cheokas (white) for a State House of Representatives seat. (Doc. 154-10 at 21; Doc. 159 at 104.) George R. Torbert (white) defeated Tangalia Robinson (African American) in Sumter County for a County Commission seat, but Andrea F. Brookes (African American) defeated Carey Harbuck for a second seat. (Doc. 154-10 at 22; Doc. 159 at 105.)

In the 2014 general election, Sanford Bishop (African American) defeated Greg Duke (white) in Sumter County for a United States House of Representatives seat. (Doc. 154-10 at 25; Doc. 159 at 102.) Kevin T. Brown (African American) again defeated Michael Arthur Cheokas (white) for a State House of Representatives seat. (Doc. 154-10 at 25; Doc. 159 at 104.)

That makes six wins for African American candidates over white candidates, and one win for a white candidate over an African American candidate in the 2012 and 2014 general

[4] Defendants list in their Proposed Findings of Fact and Conclusions of Law what they allege to be the race of each candidate in the 2012, 2014, and 2016 elections. (Doc. 172 at ¶¶ 19–42.) However, their citations to the record do not identify the race of any candidate. As far as the Court is aware, the only testimony adduced at trial as to the race of any candidate other than those for school board was that of Robert Edward Brady. The Court relies solely on his testimony in identifying the races of the candidates in these elections.

elections. Of the races where the entire county voted in a single race, African American candidates were five for five in defeating white candidates.

In the 2016 primary election, Cortisa Barthell (African American) defeated C. Cromer (white) and M. Harry (white) in Sumter County to be the Democratic nominee for the Clerk of Superior Clerk. (Docs. 154-10 at 27; 159 at 89.) In that election, African Americans made up 81.9% of the electorate. (Doc. 157 at 218:12–14.) Barthell did not face an opponent in the general election. There were no examples of races in the 2016 general election, based on the evidence presented, where the Court can find an African American candidate went against a white candidate. (Doc. 159 at 91–97.)

III. Discrimination in Sumter County

Georgia's history of discrimination "has been rehashed so many times that the Court can all but take judicial notice thereof. Generally, Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception." *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994), *appeal dismissed and remanded sub nom. Brooks v. Georgia State Bd. of Elections*, 59 F.3d 1114 (11th Cir. 1995). The Parties' have stipulated to this sordid history in both Georgia generally and Sumter County more specifically. (*See* Doc. 155 ("Georgia and Sumter County have a long and extensive history of voting discrimination against African Americans.")) Given the stipulation, the Court declines to make the litany of factual findings about Georgia requested by Wright. (*See* Doc. 169 at ¶¶ 174–383.) However, the Court does make the following findings specific to Sumter County to provide better context for this challenge.

In 1967 in *Bell v. Southwell*, the court set aside an election in Sumter County because of "gross, unsophisticated, significant, and obvious racial discrimination," including segregated voting lists and polling booths, intimidation of black voters by whites, and the arrest of black voters attempting to vote in white polling booths. 376 F.2d 659, 660–61, 664 (5th Cir. 1967).

In 1981 in *Edge v. Sumter County School District*, this court noted that "[o]n July

13, 1973 the Attorney General interposed an objection to the change [to at-large elections for the board of education]. In spite of this objection the at-large system has been utilized for Board elections up to the present time." 541 F. Supp. 55, 56 (M.D. Ga. 1981), *aff'd*, *Sumter County School District v. Edge*, 456 U.S. 1002 (1982). In a later ruling, the Eleventh Circuit Court of Appeals noted that "[n]o black person has ever served on the county school board" and that "[i]n 1964, prior to the Voting Rights Act, Georgia law provided that the Sumter County grand jury appoint school board members." 775 F.2d 1509 (11th Cir. 1985).

While its worst days may be behind it, Sumter County remains a largely segregated community, with separate neighborhoods, civic organizations, and churches. (Docs. 158 at 39:7–41:6, 64:1–65:20, 107:4–108:15, 116:3–13, 125:15–133:22, 167:21–168:7, 211:5–212:4; 159 at 54:24–55:22.) Explicitly racist incidents are still not unheard of. Wright ran for a seat on the county commission in 2006 and described several such incidents from his campaign: "on this one occasion this -- this white family sicced their German shepherd on the -- on one of my daughters during one of the times. And then there were other times when, you know, they just basically said, you know, sorry, but, you know, we don't vote for -- and they said the N word. And then there was a couple of incidents where they said don't come on my property." (Doc. 158 at 215:19–216:1.)

IV. Illustrative Remedial Plan

Wright has proposed an illustrative remedial plan which he asserts would remedy the alleged Section 2 violation. It is as follows:

Table 15. Plaintiff's Illustrative Remedial Proposal.

Dist.	Total Pop.	Voting Age Pop. (VAP)	White VAP	% White VAP	Black VAP	% Black VAP
1	4,663	3,290	1,083	32.92	2,120	64.44
2	4,686	3,636	2,446	67.27	957	26.32
3	4,772	3,605	1,975	54.79	1,490	41.33
4	4,675	3,575	1,924	53.82	1,476	41.29
5	4,703	3,279	717	21.87	2,472	75.39
6	4,677	3,797	1,999	52.65	1,457	38.37
7	4,693	3,336	1,293	38.76	1,818	54.50

(Doc. 153-87 at 6.) Sumter County challenges the districts for reasons related to Section 2, but does not allege that the proposals are unfaithful "to Georgia's traditional redistricting principles of compactness, contiguity, minimizing the splits of counties, municipalities, and precincts, recognizing communities of interest, and avoiding multi-member districts." *Larios v. Cox*, 314 F. Supp. 2d 1357, 1369 (N.D. Ga. 2004) (footnote omitted); (*see generally* Doc. 176).

To estimate how the proposed districts would vote, McBride applied the conceptual framework set forth by Bernard Grofman, Lisa Handley, and David Lublin in *Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence*, 79 N.C. L. Rev. 1383 (2001). (Doc. 153-87 at 22.) The framework uses cohesion, crossover voting, and turnout to determine how a proposed district would vote. (Doc. 157 at 136:12–18.) The authors are well respected in the field of political science, (*Id.* at 137:3–6; Doc. 159 at 222:7–20), and their methods have been cited in *Georgia v. Ashcroft*, 539 U.S. 461, 483 (2003) and *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 488 (2006) (Souter, J., concurring in part and dissenting in part).

McBride's analysis shows that the proposed District 1 and District 5 would allow African American voters to elect their preferred candidate. (Doc. 153-87 at 23.) Proposed District 7, however, is a close call. The percentage of the voting-age population needed for a minority-preferred candidate to be elected in Sumter County has ranged from 44.1% to

77.8% in the current districts. (*Id.*) At 54.5%, proposed District 7 would be sufficient in some cases but not others. Determining whether African American voters in the proposed district could elect the candidate of their choice is "guesswork," but McBride testified that based on the Grofman framework, he believed it was sufficient. (Doc. 157 at 198:8–199:8.)

The County's expert, Dr. Karen Owen, did not express any opinions on McBride's illustrative districts or his analysis of the viability of the districts. (Doc. 159 at 221:16–222:6.)

DISCUSSION

I. *Gingles* and Senate Factors

In this case, Wright claims that the Sumter County Board of Education's composition, five members from single-member districts and two at-large members, violates Section 2 of the Voting Rights Act of 1965. Section 2 prohibits an election plan that

> [d]ivid[es] the minority group among various districts so that it is a majority in none may prevent the group from electing its candidate of choice: If the majority in each district votes as a bloc against the minority candidate, the fragmented minority group will be unable to muster sufficient votes in any district to carry its candidate to victory.

Colleton Cnty. Council v. McConnell, 201 F. Supp. 2d 618, 633 (D. S.C. 2002). Section 2 also prohibits "packing" where minority voters are all placed in one single member district.[5] *Id.* "[T]he critical question in a § 2 claim is whether the use of a contested electoral practice or structure results in members of a protected group having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." *Thornburg v. Gingles*, 478 U.S. 30, 63 (1986) (citations omitted).

In *Thornburg v. Gingles*, the United States Supreme Court set forth three preconditions that a plaintiff must prove for a Section 2 claim to go forward. *Gingles,* 478 U.S. at 50–51; *see also Nipper v. Smith*, 39 F.3d 1494, 1524 (11th Cir. 1994) (holding that a "plaintiff cannot obtain relief unless he or she can establish" each of the three *Gingles* preconditions). The three *Gingles* preconditions are: (1) the minority group "is sufficiently large and geographically compact to constitute a majority in a single-member district"; (2) the minority

[5] Wright pleaded a packing claim in his pro se complaint. (Doc. 1 at 7.) However, he has since abandoned the claim and offered no support for it at trial. The Court finds no evidence in support of it.

group "is politically cohesive"; and (3) "the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority[-]preferred candidate." *Id.* (citations omitted).

Each of the three *Gingles* preconditions must be established before a reviewing court can proceed to consider the "Senate Factors," a non-exhaustive and non-exclusive list of factors set forth in a Senate Judiciary Committee Majority Report that accompanied an amendment to Section 2, which aid courts in assessing the totality of the circumstances surrounding challenged voting schemes. *Id.* at 37–38 (citing S. Rep. No. 97-417 (1982)). Some of the Senate Factors may have a direct bearing on the three *Gingles* preconditions, but none of the Senate Factors *must* be present in order to satisfy the *Gingles* threshold. However, "they must be examined when determining whether, considering all of the circumstances in the case, the plaintiffs are entitled to section 2 relief." *Nipper*, 39 F.3d at 1526–27. The Senate Factors include:

> the history of voting-related discrimination in the State or political subdivision;
>
> the extent to which voting in the elections of the State or political subdivision is racially polarized;
>
> the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting;
>
> the exclusion of members of the minority group from candidate slating processes;
>
> the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
>
> the use of overt or subtle racial appeals in political campaigns;
>
> and the extent to which members of the minority group have been elected to public office in the jurisdiction.

Gingles, 478 U.S. at 44–45 (citing S. Rep. No. 97-417 at 28–29) (formatting altered).

A. The First *Gingles* Factor: Numerosity and Compactness

As to factor one, Wright must show that the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district. "[T]he first *Gingles* condition requires the possibility of creating more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice." *Johnson v. De Grandy*, 512 U.S. 997, 1008 (1994). The Court already granted summary judgment as to this factor; there is no need to revisit it now. (Doc. 125 at 16.) African Americans currently hold two of the seven School Board seats. McBride has demonstrated a plan which would permit African Americans to elect three members of their choice.

B. The Second *Gingles* Factor: Minority Political Cohesiveness

As to the second factor, Wright must show the minority group is politically cohesive. "A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim . . . and consequently establishes minority bloc voting within the context of § 2." *Gingles*, 478 U.S. at 56 (citations omitted). *Gingles* does not require that the minority group *always* vote for the same candidate but does require that the minority group *usually* or *consistently* vote for the same candidate, a standard which this Court finds demands more frequency than a *more often than not* standard but less frequency than an *always* standard. *Id.* at 48, 56.

The Court finds that the second *Gingles* factor is also satisfied. Of the twelve elections with reliable data before the Court, in ten of them the overwhelming majority of African Americans voted for the same candidate. In one of the two where they did not, the District 4 race on May 20, 2014, both candidates were white. While still relevant, elections without a black candidate are less probative in evaluating the *Gingles* factors. *Davis v. Chiles*, 139 F.3d 1414, 1418 n.5 (11th Cir. 1998). The Court is particularly struck by the November 2, 2004, race for Sheriff. In that race, African American candidate Nelson Brown received nearly every single black vote (96.5%) despite being a write-in candidate when running against two white candidates. Write-in candidates face obvious structural barriers that make their election in the American political system rare. To see African American voters demonstrate that level

of cohesion for a write-in campaign is extraordinary. When buttressed by the other nine cohesive elections, it is clear factor two is also satisfied.

Sumter County makes a few arguments in opposition. First, it points to McBride's original report which showed a lower level of cohesion in the same elections than does his supplemental report. For those elections analyzed in both McBride's original report and his supplemental report, the only analytical change was to use actual black and white turnout data rather than the estimated turnout data McBride had to rely on originally. Sumter County argues that "[t]here is virtually no correlation between Dr. McBride's [turnout] estimates and the actual numbers." (Doc. 170 at 15.) True enough. The estimates do vary wildly from the actual turnout data. (*See id.* at 15–16 (Defendant's comparison chart).) But even Defendant's expert testified that were she reanalyzing an election where she had originally used voting age population data for turnout, she would use actual turnout data was it to become available. (Doc. 159 at 209–210.) The shift, then, only reflects poorly on McBride's original turnout estimates and not his final analysis.

Second—and a slight variation on the first argument—Sumter County argues McBride's original analysis demonstrates a low level of cohesion amongst black voters. (Doc. 170 at 12.) The County's arguments cut against themselves. The Court agrees that McBride's original turnout estimates were unreliable and vary wildly from the actual turnout numbers. The Court does not find those results credible and therefore does not consider any of the original results—good or bad—in evaluating factor two.

Third, the County argues McBride's analysis is unreliable because he eliminated three elections from his original analysis when producing his supplemental report. (*Id.* at 11–12.) McBride explained that he did not reanalyze those three elections, the 2002 Board of Education District 3, the 2006 Board of Education District 3, and the 2008 Board of Education District 1 races, because he did not have voter turnout data in those elections available to him, and therefore he had "nothing new" to report from his original report. (Doc. 157 at 60:25–61:9.) McBride testified that he stood by the results of his original analysis. (*Id.* at 61:10–12.) The Court, however, does not find any of the original analysis credible after seeing how drastically different the voter turnout numbers were from

McBride's original predictions. But even if it did, and even assuming those three elections show a lack of cohesion, they would only bring the total to ten cohesive elections and five non-cohesive elections. The Court finds those results would still satisfy factor two.

The Court also does not accept that McBride's selection criteria introduced bias into his results. His selection criteria—recent elections for which he had reliable turnout data—is entirely reasonable. Sumter County was free to run its own analysis on additional elections to show how McBride's results were unreliable. It chose not to do so.

Fourth, the County argues McBride's analysis is not credible because in some cases his estimates of voter preferences total over 100%, a logical impossibility. (Doc. 170 at 14.) Dr. McBride explained that ecological inference establishes bounds between zero and 100 for the estimates of black or white support for an individual candidate, but it does not constrain the sum of those estimates to 100%. (Doc. 157 at 94:9-95:20, 162:13-164:12.) Gary King, the creator of ecological inference, identified this problem and proposed that researchers could either use an algebraic expression to bring the estimates within a 100% bound or leave them as is. (Doc. 160 at 128:12–129:23.) McBride chose to leave them as-is to avoid altering the results. (*Id.* at 130:13–19.)

The County's expert, Dr. Karen Owen, testified in her deposition that the EzI program—written by Gary King and used by McBride to conduct his EI analysis—could give a sum of over 100% for the estimates of white voter support or black voter support. (*Id.* at 57:6–10.) At trial, Owen testified that a sum of over 100% would call into question the data inputted because "Gary King wanted to ensure we were getting estimates between a bound of zero and 100 percent." (Doc. 160 at 55:14–20.) Owen has never used EzI (*id.* at 53:14–17), did not independently analyze the elections in Sumter County (*see generally* Doc. 154-9), did not use EI in her dissertation or research (Doc. 160 at 59:8–16), did not publish any results using EI until 2015 (*id.* at 59:17–24), and could not identify a source for her claim that a sum over 100% calls into question the accuracy of the estimates. (*id.* at 58:20–59:7.) The Court does not find her criticism credible. Rather, it accepts McBride's testimony that

EI can give sums exceeding 100% and that such a result does not call into the question the reliability of McBride's analysis.[6]

C. The Third *Gingles* Factor: Majority Bloc Voting

Finally, "the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—usually to defeat the minority's preferred candidate." *Gingles*, 478 U.S. at 51 (citation omitted). "[T]he degree of racial bloc voting that is cognizable as an element of a § 2 vote dilution claim will vary according to a variety of factual circumstances. Consequently, there is no simple doctrinal test for the existence of legally significant racial bloc voting." *Id.* at 57–58.

"[P]laintiffs seeking to establish the third *Gingles* factor 'must show not only that whites vote as a bloc, but also that white bloc voting *regularly causes* the candidate preferred by black voters to lose; in addition, plaintiffs must show not only that blacks and whites sometimes prefer different candidates, but that blacks and whites *consistently* prefer different candidates.'" *Johnson v. Hamrick*, 296 F.3d 1065, 1074 (11th Cir. 2002) (quoting *Johnson v. Hamrick*, 196 F.3d 1216, 1221 (11th Cir. 1999)).

The elections analyzed in this case fall into three general categories. First are those seven races where a white candidate faced an African American candidate. In six of those seven races, as detailed in factor two, there was a clear candidate preferred by African Americans. An average of 88.3% of white votes cast in those races went to the white candidate. African American candidates only won two of those races: the 2014 District 5 race and the 2010 District 3 race. In District 5, over 70% of the voting-age population is black. In the previous District 3, the population was approximately half white and half black.

[6] The Court cannot refrain from commenting on one other argument advanced by the County. McBride testified that EzI runs on 32-bit operating systems and cannot be run on newer 64-bit systems. (Doc. 160 at 128:1–8.) Sumter County contorts this fact in an attempt to discredit McBride: "Dr. McBride admitted that the program he used is so outdated that he had to adjust his computer settings to run it." (Doc. 170 at 15.) EzI is merely a program which allows a researcher to perform a mathematical analysis. The program's age may cause computer compatibility issues and slow load times, but the math underlying it never changes. The results of Adrien-Marie Legendre's regression models in 1805 would be no different if run again today. Any attempts to impugn the credibility of McBride's analysis based on the age of the program he used to run it is illogical, not credible, and completely irrelevant to the matter at hand.

African Americans constituted 48.4% of the voting-age population. (Doc. 154-6.) In sum, in six of the seven races, African Americans and whites preferred different candidates. The Court excludes the seventh race—the March 2014 District 6 election—because, without a black-preferred candidate, it cannot meaningfully consider whether white voters are usually able "to defeat the minority's preferred candidate." *Gingles*, 478 U.S. at 51. In four of the six races in this category, the black-preferred candidate lost. African Americans had only one true success: the District 3 race. The District 5 win was in a predominantly African American district. *See Old Pers. v. Cooney*, 230 F.3d 1113, 1122 (9th Cir. 2000) (considering minority group success in minority-majority districts under the totality of the circumstances, but not under *Gingles* factor three because "[t]o do otherwise would permit white bloc voting in a majority-white district to be washed clean by electoral success in neighboring majority-[minority] districts").

The second type of race is where there are multiple candidates facing a black-preferred candidate. The Court counts four such races: the 2014 elections in District 1, District 2, and At-Large Seat #1, and the 2004 sheriff race. The Court discounts the race for sheriff. There, 96.5% of African Americans wrote in Nelson Brown, demonstrating an incredible level of political cohesion. While only 4.4% of whites voted for Brown, a write-in candidacy is a special circumstance which does not shed light on whether there is "racial bias in the voting community." *Nipper v. Smith*, 39 F.3d 1494, 1524 (11th Cir. 1994). The Court can only speculate as to whether white voters were aware that Brown was running as a write-in candidate and, if they did, whether they would have voted for him. In the District 1 case, between 85% and 88% of white residents voted against the black-preferred candidate. The African American candidate was still able to win the race, however, as 62.7% of the voting-age population in that district is black. In the District 2 race, between 89.1% and 94.2% of white residents voted against the black-preferred candidate. The African American candidate was defeated and the two white candidates advanced to a run-off election. In the At-Large Seat #1 race, between 92.2% and 95.9% of white residents voted against the black-preferred candidate. Although the black-preferred candidate won the plurality and was able to advance to a run-off, white voters then coalesced around a single candidate and defeated him.

Discounting the majority-black district, African Americans had no real successes in these types of elections.

Finally is the one election where two white candidates faced each other—the 2014 District 4 election. The race had no clear black-preferred candidate, nor a clear white-preferred candidate. The Court discounts that race because of the lack of a clear preference and the lack of an African American running. *See Johnson*, 196 F.3d at 1221.

Sumter County argues the results from the at-large elections should be discounted because Busman and Roland had worked in the Sumter County schools, but Coley and Pless had not. (Doc. 170 at 20.) The election of the white candidates, it implies, is thus a preference for better-qualified candidates and does not reflect "entrenched voting patterns." (*Id.* at 21.) The Court disagrees. The Ninth Circuit has rejected any attempt "to scrutinize the qualifications of minority candidates who run for public office in jurisdictions with historically white-only officeholders." *Ruiz v. City of Santa Maria*, 160 F.3d 543, 558 (9th Cir. 1998). There does not appear to be any binding Eleventh Circuit law holding the same. However, the Court finds that even if it can examine candidate quality, doing so would not discount the importance of the at-large elections. While Coley had never worked in the school district, he had been a school board member for almost a decade. Conversely, his opponent Roland had impeccable education credentials but knew very little about the community and had never had a student in the public school system. Voters could easily decide either was more qualified. Likewise, Busman volunteered as a team physician and is an upstanding member of the community, but homeschooled three of his children rather than send them to the school district he oversees. His opponent, Pless, had experience on the School Board and a background in education. Voters could reasonably select either.

Sumter County points out that African Americans have had success in November general elections. (Doc. 170 at 18.)[7] Neither side has presented a statistical analysis of these

[7] Sumter County also wants to attribute any success by Democrats in these elections to African Americans. (*See* Doc. 172 at ¶ 7.) The Court declines to do so. First, in many races, the Democrat and Republican are both likely to be white. (*See generally* Doc. 154-10.) The Court has already explained it would be discounting such races. *See Johnson*, 196 F.3d at 1221. Second, there is no statistical evidence before the Court of how likely African Americans in Sumter County are to support Democrats. Sumter County relies solely on McBride's testimony that (1) "the candidate of choice in the black community would be the Democrat"—but

races. There is thus no evidence of whether there was a black-preferred candidate in those races. Sumter County flippantly asserts Wright "cannot seriously contend that Barack Obama and Sanford Bishop are *not* the preferred candidates of the Sumter County black community . . . ." (Doc. 170 at 18 (emphasis in original).) Yet in the March 2014 District 6 election, an African American faced a white candidate and there was no black-preferred candidate. The Court will not merely assume black voters in Sumter County support every black candidate. Moreover, these elections took place at a different time of year than the current school board elections, included voters from outside of Sumter County, and were for positions other than school board. Accordingly, they are of diminished relevance here because they do they not allow the Court to make inferences about voter patterns in the challenged districts. *See Cofield v. City of LaGrange, Ga.*, 969 F. Supp. 749, 760 (N.D. Ga. 1997).

Reviewing the elections analyzed by McBride, there can be no doubt black and white voters consistently prefer different candidates. Moreover, white voters are usually able to the defeat the candidate preferred by African Americans. There was only one true "success" in the elections analyzed where an African American candidate preferred by African Americans was able to defeat a white-preferred candidate when the electorate was not predominantly black. The third *Gingles* factor is satisfied.

Sumter County argues Wright cannot satisfy factor three because African Americans in Sumter County are not a "minority," but rather a majority of the population and a plurality of the voting-age population. (Doc. 170 at 5.) Other courts have found that although a majority group claiming a need for protection under Section 2 "faces an obvious, difficult burden in proving that their inability to elect results from white bloc voting, they are not precluded, as a matter of law, from seeking to prove such a claim." *Salas v. Sw. Texas Jr. Coll. Dist.*, 964 F.2d 1542, 1555 (5th Cir. 1992). Like any other group, they must show "less

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providing no basis or statistics in support of that position, and (2) "more than possibly 92 percent of African Americans support the Democrat Party" nationally—but providing no evidence of the percentages in Sumter County. (Doc. 157 at 180:25–181:4, 185:3–8.) Third, the Court is unable to determine if there was any minority cohesion or white bloc voting in these races because no EI analysis has been run on them. Any finding by the Court that wins by Democrats are wins by the black-preferred candidate over the white-preferred candidate would be pure speculation.

opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." *Gingles*, 478 U.S. at 63 (citation omitted).

The County hypothesizes ways in which it believes Wright could theoretically satisfy that burden—past discrimination could result in lower voter registration rates, felon disenfranchisement could disproportionately impact African Americas, the voting rolls might be inaccurate, other minority groups may band together with whites, there may be racially gerrymandered districts, or other practical impediments to African Americans voting may exist. (Doc. 170 at 3–7.) But, the County concludes, Wright has made no such showing. (*Id.*)

While African Americans do outnumber whites on the voter rolls, the voting booth is another story. In the school board elections since the new plan was implemented, white voters have outnumbered black voters in seven of nine races. *See* Tables 1; 2.[8] The only exceptions are the elections in District 1 and District 5 where African Americans make up over 60% of the voting-age population. Sumter County cites *Missouri State Conference of the Nat'l Ass'n for the Advancement of Colored People v. Ferguson-Florissant Sch. Dist.*, 201 F. Supp. 3d 1006, 1071 (E.D. Mo. 2016), for the proposition that low voter registration rates can form the basis for a Section 2 claim by a group that is a near-majority in population or voting-age population. (Doc. 170 at 6.) The Court finds no meaningful difference between a failure to register to vote and a failure to cast a vote. It is, of course, true that were more African Americans to register (as in *Missouri State*) or turn out to vote (as here), they would likely be able to elect their preferred candidate. But our circuit has roundly rejected any effort to blame African Americans' lack of electoral success on "a failure of blacks to turn out their votes." *United States v. Marengo Cty. Comm'n*, 731 F.2d 1546, 1568 (11th Cir. 1984) (quoting district court decision) (punctuation corrected). As outlined in the factual findings, Sumter County and the State of Georgia have a long history of discrimination. The effects of that discrimination still linger today in the form of disproportionate educational achievement,

[8] The Court finds these numbers by multiplying the percentage of the white and black voting-age population data contained in Table 1 by the respective white and black turnout data in Table 2. While the numbers will be slightly off because the demographic data has changed since the 2014 elections took place, any error is too small to impact the Court's conclusions. McBride provided black voting-age populations for each election at the time of that election (or near to), but it does not include corresponding white voting-age population numbers. (Doc. 153-87 at 11.)

employment, income levels and living conditions. Sumter County cites an out-of-circuit case requiring evidence linking past discrimination to low turnout today. (Doc. 170 at 8 (citing *Salas v. Sw. Texas Jr. Coll. Dist.*, 964 F.2d 1542, 1556 (5th Cir. 1992)).) Our circuit has no such stringent requirement. "[W]hen there is clear evidence of present socioeconomic or political disadvantage resulting from past discrimination, as there [is] in this case, the burden is not on the plaintiffs to prove that this disadvantage is causing reduced political participation, but rather is on those who deny the causal nexus to show that the cause is something else." *Marengo*, 731 F.2d at 1569. Sumter County has produced no evidence or argument showing what the low African American voting rate is attributable to. (*See generally* Doc. 170.) The Court, therefore, must assume a causal connection to the past discrimination.

Having found that all three *Gingles* factors are satisfied, the Court moves on to the Senate factors.

D. Senate Factor One

The first Senate factor is the history of voting-related discrimination in the State or political subdivision. "[P]ast discrimination can severely impair the present-day ability of minorities to participate on an equal footing in the political process. Past discrimination may cause blacks to register or vote in lower numbers than whites. Past discrimination may also lead to present socioeconomic disadvantages, which in turn can reduce participation and influence in political affairs." *United States v. Marengo Cty. Comm'n*, 731 F.2d 1546, 1567 (11th Cir. 1984).

The Parties have stipulated that "Georgia and Sumter County have a long and extensive history of voting discrimination against African Americans." This factor weighs heavily in Wright's favor.

E. Senate Factor Two

The second factor is the extent to which voting in the elections of the State or political subdivision is racially polarized. "[T]his factor will ordinarily be the keystone of a dilution case." *United States v. Marengo Cty. Comm'n*, 731 F.2d 1546, 1566 (11th Cir. 1984). The Court finds the Sumter County's voters to be highly polarized. In ten of the twelve elections analyzed, over 85% of African American voters voted for the same candidate. Less than a

quarter of white voters supported the black-preferred candidate in any of those races. The average level of white support in those races was under 10%. In one of the two races which were not polarized, there was no African American candidate. The election results, therefore, would surely "have been different depending upon whether it had been held among only the white voters or only the black voters." *Thornburg v. Gingles*, 478 U.S. 30, 54 (1986) (citation omitted). This factor also weighs heavily in Wright's favor.

F. Senate Factor Three

Factor three is the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting. The current plan employs three parts relevant to this Senate factor.

First, Sumter County uses staggered terms for the at-large seats, with one at-large seat filled at each regular election. (MUF ¶ 6; PX 26 (House Bill 836).) Were the County to instead seat the top two vote-getters for at-large seats every four years, African Americans would have an enhanced opportunity for election in those seats. An illustrative example is the May 20, 2014, election for at-large seat number 1. There, an African American candidate received 36.7% of the vote and a white candidate received 36.4% of the vote. The white candidate won the subsequent run-off. Had the two candidates receiving the most votes instead been elected, the African American candidate—Michael Coley—would be a school board member.

Second, Sumter County uses a majority-vote requirement in elections for the at-large seats. (MUF ¶ 3.) The impact on African American candidates is apparent in the same race. Had Sumter County employed a plurality-win system, Michael Coley would have won the May 20, 2014, election. Because of the majority-win system, he was defeated. Majority-vote requirements have long been recognized as enhancing an opportunity for discrimination. *See League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 986 F.2d 728, 749 (5th Cir.), *on reh'g,* 999 F.2d 831 (5th Cir. 1993); *City of Rome v. United States*, 446 U.S. 156, 183 (1980), *abrogated on other grounds by Shelby Cty., Ala. v. Holder*, 570 U.S. 529 (2013).

Third, the addition of at-large districts enhanced the opportunity for discrimination. Several witnesses with experience in local politics testified that running at large in Sumter County is more expensive than running in a district and therefore presents a particular barrier for African-American candidates. (Doc. 158 at 52:24–54:23, 77:20–78:4, 135:23–138:2.) Although Sumter County itself is not unusually large, the larger area nonetheless requires greater costs. One white candidate, Sylvia Roland, received unsolicited money to assist with those added costs. (Doc. 159 at 54:21–23.) There is no testimony of any African American candidate receiving a similarly unsolicited donation.

The third factor weighs in Wright's favor.

G. Senate Factor Four

The fourth factor is the exclusion of members of the minority group from candidate slating processes. "The term 'slating' is generally used to refer to a process in which some influential non-governmental organization selects and endorses a group or 'slate' of candidates, rendering the election little more than a stamp of approval for the candidates selected." *Westwego Citizens for Better Gov't v. City of Westwego*, 946 F.2d 1109, 1116 n.5 (5th Cir. 1991). There is no evidence in the record of any slating process in Sumter County. Accordingly, the Court cannot find whether a slating process would or would not exclude African Americans. This factor carries no weight.

H. Senate Factor Five

The fifth factor is the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process. As recognized in the original Senate Report, "disproportionate educational, employment, income level and living conditions arising from past discrimination tend to depress minority political participation. Where these conditions are shown and where the level of black participation in politics is depressed, plaintiffs need not prove any further causal nexus between their disparate socio-economic status and the depressed level of political participation." *Johnson v. Mortham*, 926 F. Supp. 1460, 1519 (N.D. Fla. 1996) (quoting S. Rep. No. 97-417 at 29 n.114 (1982)).

As detailed in the factual findings, only 13.6% of white residents lack a high school diploma. The rate is over double—29.9%—for African Americans. (Doc. 164 at 4.) White residents are over three times more likely to have a bachelor's degree or higher—30.9% versus 8.8% of African Americans. (*Id.*.) The educational differences are reflected in employment numbers as well. Among those in the workforce aged sixteen years or over, the unemployment rate is 7.1% for white residents and 18.2% for African Americans. (*Id.*) Only 15.3% of white residents live in poverty compared to an astonishing 46.2% of African Americans. (*Id.* at 5.) Three in four African American households receive Supplemental Nutrition Assistance Program benefits. (*Id.*) The number is reversed for white residents: only one in five households receive the same benefits. (*Id.*) The median African American household earns $22,736, less than half of the median $48,672 for white households. (*Id.*) There can be no doubt that African Americans in Sumter County face "disproportionate educational, employment, income level and living conditions arising from past discrimination . . . ."

There can also be no doubt that the level of black participation in Sumter County politics is depressed. In the elections analyzed in the case, African Americans were on average over 60% less likely than their white counterparts to cast a vote. *See* Table 2.

Having shown a disparate socio-economic status between white and black residents of Sumter County and a depressed level of political participation by African Americans, this factor weighs heavily in Wright's favor. *See* S. Rep. No. 97-417 at 29 n.114 (1982).

I. Senate Factor Six

The sixth factor is the use of overt or subtle racial appeals in political campaigns. Wright points to alleged incidents of African American candidates facing hostile and racist constituents while on the campaign trail. (Doc. 171 at 45.) The sixth factor, however, concerns racist messages being communicated to constituents, not constituents communicating racists messages to the candidates. *See*, *e.g.*, *Meek v. Metro. Dade Cty., Fla.*, 805 F. Supp. 967, 982 (S.D. Fla. 1992), *aff'd in part, rev'd in part*, 985 F.2d 1471 (11th Cir. 1993) (voters were told that "Black candidates share common goals with Jesse Jackson or Nelson Mandela"). There is no evidence, and Wright does not allege, that any political campaign

employed overt or subtle racist appeals. Accordingly, this factor weighs in favor of Sumter County. However, the Court recognizes that "overtly bigoted behavior has become more unfashionable." *Marengo*, 731 F.2d at 1571 (quoting *Metro. Hous. Dev. Corp. v. Vill. of Arlington Heights*, 558 F.2d 1283, 1290 (7th Cir. 1977)). While this factor can weigh heavily in favor of a plaintiff when present, "its absence should not weigh heavily against a plaintiff proceeding under the results test of section 2." *Id.*

J. Senate Factor Seven

The seventh factor is the extent to which members of the minority group have been elected to public office in the jurisdiction. Here, it is undisputed that no African American has ever been elected to an at-large seat on the School Board under the challenged plan. (Doc. 125 at 20.) No African American has been elected in a School Board district except in districts where African Americans make up a majority of the voting-age population. (*Id.*) The only evidence of an African American being elected to county-wide office was in 2016 when Cortisa Barthell became Clerk of Superior Court. Barthell won the Democratic nomination where African Americans made up 81.9% of the electorate and did not face a general election opponent. There is no evidence in the record of an African American in Sumter County winning a contested race for county-wide office.

In sum, African Americans have lacked success in Sumter County elections. This factor weighs heavily in Wright's favor.

K. Additional Senate Factors and Considerations

The Senate Report and courts applying Section 2 have recognized several other factors that may be relevant in determining the totality of the circumstances. The Court reviews those relevant to this case.

First is whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous. S. Rep. No. 97-417 at 29. Wright asserts the School Board's policy assertion for adding at-large districts was tenuous. (Doc. 171 at 48–51.) The Court disagrees. At nine members, the Sumter County School Board was one of the largest in the state. At the recommendation of its accreditation agency, the School Board reduced the number of members and realigned

the districts to mirror those of the County Board of Commissioners. Those decisions were entirely reasonable. But the Board of Commissioners only has five members. Wright asserts there was no reason to move to a seven-member Board with two at-large seats rather than a five-member Board with no at-large seats. The only testimony on this issue was Busman's testimony that it was "easier" to go from nine to seven members rather than down to five. (Doc. 159 at 16:10–15.) As noted in the factual findings, the Court infers that the smaller shift was "easier" because fewer incumbent seats were put at risk. There is nothing tenuous about minimizing changes to make the districts more politically palatable.

Another reasonable interpretation is that nine was the status quo, and the further one strays from the status quo, the more difficult the transition can be. Again, this justification would not be tenuous. It can be challenging to predict the problems which will arise when shifting to a new district alignment. The more the new system resembles the old, the more familiar it will be to election officials, candidates, and voters.

Wright argues the asserted rationale is belied by the timing of the changes. While it is true that the final Board vote approving the plan did not occur until a lame-duck session immediately before the newly-elected black board member would give African Americans a majority on the Board, the bill was introduced before that election, and the final resolution passed without any opposition. The timing does not undermine the asserted purpose.

Further, the General Assembly's re-enactment of a plan not precleared by the Department of Justice following the *Shelby County* decision is not evidence of an improper motive. (*See* Doc. 171 at 51.) When the Department requested additional information to decide if the plan should be given preclearance, it was the African American majority on the Board which refused to provide that information. The plan's lack of preclearance, therefore, is not evidence of discrimination toward African Americans.

The lack of a tenuous policy justification thus weighs toward Sumter County. However, a showing that the policy justification is race-neutral does not negate "a plaintiff's showing through other factors that the challenged practice denies minorities fair access to the process." S. Rep. No. 97-417 at 29 n.117.

Second is the proportionality inquiry. "'Proportionality' as the term is used here links the number of majority-minority voting districts to minority members' share of the relevant population." *Johnson v. De Grandy*, 512 U.S. 997, 1014 n.11 (1994). Proportional districts help to assure that "minority voters have an equal opportunity, in spite of racial polarization, 'to participate in the political process and to elect representatives of their choice.'" *Id.* at 1020 (quoting 42 U.S.C. § 1973(b) (1994)). Wright argues that "African Americans constitute [49.5%] of Sumter's County's voting-age population, but they constitute a majority of the voting-age population in only two (28.6%) of the board's seven seats."[9] (Doc. 171 at 52 (citations omitted).) The Court agrees that the districts are not proportional. While African Americans hold a majority *or plurality* in four of the seven districts, it is abundantly clear plurality districts do not provide an equal opportunity for African Americans to elect representatives of their choice given the history of discrimination in the county. Accordingly, because African Americans hold a majority in only two districts, this factor weighs toward Wright.

Wright asserts a third relevant factor: racial separation. (Doc. 171 at 52.) The Court finds no support for racial separation being a consideration in a Senate Factors analysis. Wright cites three cases arguing otherwise. Two, *United States v. City of Euclid*, 580 F. Supp. 2d 584, 592–93 (N.D. Ohio 2008) and *United States v. Charleston Cty.*, 316 F. Supp. 2d 268, 291 (D.S.C. 2003), *aff'd sub nom.*, 365 F.3d 341 (4th Cir. 2004), are out-of-circuit district court cases with no precedential value in this Court. The third, *McMillan v. Escambia Cty., Fla.*, 688 F.2d 960, 967–68 (5th Cir. 1982), *vacated*, 466 U.S. 48 (1984), only noted the district court's observation of racial separation in its Fourteenth Amendment—not Voting Rights Act—analysis, and in any event the judgment was vacated on appeal and never reinstated. *See Tallahassee Branch of NAACP v. Leon Cty., Fla.*, 827 F.2d 1436, 1440 (11th Cir. 1987) ("*McMillan* has no binding precedential effect."). In the absence of any authority recognizing this factor, the Court declines to consider it.

[9] Wright actually claims African Americans constitute 48.1% of the voting-age population. The Court refers only the most recent demographic data before it, which puts that number at a slightly higher 49.5%.

II. Totality of the Circumstances

The Court must "consider the 'totality of circumstances' to determine whether members of a racial group have less opportunity than do other members of the electorate." *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 425–26 (2006). "[I]t will be only the very unusual case in which the plaintiffs can establish the existence of the three *Gingles* factors but still have failed to establish a violation of § 2 under the totality of circumstances." *N.A.A.C.P., Inc. v. City of Niagara Falls, N.Y.*, 65 F.3d 1002, 1019 n.21 (2d Cir. 1995) (citation omitted); *see Thompson v. Glades Cty. Bd. of Cty. Comm'rs*, 493 F.3d 1253, 1261 (11th Cir.), *reh'g en banc granted, opinion vacated*, 508 F.3d 975 (11th Cir. 2007), *and on reh'g en banc*, 532 F.3d 1179 (11th Cir. 2008) (noting the *Niagara Falls* standard, though the opinion was later vacated and the district court affirmed by an evenly divided en banc panel). "In such cases, the district court must explain with particularity why it has concluded, under the particular facts of that case, that an electoral system that routinely results in white voters voting as a bloc to defeat the candidate of choice of a politically cohesive minority group is not violative of § 2 of the Voting Rights Act." *Niagara Falls*, 65 F.3d at 1019 n.21 (citation omitted).

The Court finds, based on the totality of the circumstance, that African Americans in Sumter County have less opportunity to elect candidates of their choice than do white citizens. Under the totality standard, the Court finds the following facts particularly compelling: (1) the incredibly high rates of polarized voting in races that pit an African American candidate against a white candidate; (2) the glaring lack of success for African American candidates running for county-wide office, both historically and recently, despite their plurality in voting-age population; (3) the undisputed history of discrimination in Sumter County and throughout Georgia; (4) the lingering effects of that discrimination today, including the comparatively low income and education levels and high rates of poverty for African Americans in Sumter County; and (5) the low rate of African American turnout in these elections which—in the absence of evidence to the contrary—the Court attributes to the history of discrimination and the socioeconomic disparities. Because of these factors, the elections for at-large seats do not give African Americans in Sumter County a meaningful opportunity to elect the candidates of their choice.

III. Illustrative Plan

> "In a § 2 vote dilution suit, along with determining whether the *Gingles* preconditions are met and whether the totality of the circumstances supports a finding of liability, a court must find a reasonable alternative practice as a benchmark against which to measure the existing voting practice." *Holder v. Hall*, 512 U.S. 874, 880, 114 S. Ct. 2581, 2585, 129 L. Ed. 2d 687 (1994) (footnote omitted).

The Court finds that, by the bare minimum, Wright has shown his illustrative plan "achieve[s] a more proportional representation of minorities than did the previous multi-member system." *Meek v. Metro. Dade Cty.*, 908 F.2d 1540, 1548 (11th Cir. 1990) (quoting *Solomon v. Liberty County*, 865 F.2d 1566, 1572 n.5 (11th Cir. 1988)). African Americans in Sumter County are currently able to elect two of seven candidates of their choice. The Court accepts, based on the evidence presented, that they are unable to elect the candidates of their choice in the at-large districts where they account for 49.5% of the voting-age population. In the illustrative plan, neither party contests that African Americans would be able to elect the candidates of their choice in District 1 and District 5. The question for the Court, then, is whether they would have an opportunity to elect the candidate of their choice in illustrative District 6, a single-member district where they represent 54.5% of the voting-age population. As McBride readily concedes, the answer is "guesswork." Based on the cohesion and crossover voting patterns, that percentage would be sufficient in some of the current single-member districts, but not others. McBride asserts that a 49.5% district is not a black-majority district, so it would behave like districts with far less black voters. Meanwhile, a 54.5% district is a black-majority district, so it would behave differently from the at-large districts. (Doc. 158 at 13:10–20:3.) The Court finds no support for the idea that a five percentage point shift would have such a drastic impact on voting behaviors.

That said, the testimony before the Court is that illustrative District 6 has a greater percentage of African American voters than has been needed in other districts to elect the candidate of their choice. (Doc. 153-87 at 24.) The five percentage point increase in African American voters over the current at-large district, combined with the corresponding eight percentage point drop in white voters from the at-large district to the illustrative District 6

could create a potentially sizable shift in the election results. The only *testimony* before the Court is that "black voters would have a meaningful opportunity to elect candidates . . . of their choice in [illustrative District 6]." (*Id.*) Sumter County makes the *argument* that this is not the case, (Doc. 170 at 24–29), but it did not ask its expert to conduct any analysis of Wright's illustrative plan in this stage of the case. (Doc. 159 at 221:16–21.)

Sumter County suggests that a minimum of 60% of the voting-age population is needed to give African Americans an opportunity to elect candidates of their choice, citing cases in which have adopted a similar number. (Doc. 170 at 25); *Ketchum v. Byrne*, 740 F.2d 1398, 1415 (7th Cir. 1984). But in those cases, the courts recognized a higher number was necessary *based on the evidence in the case*. *See*, *e.g.*, *Ketchum*, 740 F.2d at 1415 ("During the trial, witnesses for both sides testified that 65% of total population is a widely recognized and accepted criterion in redistricting formulations.") This case has no such evidence. Again, the only testimony is that 54.5% would likely be sufficient.

Sumter County next argues that the illustrative plan would be a step backward because it trades two 49% African American districts for a 54% district and a 41% district. The Court has already found that African Americans do not have a meaningful opportunity to elect candidates of their choice in the at-large districts. They are stuck at two representatives of seven. In the illustrative plan, they would at least have an opportunity to win a third seat.

This is not to say the Court believes Wright's illustrative plan is the one which should ultimately be put into place. Africans Americans currently constitute a majority of the population in Sumter County. Their numbers, by percentage of the population, continue to grow each year. If these trends continue, African Americans will soon make up a majority of the voting age population in Sumter County, as well. At some point under the current plan—if the trends continue—one would expect black-preferred candidates to win at-large seats and constitute a majority of the School Board. Under the illustrative plan, African Americans would need to win a district where they represent roughly forty percent of the voting-age population to pick up a fourth seat. Even with a growing share of the population, the Court finds it unlikely they will be able to do so in the foreseeable future so long as

voting in the country remains racially polarized. The Parties agree that Sumter County and Georgia's elected officials must be given the first opportunity to craft a remedial plan. (Doc. 140 at 3; 141 at 3.) The Court encourages the Parties and elected officials to be creative in exploring possible remedies. Redrawn district lines are but one tool available for remedying a Section 2 violation. For example, a discriminatory anti-single-shot voting rule can be fixed by removing the rule. *See Holder v. Hall*, 512 U.S. 874, 880 (1994). The problem for African Americans in Sumter County is not the number of voters, but how often they turn out to cast votes. The Parties and the General Assembly may consider whether any tools at their disposal could meaningfully improve turnout such that African Americans have an equal opportunity to elect candidates of their choice.

Finally, Sumter County argues that the illustrative plan "inflicts a constitutional injury." (Doc. 170 at 29 (capitalization altered).) The Equal Protection Clause of the Fourteenth Amendment "prevents a State, in the absence of 'sufficient justification,' from 'separating its citizens into different voting districts on the basis of race.'" *Cooper v. Harris*, 137 S. Ct. 1455, 1463 (2017) (quoting *Bethune–Hill v. Virginia State Bd. of Elections*, 137 S. Ct. 788, 797 (2017)). To prove a violation, a plaintiff must show that "race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district." *Miller v. Johnson*, 515 U.S. 900, 916 (1995). "That entails demonstrating that the legislature subordinated other factors—compactness, respect for political subdivisions, partisan advantage, what have you—to racial considerations." *Cooper*, 137 S. Ct. at 1463–64 (quotations and citations omitted). Here, there is no evidence that the illustrative plan subordinated any factors for race considerations. McBride testified, and Sumter County does not contest, that the illustrative plan "complie[s] with the one-person, one-vote principle, the Voting Rights Act, and traditional redistricting criteria including compactness, contiguity, respect for communities of interest, [and] respect for political boundaries." (Doc. 153-87 at 5.) The plan does not raise any constitutional concerns.

Accordingly, the Court concludes that the illustrative plan—while far from perfect—is likely to give African Americans a more proportional representation on the Board of Education than does the current plan. The Parties should not take this as an indication of

how the Court will view the proposed remedial plans in the next step of this case. The Parties have already begun a much more robust discussion of remedial plans in post-trial briefing. (*See* Docs. 174; 176; 180.) While that evidence is not before the Court at the liability stage, (*see* Doc. 189), the Court expects a much more expansive body of evidence to determine the effectiveness of proposed remedial plans following post-trial discovery.

CONCLUSION

The Court finds that Plaintiff Mathis Kearse Wright, Jr. has established all three *Gingles* factors, that the majority of the Senate Factors weigh toward him, and that he has shown an illustrative plan which is likely to give African Americans a more proportional representation on the Board of Education than does the current plan. Accordingly, the Court finds, based on the totality of the circumstances, that the at-large districts of the Sumter County Board of Education dilute African-American voting strength in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301.

The case now moves to a remedial stage. The Court agrees with the Parties that elected officials should have the first opportunity to remedy the unlawful election plan. *See Wise v. Lipscomb*, 437 U.S. 535, 540 (1978); (Docs. 140; 141). The Court notes that the General Assembly will be in session through at least Thursday, March 29, 2018. S.R. 631, 154th Gen. Assemb., Reg. Sess. (Ga. 2018). The Sumter County Board of Elections and Registration is **ORDERED** to confer with Sumter County's legislative delegation and inform that Court **no later than Monday, March 26, 2018** whether the General Assembly is inclined to enact a remedial plan before adjourning *sine die* or, if not, a timeline for when it believes a remedial plan could be adopted. While the time period is short, the Parties have already put considerable effort into their proposed remedial plans, which will greatly assist the General Assembly in its efforts.

Given the Court's holding, Wright's Motion for Preliminary Injunction (Doc. 190) is

DENIED WITHOUT PREJUDICE. Following the status report from the General Assembly, the Court will consider whether the May elections must be enjoined.

SO ORDERED, this 17th day of March 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

Exhibit D

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	
_____	:	

ORDER

On November 20, 2017, the Court issued an order memorializing the pretrial conference in this action. The order directed the parties to "submit their views on the procedure required for an order implementing a redistricting plan in this action were Plaintiff to prevail . . . ." (Doc. 134.) Plaintiff Mathis Kearse Wright, Jr. submitted his views first. (Doc. 140.) He argued the Court should give elected officials the first opportunity to remedy an unlawful plan, but that timing or other factors may make doing so impracticable. (*Id.* at 3.) Any new plan put in place, he noted, must not violate Section 2 of the Voting Rights Act. (*Id.* at 4.) Defendant Sumter County Board of Elections and Registration agreed that the legislature should have the first opportunity to remedy an unlawful plan. (Doc. 141 at 3.) If the legislature failed to do so, it noted, the Court would have to put a plan in place which would approximate the plan the legislature would have put in place. (*Id.* at 4.)

The Court then held a bench trial in this matter on December 11–14, 2017. (Docs. 144–146; 147.) Following the trial, the Court ordered the parties to submit a series of post-trial briefs, including proposed remedial plans. (Doc. 147.)

Wright filed his proposed remedial plans on January 22, 2018. (Doc. 174.) Sumter County filed a response on February 5, 2018, (Doc. 176), and Wright then filed a reply on February 14, 2018. (Doc. 180.) In the midst of that briefing, the Court filed an order

explaining that a series of motions filed and hearings requested by the parties would prevent it from determining liability and implementing a remedial plan prior to the scheduled May 2018 elections. (Doc. 179.) It ordered the parties to files brief no later than February 23, 2018, and no longer than five pages, addressing whether the Court should allow the upcoming election to proceed as planned with the current districts or enjoin the election. (Doc. 179.)

Wright responded that, in the event the Court found the current plan to violate Section 2, the election should be enjoined. (Doc. 181 at 1.) He suggested the election be moved to the general election on Tuesday, November 6, 2018. (*Id.* at 3.) Sumter County disagreed. (Doc. 182.) It suggested that, even if the Court ruled in Wright's favor on the merits, the elections should go forward as scheduled. (*Id.* at 1.) The Court held a status conference on February 28, 2018. Wright suggested the following timeline for a general election:

- July 23, 2018: Deadline for new district boundaries to be set.
- August 6–10, 2018: Candidate qualifying period.
- August 8, 2018: Approximate time ballots begin being created.
- September 21, 2018: Deadline for ballots to be made available.
- November 6, 2018: General election.

(Doc. 189.) The Court noted that those dates were reasonable in the event the election was enjoined. (*Id.*)

On March 17, 2018, the Court found that the current school board districts violate Section 2 of the Voting Rights Act. (Doc. 198.) The Court noted that the Georgia General Assembly would be in session through at least Thursday, March 29, 2018. S.R. 631, 154th Gen. Assemb., Reg. Sess. (Ga. 2018). It ordered Sumter County "to confer with Sumter County's legislative delegation and inform th[e] Court no later than Monday, March 26, 2018 whether the General Assembly is inclined to enact a remedial plan before adjourning sine die or, if not, a timeline for when it believes a remedial plan could be adopted." (Doc. 198 at 37.) Sumter County filed a status report on March, 26, 2018. (Doc. 201.) It spoke with Senator Freddie Powell Sims, the representative for Georgia Senate

District 12, who informed counsel that the Assembly would not be able to change the school board districts before it returned to session in January 2019. (*Id.*)

Also on March 26, 2018, the parties filed supplemental briefs regarding remedy proposals. Wright argued that, if the General Assembly failed to enact a remedial plan before adjourning, the Court should enact a remedial plan as an interim remedy and move the election date to November 6, 2018. (Doc. 199 at 1.) Again, Sumter County disagreed. (Doc. 200.) It suggested the Court leave the May 2018 election in place and permit the Assembly to enact a plan in 2019. (*Id.* at 29.) Further, it requested the Court issue a partial final judgment in accordance with Federal Rule of Civil Procedure 54(b) and reserve jurisdiction over remedial issues until after the Assembly has an opportunity to act. (*Id.* at 30.)

On March 30, 2018, Wright filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction. (Doc. 202.) He informs the Court that, in the absence of an injunction, absentee ballots may begin being distributed on April 3, 2018. (*Id.* at 4.) The ballots for the election have already been printed and cannot be changed. (Doc. 202-1.) Wright requests that Sumter County: "(a) redact the names of school-board candidates by means of a sticker or permanent marker; (b) include a notice with the ballots that the school-board election has been cancelled; or (c) both. Alternatively, the Court could enjoin the defendant from distributing any ballots for a few days while the parties attempt to agree on a suitable procedure for cancelling the election." (Doc. 202 at 8 (citation omitted).)

Later the same day, Sumter County filed a Notice Regarding Briefing. (Doc. 203.) It notes that Wright's motion was filed the morning of Good Friday and seeks nearly-immediate Court action without response from the County. (*Id.*) It requests until Wednesday, April 4, 2018 to file a response. (*Id.*)

DISCUSSION

At the outset, the Court notes that under the totality of the circumstances, including its resolving of dispositive motions, a bench trial, post-trial hearings, and extensive and ongoing briefing by the parties, it has an adequate record before it to consider injunctive relief consistent with its duty to protect the right at issue. Further, Sumter County—as will

be further explained—will be provided an opportunity to respond to this order consistent with the local rules.

Before delving into the appropriate remedy, the Court reviews the different forms of injunctive relief available in federal court. "[T]here are basically three types of injunctions that can be issued by a federal court[:] . . . the temporary-restraining order, the preliminary injunction, and the permanent injunction." 11A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2941 (3d ed.).

- A temporary-restraining order typically is sought and issued on an ex parte basis and operates to prevent immediate irreparable injury until a hearing can be held to determine the need for a preliminary injunction.
- A preliminary injunction is effective until a decision has been reached at a trial on the merits.
- A permanent injunction will issue only after a right thereto has been established at a trial on the merits.

Id. (formatting altered). Because the Court has already decided the merits of this action in Wright's favor, neither a temporary restraining order nor a preliminary injunction are appropriate. Rather, the Court must decide whether to issue a permanent injunction, the standards for which vary slightly from those cited by Wright. "[T]o obtain a permanent injunction, a party must show: (1) that he has prevailed in establishing the violation of the right asserted in his complaint; (2) there is no adequate remedy at law for the violation of this right; and (3) irreparable harm will result if the court does not order injunctive relief." *Alabama v. U.S. Army Corps of Engineers*, 424 F.3d 1117, 1128 (11th Cir. 2005).

To begin with, the Court agrees with the parties "that redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt." *Wise v. Lipscomb*, 437 U.S. 535, 539 (1978). The Georgia General Assembly should have the first opportunity to craft a remedial plan when doing so is "practicable." *Id.* at 540. Here, it is clearly not practicable to defer to the Assembly for the 2018 election. Both the Georgia Senate and the Georgia House of Representatives have now adjourned sine die, and the senator representing Sumter County has informed the Court through Sumter County that the Assembly will not act on this issue until 2019.

"[O]nce a State's[—or here, school board's—]legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan." *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Unsurprisingly, then, the Court finds that all three requirements for a permanent injunction have been met. First, Wright has prevailed in his claim. (Doc. 198). Second, there is no adequate remedy at law for a violation of Section 2 of the Voting Rights Act. *See Dillard v. Crenshaw Cty.*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986) ("it is simply not possible to pay someone for having been denied a right of this importance"). Likewise, and third, the loss of a meaningful right to vote creates an irreparable harm. *Id.*

Once the Court decides the standards for a permanent injunction are met, it "must undertake an 'equitable weighing process' to select a fitting remedy for the legal violations it has identified . . . ." *North Carolina v. Covington*, 137 S. Ct. 1624, 1625 (2017) (citation omitted). The Court must consider "a special blend of what is necessary, what is fair, and what is workable." *New York v. Cathedral Acad.*, 434 U.S. 125, 129 (1977) (quoting *Lemon v. Kurtzman*, 411 U.S. 192, 200 (1973)); *see Covington*, 137 S. Ct. at 1625 (applying *New York* to the voting rights context). Relief is not automatic. A district court may permit an election to proceed even after a finding that the districts are unlawful when "an impending election is imminent and a State's election machinery is already in progress." *Id.* There is no shortage of courts that have done so. *See*, *e.g.*, Order at 162–163, *Covington v. North Carolina*, No. 1:15-cv-399 (M.D.N.C. August 11, 2016).

The Supreme Court recently noted, in the context of a district court setting a special election to remedy a racial gerrymander, a non-exhaustive list of factors district courts may consider in deciding a proper equitable remedy. They include "the severity and nature of the particular constitutional violation, the extent of the likely disruption to the ordinary processes of governance if early elections are imposed, and the need to act with proper judicial restraint when intruding on state sovereignty." *North Carolina v. Covington*, 137 S. Ct. 1624, 1626 (2017).

Here, the infringement of black voters' right to vote in Sumter County is severe. Despite African Americans constituting 49.5% of the voting age population in Sumter County, they are only able to elect their candidates of choice to 29% of the school board seats. (Doc. 198 at 2.) Were the Court to allow the election to proceed, this vastly disproportionate representation would continue for another two years. Second, the Court finds that enjoining this election and moving it to November would cause minimal disruptions to the ordinary processes of governance. New school board members do not begin their term until the January following the election, so moving the election date from May to November will not interfere with the regular terms of board members. (Doc. 153-85); *cf. Covington*, 137 S. Ct. at 1625 (vacating injunction which would have shortened legislators' terms from two years to one). The Court acknowledges that voters may be confused by the changed election date. However, the school board held elections in November as recently as 2010. (Doc. 153-61.) A November school board election will not be an unusual sight for Sumter County voters. Moreover, Wright is not proposing to move the election to an unusual, specially set election date. *Cf Covington*, 137 S. Ct. at 1625 (setting special primary and general elections for the fall of 2017). Voters are used to elections taking place on the first Tuesday after the first Monday in November of even-numbered years. A number of races will already be on the ballot, and the addition of a school board election is unlikely to disrupt the election process.

Finally, the Court is acting with proper judicial restraint. It attempted to defer to the General Assembly to craft a remedy for the 2018 elections. (Docs. 198; 201.) It is only after learning that the Assembly would be unable to act that the Court considered an injunction. Any injunction and specially set election will be for the 2018 election only. The Court will again defer to the Assembly when it returns to session in 2019.

CONCLUSION

Accordingly, the Court finds that the balance of equities weighs toward enjoining the May 2018 election as to the Board of Education. The Court construes Wright's Emergency Motion for a Temporary Restraining Order and Preliminary Injunction (Doc. 202) as a motion for a permanent injunction. Pursuant to Middle District of Georgia Local Rule 7.7,

the Court finds that the extensive briefing on this issue, as outlined above, has allowed it to determine "the relative legal positions of the parties so as to obviate the need for the filing of opposition thereto." The Court will entertain any objections to this order filed **no later than Friday, April 6, 2018**. Wright's motion for a permanent injunction (Doc. 202) is **GRANTED**. The Sumter County Board of Education election scheduled for May 22, 2018 is **ENJOINED** and **RESET** for November 6, 2018. Defendant Sumter County Board of Elections and Registration is hereby **ORDERED** to redact the names of school-board candidates by means of a sticker or permanent marker on all ballots distributed for the May 22, 2018 election, include a notice with all ballots for the May 22, 2018 election that the school-board election has been cancelled, or petition the Court prior to distributing any ballots for the May 22, 2018 election of another method by which it intends to inform voters in the May 22, 2018 election that the races for the Sumter County Board of Education has been enjoined.[1] Defendant Sumter County Board of Elections and Registration is **ENJOINED** from tabulating the votes cast in the May 22, 2018 election for any position on the Sumter County Board of Education.

The Court will enter an order **no later than July 23, 2018** setting interim boundaries for the new Sumter County Board of Education districts. The election for all Sumter County Board of Education seats set for May 22, 2018 will instead take place on **November 6, 2018**. The candidate qualifying period for that election will begin **August 6, 2018** and end **August 10, 2018**. The parties should inform the Court as soon as practicable if any of these deadlines are unworkable or if additional deadlines need to be set by Court order.

SO ORDERED, this 30th day of March 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

[1] The Court notes that Sumter County does not believe it has sufficient time to print and prepare notices for each absentee ballot or to redact all of the Board of Education candidates' names from the ballots. (Doc. 203 at 2.) The Court intends to be flexible with this requirement. In the event so many absentee ballots are to be distributed on April 3, 2018, that the County is unable to redact them all, the Court is not expecting Defendant's counsel to "cancel[] their plans to be with their families this holiday weekend." (*Id.*) Rather, Sumter County should formulate a reasonable plan to inform voters that the election has been enjoined and present it to the Court as soon as possible.

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	
_____	:	

ORDER

The Court has now resolved the pending motions in this case regarding the November election for Sumter County Board of Education. Accordingly, consistent with the instructions of the United States Court of Appeals for the Eleventh Circuit, the Clerk is **DIRECTED** to return the complete record of this case, including matters filed and entered after remand, to the Circuit.

SO ORDERED, this 20th day of August 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:14-cv-42 (WLS)
	)	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	)	
	)	
Defendant.	)	
	)	

PLAINTIFF'S EMERGENCY MOTION FOR AN INJUNCTION PENDING APPEAL

Plaintiff Mathis Kearse Wright, Jr. respectfully moves the Court for an injunction pending appeal prohibiting the Sumter County Board of Elections and Registration from conducting the school-board elections currently scheduled for November 6, 2018. **According to the County, the last day to remove the election from the November ballot is Friday, August 17**.[1] The purpose of this motion is to maintain the status quo while the Court of Appeals considers the County's appeal. Granting this Motion will maintain the status quo and is within the discretion of this Court under Federal Rules of Civil Procedure 62(c) and Federal Rules of Appellate Procedure 8(a)(1).

[1] Attorneys for the County identified August 17 as the drop-dead date for the first time in an email sent after the close of business on Friday, July 27. In the absence of discovery or further explanation from the County, Wright takes this date at face value. However, Wright notes that the County was previously able to remove the school-board election from the ballot following this Court's order on March 30, 2018, which was 53 days before the May 22 election. August 17 is 81 days before the November 6 election.

BACKGROUND

This is a Section 2 challenge to the method of electing members of the Board of Education in Sumter County, Georgia. On March 17, 2018, the Court issued a 38-page order finding, "based on the totality of the circumstances, that the at-large districts of the Sumter County Board of Education dilute African-American voting strength in violation of Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301." (ECF 198 at 37.) The Court did not adopt a remedy in its order but noted instead that this case "now moves to a remedial stage." (*Id.*)

After the Georgia General Assembly declined the Court's invitation to devise a remedy, Wright filed an emergency motion asking the Court to enjoin the County from conducting the school-board elections scheduled for May 22, 2018. (ECF 202.) On March 30, the Court granted the motion, finding that "Here, the infringement of black voters' right to vote in Sumter County is severe." (ECF 204 at 6.) The Court reset the election for November and indicated that it would enter a further order by July 23 setting forth an interim remedial plan for future school-board elections. (*Id.* at 7.) The Court did not at that time enjoin further use of the unlawful plan.

On April 11, the County appealed the Court's March 30 injunction and its order on liability. (ECF 207.) Two days later, the County filed a motion to expedite the appeal. Wright opposed. On May 4, the Eleventh Circuit denied the County's motion "without prejudice to the right of either party to seek a stay and/or expedited review upon the district court issuing an order setting interim boundaries for the Sumter County Board of Election districts."

Then on June 21, this Court, acting *sua sponte*, issued an order modifying the March 30 injunction. (ECF 214.) Concluding "that [the Court] lacks jurisdiction to enter" a remedial order while the County's appeal remains pending, that order removed the self-imposed July 23

deadline for issuing a remedial plan, and it made clear that the Court intended to issue no further orders regarding whether a remedy is appropriate until after the Court of Appeals resolves the appeal. (*Id.* at 3.) The order also clarified that the March 30 order "requires only that the Sumter County Board of Education elections previously scheduled for May 22, 2018 be held on November 6, 2018." (*Id.* at 5-6.) Thus, it appears that the practical effect of the Court's June 21 order is that, in the absence of a further injunction, the next school-board election will take place in November using the discriminatory plan.

In light of this Court's June 21 order, Wright filed a renewed motion to dismiss the appeal for lack of appellate jurisdiction and a motion to hold the briefing schedule in abeyance. The Eleventh Circuit granted Wright's motion to hold the appeal in abeyance pending resolution of the jurisdictional issue, and the motion to dismiss remains pending.

Wright also filed a motion for reconsideration asking this Court to reconsider its June 21 order. On July 23, the Court denied Wright's motion in part without prejudice because it "did not know how expeditiously the Eleventh Circuit will act on the appeal…" and stated that it would "… entertain the request [to enjoin the November election] upon Wright's motion on a date closer to the election." (ECF 217 at 7). The Court also directed the parties to confer on a briefing schedule for such a motion.

The next day, Wright's attorneys requested a conference with opposing counsel. Wright's attorneys also asked the County to identify the last date on which the school-board election could be removed from the November ballot. Three days later, after the close of business on Friday, July 27, the County's attorneys responded that the drop-dead date is Friday, August 17. The County's attorneys also indicated that they would be available for a conference call on Monday, July 30.

The parties conferred but were unable to agree upon a briefing schedule. Wright's attorneys favored an extremely expeditious briefing schedule so that (1) the Court has time to consider the motion and (2) the parties have an opportunity to seek an injunction in the Court of Appeals (as permitted by Rule 8 of the Federal Rules of Appellate Procedure). The County's attorneys requested at least 10 days to respond to Wright's motion, which would give this Court only a day or two to rule and would effectively preclude any review in the Eleventh Circuit or the Supreme Court.

ARGUMENT

Rule 62(c) provides that "[w]hile an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights." Fed. R. Civ. P. 62(c); *see also* Fed. R. App. P. 8(a)(1) (requiring a party to move first in the district court for an order suspending modifying, restoring, or granting an injunction while an appeal is pending). Rule 62(c) is an exception to the general rule that a district court loses jurisdiction over matters that are on appeal, and it is designed to permit a court to maintain the status quo between the parties during the pendency of an appeal where equity requires it. *See, e.g., Natural Resources Defense Council, Inc. v. Southwest Marine Inc.,* 242 F.3d 1163, 1166 (9th Cir. 2001); *Dillard v. City of Foley*, 926 F. Supp. 1053, 1075 (M.D. Ala. 1995).

When determining whether to grant an injunction pending appeal, a court should consider: (1) the movant's likelihood of success on the appeal; (2) whether the movant will be irreparably injured in the absence of an injunction; (3) whether the injunction will harm other parties interested in the proceeding; and (4) the public interest. *Hilton v. Braunsklill*, 481 U.S. 770, 776 (1987); *accord Touchston v. McDermott*, 234 F.3d 1130, 1132 (11th Cir. 2000);

Garcia-Mir v. Meese, 781 F.2d 1450, 1453 (11th Cir. 1986); *Smith v. Snow,* 722 F.2d 630 (11th Cir. 1983).

In addition, the Eleventh Circuit has adopted a relaxed standard where, as here, an injunction would merely maintain the status quo pending the outcome of an appeal. *See Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Circ. 1981) [2] (an injunction pending appeal is appropriate when the last three factors strongly favor interim relief); *see also LabMD, Inc. v. Federal Trade Commission,* 678 Fed. Appx. 816 (11th Cir. 2016) ("granting a stay that simply maintains the status quo pending appeal 'is appropriate when a serious legal question is presented, when little if any harm will befall other interested persons or the public and when denial of the injunction would inflict irreparable injury on the movant.'"); *Garcia-Mir*, 781 F.2d at 1453 (citing *Ruiz*).

1. Wright is likely to succeed on appeal.

Wright has already succeeded on the merits of his claim in this Court, and he is likely to prevail on appeal. This Court's 38-page ruling on liability is well founded in both the facts and existing law. The facts in this case are barely contested. The law in this area is well established. And there has been no great change in the law after the Court's ruling which could put its viability in doubt. The County's appellate brief raises nothing new or out of the ordinary. Simply put, the Court's ruling rests on solid ground.

Although this factor is of less importance under the Eleventh Circuit's relaxed standard, Wright has established a strong likelihood that he will succeed on the merits of the County's appeal.

[2] Decisions of the Fifth Circuit Court of Appeals handed down prior to October 1, 1981, are binding precedent in the Eleventh Circuit. *See Bonner v. City of Prichard,* 661 F.2d 1206, 1209 (11th Cir. 1981).

2. Wright will suffer irreparable harm in the absence of an injunction.

Harm is irreparable for purposes of a preliminary injunction when "it cannot be undone through monetary remedies." *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F.2d 328, 338 (5th Cir. 1981). Harms that touch upon the constitutional and statutory rights of political parties, candidates, and voters are generally not compensable by money damages and are therefore considered irreparable. *See, e.g., Elrod v. Burns*, 427 U.S. 347 373 (1976) (plurality opinion); *League of Women Voters v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *Ga. State Conference of the NAACP v. Fayette Cnty. Bd. of Comm'rs*, 118 F. Supp. 3d 1338, 1347 (N.D. Ga., 2015); *Bird v. Sumter County Bd. of Educ*., 1:12-cv-76 (M.D. Ga., June 21, 2012).

Part of the reason for this treatment of political and voting harms is the special importance of the right to vote in the American democratic tradition:

> Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

Reynolds v. Sims, 377 U.S. 533, 561-62 (1962); accord *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) ("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live."). Money cannot fully compensate an individual for the loss of a right so fundamental. Part of the reason is also practical: a court simply cannot undo, by means of a special election or otherwise, all of the effects of an invalid election. Tremendous practical advantages accrue to those who win even tainted elections, and a court simply has no way to re-level the playing field. See, e.g., *League of*

Women Voters of N.C., 769 F.3d at 247 ("Courts routinely deem restrictions on fundamental voting rights irreparable injury" because "once the election occurs, there can be no do-over and no redress.").

In this case, the irreparable nature of the threatened injuries is obvious. Money cannot compensate Wright or other African Americans in Sumter County for allowing an election to go forward under a racially discriminatory election plan. Moreover, the November 6, 2018, election (like the May 22 election) is a general election, meaning that the election directly decides the membership of the Board of Education for the next four years. Whereas the results of a primary election might be stayed, the results of a general election carry a heavier weight, further magnifying the injury to the plaintiff's right to vote should the election go forward. In addition, allowing the election to go forward would likely require the Court to reopen discovery, re-open the record, and conduct another trial. *See*, e.g., *Levy v. Lexington Cnty*. 589 F.3d 708, 715 (4th Cir. 2009).

This Court has already ruled in this case that there is no adequate remedy at law for a violation of Section 2 of the Voting Rights Act (ECF 204 at 5 (citing *Dillard v. Crenshaw Cnty.*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986)), and nothing about the current posture of the case warrants a different conclusion.

This factor weighs in favor of granting the injunction.

3. The balance of harms favors Wright.

The third factor requires the Court to consider the potential impact that the requested injunction might have upon the Board of Elections, and to balance that potential with the considerable and irreparable harms that Wright would suffer should his request be denied. There is no question that the balance of equities tip in Wright's favor here.

The Board of Elections will suffer no harm if the injunction is granted because all it does is maintain the status quo—as it did when the Court enjoined the May 22 school-board election. Removing the special school-board election from the November ballot will cause minimal disruptions to the ordinary process of governance because current board members will remain in office until their successors are elected (ECF 153-22 at 3), and the special school-board election can be reset to coincide with one of several already-scheduled special-election dates in Georgia.[3]

By contrast, Wright and other African American voters will continue to be significantly and irreparably harmed if yet another election goes forward under a discriminatory plan. This Court has rightly described the harm to black voters caused by the current plan as "severe," and allowing the election to proceed under the unlawful plan would entrench this harm for another two years. (ECF 204 at 6.)

Under no circumstances should the election be allowed to go forward under an unlawful and discriminatory election plan. *See Clark v. Roemer*, 500 U.S. 646, 652-53 (1991) (the district court erred in failing to enjoin elections held in violation of the Voting Rights Act); *Lucas v. Townsend*, 486 U.S. 1301, 1305 (1988) ("Permitting the election to go forward would place the burdens of inertia and litigation delay on those whom the statute was intended to protect, despite their obvious diligence in seeking an adjudication of their rights prior to the election."); *Reynolds v. Sims*, 377 U.S. 533, 585 (1964) ("it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan").

[3] There are special elections already scheduled in Georgia for March 19, June 18, and September 17, 2019. *See* http://sos.ga.gov/admin/uploads/2019_State_Short_Calendar_Website1.pdf

4. An injunction serves the public interest.

The public interest in this case is clear. "[I]t is always in the public interest to prevent the violation of a party's constitutional rights." *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1145 (10th Cir. 2013) (en banc) (quoting *Awad v. Ziriax*, 670 F.3d 1111, 1131–32 (10th Cir. 2012)), aff'd 134 S. Ct. 2751 (2014); accord *League of Women Voters of N.C.*, 769 F.3d at 247. The requested injunction will ensure that the next school-board election is held under a lawful election plan. Without it, the election will be held under a plan that discriminates against African American voters. The public undoubtedly has a vital interest in the conduct of free, fair, and constitutional elections. *See Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (recognizing the public has a "strong interest in exercising the fundamental political right to vote" (citations omitted)). The requested injunction, if granted, would therefore favor the public interest.

CONCLUSION

This Court should grant Wright's injunction in order to maintain the status quo between the parties.

Date: July 31, 2018

Respectfully submitted by:

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing PLAINTIFF'S EMERGENCY MOTION FOR AN INJUNCTION PENDING APPEAL with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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Dated this 31st day of July, 2018.

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Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:14-cv-42 (WLS)
	)	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	)	
	)	
Defendant.	)	
	)	

PLAINTIFF'S REPLY IN SUPPORT OF EMERGENCY MOTION FOR AN INJUNCTION PENDING APPEAL

Plaintiff Mathis Kearse Wright, Jr. respectfully submits this reply in support of his motion for an injunction pending appeal.

I. An injunction is necessary to maintain the status quo.

The County's main argument is that the requested injunction would alter the status quo between the parties rather than maintain it. Not so.

The County appealed this Court's interlocutory order canceling the May school-board elections and moving them to November, to be held under a yet-to-be-announced remedial plan. The County seeks in the appeal to hold the 2018 school-board elections in November 2018 under the discriminatory plan.

Then the Court modified its injunction to allow the November election to proceed under the discriminatory plan. As Wright has argued in the Court of Appeals, that modification mooted the appeal by giving the County the relief it sought. But, more importantly, it also shifted the status quo between the parties. It transformed the County from an appellant challenging the Court's original injunction into an appellee defending the Court's modified injunction. And it

transformed Wright from an appellee defending the Court's original injunction into an appellant challenging the Court's modified injunction. The Eleventh Circuit has not yet ruled on Wright's motion to dismiss, but it has held the entire appeal in abeyance until its own jurisdiction can be sorted out.

An order canceling the November school-board elections and moving them to a date to be determined following resolution of the appeal would therefore maintain the status quo from which the County appealed. Allowing the election to proceed under the discriminatory plan would not.

The requested injunction is also necessary to maintain the electoral status quo. A new election means new incumbents, together with all of the practical the advantages that accrue with incumbency. It also means new four-year terms of office for those incumbents that will have the effect of diluting African-American voting strength for at least two more years (unless this Court calls for a special election and shortens the terms of those elected in November 2018 when it ultimately issues a remedial plan). It further means new election data, new data analysis, new expert reports, and probably a new trial required in this case. That is hardly the status quo, and none of that will be necessary if the Court enters the requested injunction pending the County's appeal. It will only be necessary if the Court *fails* to enter the injunction.

II. The balance of the equities clearly favors the victims of vote dilution.

The County's other argument is that the balance of the equities—that is, the balance of harms to other interested persons and the public interest—weighs against an injunction here. In making this argument, the County predictably undervalues the harm of vote dilution on the thousands of African-American citizens in Sumter County (not to mention the harm to thousands of African-American children attending the still-segregated Sumter County Public Schools). This

Court has already found that harm to be "severe." (ECF 204 at 6.) The County, by contrast, finds that harm to be outweighed by a variety of administrative concerns supported by nothing but conjecture. Wright obviously disagrees.

Before laying out those administrative concerns, however, the County quotes from cases warning that enjoining state elections is a potentially serious intrusion on state sovereignty. That may be so, but a state election is not at issue in this case. This case is about a county election. It is about a county *school-board* election. It is about a county school-board election *in a very small county*. While still vitally important to many citizens of Sumter County (particularly the African-American citizens), the election at issue in this case is several ranks below a state election and therefore does not raise the same federalism concerns as, say, enjoining an election for the entire General Assembly. Not that the Court should act willy-nilly, of course, but neither should it accept the County's suggestion that the equities automatically tilt against an injunction just because this is a voting case.

The County first contends that board-member terms and minority representation weigh against an injunction. As to the latter, the County notes that Wright will not benefit from an injunction pending appeal because members elected under the unlawful plan will remain in office until their successors are elected. Wright agrees. The injunction will not benefit him, and it is not intended to do so. It is intended to maintain the status quo and that is all.

As to the former, the County contends that the injunction will interfere with the governance of the school board because (1) the County's Supervisor of Elections, Robert Brady, is uncertain as to whether board members remain in office until their successors are elected, and (2) some current board members may resign and leave voters unrepresented. These concerns are easily addressed. Under Georgia law, board members *do* remain in office until their successors

are elected. (ECF 153-22 at 3.) Brady must be unfamiliar with that law. And, also under Georgia law, there is a clear procedure for filling vacancies on a school board by a vote of the remaining members or, in some cases, by a special election held in conjunction with the next general election. *See* O.C.G.A. § 20-2-54.1. And whether a current board member might resign is pure speculation at this point. Instead, what we can say for sure is that the requested injunction will retain experienced board members to govern Sumter County's schools until their successors can be lawfully elected.

The County next contends, without any evidentiary support, that the potential for voter confusion weighs against an injunction. It is true, of course, that school-board elections used to be held in November of even-numbered years and that the election will not be on the ballot this November if the injunction is granted. But it isn't clear how that would affect voter confusion or turnout because, for one thing, we don't know when the next election would be held following the appeal. It might, for example, be held in conjunction with the general election *next* November, when Georgia typically holds municipal elections. Or, depending on how quickly the Eleventh Circuit resolves the appeal, it could be held in the spring of 2020 in conjunction with the presidential preference primary—which would likely feature fairly high turnout if recent history is any guide.

The extent to which the requested injunction would risk voter confusion is also unclear because there is no evidence to suggest that very many voters of Sumter County are aware that, in the absence of an injunction, the school-board election will be on the ballot in November. Indeed, the County has apparently chosen not to notify the public about the election. *See* Exhibit A (Declaration of Mathis Kearse Wright, Jr.). There are no notices posted on the county's website or the county's election website. There have been no notices or articles published in the

Americus *Times-Recorder*. And, at least according to Wright's personal observations, most folks in Sumter County just don't know yet that there could be a school-board election in November. Under these circumstances, the risk of voter confusion from an injunction seems low.

The County next contends that the burdens of a canceled election on candidates weigh against the injunction. The Court previously considered this concern in conjunction with its injunction canceling the May school-board elections and concluded that the injunction was issued early enough that candidates who had planned to run would not have spent much money yet. (ECF 206 at 9-10.) That is even more true here, where we are even farther from Election Day. So, to the extent that this concern has any weight at all, it does not weigh heavily against an injunction.

The County next contends that the burdens on election administration weigh against an injunction. Courts have repeatedly rejected this argument in similar contexts and have found that assuring citizens of the right to vote "outweighs the cost and the inconvenience" that election officials might incur. *United States v. Georgia*, 952 F. Supp. 2d 1318, 1332–33 (N.D. Ga. 2013); *see also Common Cause/Georgia*, 406 F. Supp. 2d 1326, 1375–76 (N.D. Ga. 2005); *Georgia State Conference off the NAACP v. Georgia*, Civ. No. 1:17-cv-1397-TCB, slip op. at 15-16; *Georgia Coalition for the Peoples' Agenda, Inc. v. Deal*, No. 4:16-cv-269-WTM-GRS, 2016 WL 6039239, at *2 (S.D. Ga. Oct. 14, 2016). The same is true here.

The County specifically contends that a remedial plan could result in duplicate representation, no representation, and uncertain terms of office. Those concerns, however, do not apply if the Court merely cancels the election but leaves the current plan in place. Even with a new plan, those concerns are easily addressed as part of the Court's remedial order. In fact,

Wright's remedial proposals contain proposed implementation orders which resolve those issues. (ECF 174-2, 174-3.)

It is also worth noting that any administrative or financial burdens on the County are entirely of its own choosing. As is its right, the County has chosen to litigate this case to the hilt. News reports indicate that it has substantial spent sums of money on its own attorneys. It is a bit rich for the County to complain about the potential cost of a special election when it could have chosen to consent to interim relief at the general election while its appeal proceeded. The County, of course, has a right to litigate this case how it wishes, but equity does not require the Court to save the County from its own choices.

Lastly, the County contends that it is too late to cancel the election. It relies on a hearsay statement contained in Mr. Brady's declaration that some unnamed person in the Secretary of State's office told him that August 17 is the last possible date to remove the school-board election from the November ballot. Since it is not yet August 17, it would appear that there remains plenty of time for this Court to act. Moreover, an affidavit submitted in an unrelated case in 2016 by Michael Barnes, the then-current head of Georgia's Center for Election Services (CES) suggests that the window for changing ballots is *much* larger than Brady says it is. *See* Exhibit B. Barnes indicates that "the final ballot must be provided to county election officials by no later than 50 days prior to the date of the election." *Id.* at 4. Overall, the Barnes declaration strongly suggests that the County could make arrangements with CES to move Sumter County's ballot-creation to the "bottom of the stack" of counties processed by CES and thereby extend the window considerably. (ECF 205-1 at 2.) Indeed, this is precisely what happened in response to this Court's injunction canceling the school-board election in May. (*Id.*)

The County also points to a variety of cases that they claim found that it was too late to enjoin an election. But all of those cases are easily distinguishable, most of them either because they pre-date the advent of modern redistricting technology, involved partisan elections, or involved statewide redistricting.

The County relies most heavily on the Fifth Circuit's decision in *Chisom v. Roemer*, 853 F.2d 1186, 1190 (5th Cir. 1988), where the court of appeals on August 3 vacated a preliminary injunction canceling a November election for state supreme court justices. But no fair reading of that opinion could conclude that it did so because of poor timing. Rather, it did so because of concerns about the plaintiffs' likelihood of success on the merits and the fact that the state law providing for terms of office for supreme court justices did not contain a holdover provision. *Id.* at 1190-91. In this case, by contrast, Wright has already prevailed, there is a holdover provision, and this is not about justices on a state supreme court.

The County also relies on *Klahr v. Williams*, 313 F. Supp. 148, 152 (D. Ariz. 1970) (three-judge district court), *aff'd sub nom. Ely v. Klahr*, 403 U.S. 108 (1971), which on May 19, 1970, declined to enjoin elections for Arizona's entire legislature and congressional delegation. There, the court did rest its decision mainly on the timing, but those offices were all partisan. So the court would have needed time for a primary election *and* a general election between May 19 and the November election. The case also predates the widespread use of computers and geographical information systems that dramatically reduce the amount of time needed to perform many tasks associated with implanting new election boundaries. And, of course, this case does not concern the entire General Assembly and congressional delegation. The scope of the task at issue is dramatically smaller.

Kilgarlin v. Martin, 252 F. Supp. 404, 444 (S.D. Tex. 1966), also cited by the County, provides no support. That case came so early in the development of the law and technology of redistricting that the tools and expertise to redistrict quickly were lacking. Not so here. And that case involved redistricting for the entire Texas legislature with partisan elections.

The County also relies on *Cardona v. Oakland Unified Sch. Dist., California*, 785 F. Supp. 837 (N.D. Cal., 1992). But *Cardona* was not a case in which there had been a finding of a violation of Section 2 of the Voting Rights Act, but a challenge to a malapportioned school district plan where the school district had made the decision to delay redistricting until after the 1992 election. The district court held this decision was permissible, and it not only denied an injunction but dismissed the entire complaint. 785 F. Supp. at 838. Again, this is not a case in which a short delay in redistricting would be permissible but involves a violation of minority voting rights.

The County also relies upon *In re Pennsylvania Cong. Districts in Reapportionment Cases*, 535 F. Supp. 191 (M.D. Pa. 1982). Again, this was not a case in which there had been a finding of a Section 2 violation but was a challenge to an alleged malapportioned congressional redistricting plan. The court denied the request for an injunction against the pending election because it found success was unlikely and that there was no showing that population shifts would result in a significant shift in voter strength. Here, of course, plaintiff has achieved success on his Section 2 claim and the holding of an election under the unlawful plan would have a discriminatory impact upon minority voters.

Diaz v. Silver, 932 F. Supp. 462 (E.D. N.Y. 1996), relied upon by the County, is also inapposite. It was a challenge to the 12th Congressional District of New York, but the district court held there was no showing that a redistricting of the 12th District and the districts adjacent

to it would be valid under the Voting Rights Act. The court concluded this outweighed the likely benefit to the plaintiffs of granting an injunction at this time. Here, plaintiff has plainly demonstrated that a new plan for the school board would be valid under Section 2 of the Voting Rights Act and further use of the challenged plan should be enjoined.

The County relies upon *Dillard v. Crenshaw County*, 640 F. Supp. 1347 (M.D. Ala. 1986), but fails to note that the district court in fact granted the plaintiffs extensive injunctive relief. The injunction required, *inter alia*, five of the counties to "submit time schedules for the development, approval, and implementation of new election plans by the first of next year." 640 F. Supp. at 1373. *Dillard* supports the granting of injunctive relief in this case.

Another case the County relies on is *Watkins v. Mabus*, 771 F. Supp. 789 (S.D. Miss. 1991), a challenged to state legislative redistricting in Mississippi. In denying injunctive relief, the court held "we need not reach the issue of the 1982 plan's invalidity under § 2." 771 F. Supp. at 805. In this case, of course, the district court has reached a decision that the challenged plan violates Section 2 and its further use should be enjoined. In addition, this case does not involve statewide redistricting and thus the scope of the task at issue is much smaller.

The County also relies upon *Ashe v. Bd. of Elections in City of New York,* 1988 WL 68721 (E.D.N.Y. 1988), which was a challenge to the change from the old to the new system of purging names from the lists of registered voters. In denying injunctive relief against holding a primary election on a regularly scheduled date, the court held that "any prior erroneous deregistration of voters as a result of the change is remedial without Court intervention and neither so extreme nor drastic as to warrant mandatory relief." Here, of course, the facts are fundamentally different. Court intervention is required to remedy the Section 2 violation, and the continued use of a system of election that is racially discriminatory is both extreme and drastic.

Ashe supports the granting of injunctive relief in this case.

Overall, equity clearly favors an injunction here. Wright has already prevailed. He and thousands of African-American residents of Sumter County will suffer severe harm in the absence of an injunction. And there appears, particularly in light of the Barnes declaration, to be plenty of time within which to implement a remedial plan or enjoin the school-board elections altogether. The County, on the other hand, has very little on its side of the scale. It has raised only the specter of harm, but nothing of substance. The County has failed to show appreciable harm to candidates or a substantial risk of voter confusion. There will undoubtedly be some inconvenience and administrative hassle involved in an injunction, but not enough to outweigh this Court's obligation to protect the right to vote.

CONCLUSION

In an order entered yesterday, the Eleventh Circuit remanded the County's pending interlocutory appeal back to this Court with the following instructions:

> On remand, the district court should first determine whether it is still feasible to issue a new map with interim boundaries for the November election in a timely manner. If so, the district court should then proceed to determine such interim boundaries for the November election, as it previously contemplated doing by July 23, 2018, and enter any orders necessary to effectuate its ruling before returning the case and the record to this Court. If the district court concludes, however, that it is too late at this juncture to issue an order setting any boundaries for the November election other than the ones currently in place, then it should enter an order to that effect, resolve any motions filed by the parties regarding the operation of the November election, and then return the case to this Court.

This, of course, is a reply brief in support of a motion "filed by the parties regarding the operation of the November election." The facts and arguments presented on this motion support an injunction pending the appeal which would effectively cancel the November school-board elections.

But now the Eleventh Circuit has made clear that the Court should first determine whether the November election can go forward using an interim remedial plan. Wright believes that it can. The merits of the remedial plans before the Court have been fully briefed, and the only question remaining is one of timing. The Barnes declaration attached hereto answers that question. With prompt notice to the Secretary of State, finalization of ballots could be delayed for at least another month, which would allow sufficient time to qualify candidates and re-assign voters before ballots must be printed and distributed in mid-to-late September.

Wright therefore suggests that the Court enter an order as soon possible directing the County to notify the Secretary of State of this matter and to request, as it did last April, that ballot-finalization be delayed for Sumter County as long as possible. The Court should then order the County to implement one of the remedial proposals before the Court for the November 2018 election or, failing that, should grant this motion.

Date: August 10, 2018

Respectfully submitted by:

/s/ Bryan L. Sells
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ATTORNEYS FOR PLAINTIFF
MATHIS KEARSE WRIGHT, JR.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing PLAINTIFF'S REPLY IN SUPPORT OF EMERGENCY MOTION FOR AN INJUNCTION PENDING APPEAL with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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Dated this 10th day of August, 2018.

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Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:14-cv-42 (WLS)
	)	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	)	
	)	
Defendant.	)	
_____	)	

DECLARATION OF MATHIS KEARSE WRIGHT JR.

1. My name is Mathis Kearse Wright, Jr. I am the plaintiff in this case. I am over the age of 18 and competent to testify. I offer this declaration in support of the plaintiff's motion for an injunction pending appeal in this case.

2. I am politically active in Sumter County, Georgia. I recruit candidates, participate in campaigns, and discuss politics generally with my fellow citizens.

3. It is my opinion that, as of today, very few people in Sumter County are aware that there are school-board elections scheduled for the November ballot.

4. I have seen no school-board campaign signs around the county.

5. There are no notices about the November school-board elections posted on the county's website or the website of the county's Supervisor of Elections.

6. I have seen no notices or articles about the elections in the Americus *Times-Recorder*, a publication that I read regularly. I have seen no notices or articles about the elections in the Sumter County *Observer*, a publication I read almost religiously.

7. I visited the office of the Sumter County Election Supervisor yesterday, and I saw only one notice about the election on a bulletin board.

8. I have seen no indication of any other effort by the County to make sure that the public is aware of the elections.

9. In my personal discussions with people around the county, almost no one is aware of the elections.

10. It is my opinion, therefore, that canceling the election or implementing a remedial plan would present little risk of voter confusion.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on August 10, 2018, at Americus, Georgia.

Rev. Mathis Kearse Wright, Jr.

Rev. Mathis Kearse Wright, Jr.

Exhibit B

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

ROQUE "ROCKY" DE LA FUENTE, **Plaintiff,** **VS.** **BRIAN P. KEMP, in his official capacity as the Secretary of State of the State of Georgia** **Defendant.**	**Civil Action No.:** **1:16-CV-2937-MHC**

DECLARATION OF MICHAEL BARNES

I, Michael Barnes, do hereby declare and state that the following facts are true and correct to the best of my knowledge, information and belief.

1.

I am over the age of 21 years and am in all ways competent to give testimony, suffering no physical or mental disabilities.

2.

I am aware of the fact that this declaration is being submitted in support of Secretary of State Brian Kemp's Brief in Opposition to Plaintiff's Motion for Emergency Mandamus and Preliminary Injunction.

3.

I am currently the Director of the Center for Election Systems at Kennesaw State University ("KSU"). I have been the Director of the Center for Election Systems since 2010. I have been employed by KSU, working in the Center for Elections, since 2005. Prior to that time, I was the Assistant Director of Elections for the Georgia Secretary of State, and in that position I directed the State of Georgia's transfer to a uniform system of voting; i.e., DRE (direct electronic voting) machines.

4.

As Director of KSU'S Center for Election Systems, I am ultimately responsible for ensuring that all election ballots built by our office for elections in Georgia are accurate and complete. KSU prepares all election ballots for 158 of Georgia's 159 counties. Pike County uses another contractor to prepare its election ballots. Nevertheless, by law, KSU is required to review any Pike county election ballot before the ballot is finalized and distributed. For the November 8, 2016 General Election, KSU requested of all counties that all information necessary to prepare each county's ballot be provided to the Center no later than 90 days prior to the General Election. Because the General Election includes candidates for federal, state, and local offices, the State must prepare thousands of different

ballots. The ballots in each precinct within Georgia have slight distinctions that allow results to be calculated on a per precinct basis as required in Georgia.

5.

For any Georgia military and/or overseas civilian voter ("UOCAVA voter")[1] who has submitted an application to vote by absentee ballot, county election officials are required to transmit the absentee ballot for any election for federal office, including a Presidential Election, by no later than 45 days prior to the date of the election. O.C.G.A. § 21-2-384(a)(2). *See also* 52 U.S.C. § 20302; *United States v. Alabama*, 778 F.3d 926, 934–35 (11th Cir. 2015); *United States v. Georgia*, 778 F.3d 1202, 1203 (11th Cir. 2015). Forty-five days prior to November 8, 2016 is Saturday, September 24, 2016. Therefore, all requested absentee ballots will have to be transmitted to UOCAVA voters by no later than Friday, September 23, 2016.

6.

In order to ensure that each county absentee ballot clerk has sufficient time to transmit absentee ballots to UOCAVA voters within the statutorily-mandated time frame, KSU generally tries to ensure that all ballot images, including images for printed absentee ballots, are transmitted to the counties' designated ballot

[1] The Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq.

printer by 65 days prior to the date of any election for federal office, including the Presidential Election. The counties' designated ballot printer then prints the ballots and forwards to the counties for use in the election. These ballots must be transmitted by no later than 50 days prior to the date of the election in order to ensure that the counties are able to comply with the transmittal requirements in O.C.G.A. § 21-2-384(a)(2).

7.

The process for preparing, proofing, printing and transmitting ballots to each county takes approximately fifteen days. Therefore, KSU has to begin preparing ballots more than 80 days prior to the date of the election, since the final ballot must be provided to county election officials by no later than 50 days prior to the date of the election. Once the ballot is finalized, KSU transmits one copy to the printer (each county contracts separately with a printer to provide its absentee ballots) and a second copy to the county election official to be downloaded to DRE machines for in-person voting.

8.

For a general election, KSU must prepare a separate election database containing all ballots needed within a county for each of the 158 counties.

9.

The ballot is transmitted to the counties at the same time that it is transmitted to the printer. This provides each county election office sufficient time to test the ballot on the DRE machines prior to the commencement of advanced voting.

I declare under penalty of perjury under the laws of the United States of America, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

This 23rd day of August, 2016.

MICHAEL BARNES

Exhibit H

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR., Plaintiff, v. SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION, Defendant.	CIVIL ACTION NO. 1:14-CV-42 (WLS)

DEFENDANT'S NOTICE REGARDING NOVEMBER ELECTION

In Defendant's Response in Opposition to Plaintiff's Motion for An Injunction Pending Appeal, Defendant noted that the qualifying period for candidates for the November election for the Sumter County Board of Education was scheduled to close on Friday, August 10, 2018. Dkt. 223 at 11 n.6. Defendant offered to update the Court with relevant developments. *Id.* Exhibit 1 is an affidavit from Robert Brady, the Supervisor of Elections in Sumter County, Georgia, providing an update on these developments. Ex. 1. Exhibit 1 also provides information about how the County notified the public of this election in the County's legal organ, the *Americus Times Recorder*. Ex. 1. at para. 4 and Ex. A.

Respectfully submitted by:

*/s/ Katherine L. McKnight*_____

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Katherine L. McKnight (*pro hac vice*)
Richard B. Raile (*pro hac vice*)
BAKER HOSTETLER LLP
1050 Connecticut Avenue NW
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(202) 861-1500

ATTORNEYS FOR DEFENDANT SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2018 the foregoing was filed and served pursuant to the Court's electronic filing procedures using the Court's CM/ECF system.

s/ Katherine L. McKnight
E. Mark Braden (*pro hac vice*)
Katherine L. McKnight (*pro hac vice*)
Richard B. Raile (*pro hac vice*)
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Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR.,

Plaintiff,

v.

SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,

Defendant.

CIVIL ACTION NO. 1:14-CV-42 (WLS)

DECLARATION OF ROBERT BRADY

1. My name is Robert Brady and I am over the age of 18 and competent to testify.

2. I offer this declaration in my official capacity as the Supervisor of Elections in Sumter County, Georgia.

3. By Court Order, the Sumter County Board of Education election (the "Election") was moved from May 22, 2018, the date for Nonpartisan General Elections, to November 6, 2018, the date for the General Election/Special Election Date.

4. The County, through my office, published a call to this election on Wednesday, August 1, 2018, in the Americus *Times-Recorder*. *See* Exhibit A at 6. This Notice is available in paper and electronic format of the paper. *See* electronic version of paper form of the paper available at

http://digital.olivesoftware.com/Olive/ODN/AmericusTimesRecorder/Default.aspx.

5. By Court Order, the qualifying period for candidates for the Election was scheduled between August 6 and 10, 2018 (the "Qualifying Period").

6. The Qualifying Period closed at noon on Friday, August 10, 2018.

7. Following is the list of candidates who have qualified to run in the Election including their names, Board of Education seat sought, race and incumbency status as I understand these issues are relevant to this Court's determination of issues in this matter:

Name	BOE Seat	Race	Incumbent
Alice Green	District 1	African American	Incumbent
James Reid, Jr.	District 3	Caucasian	Incumbent
Carolyn Hamilton	District 5	African American	
Edith Ann Green	District 5	African American	Incumbent
Marcus Arnett	At Large	African American	
John Edgemon	At Large	Caucasian	

8. My office does not collect or retain information on the race of candidates for public office. This information is based on my personal observation as the qualifying officer for these candidates.

9. I remain at the ready to answer any questions the Court may have for my office regarding election administration and related deadlines.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on August 13, 2018, in Georgia, United States.

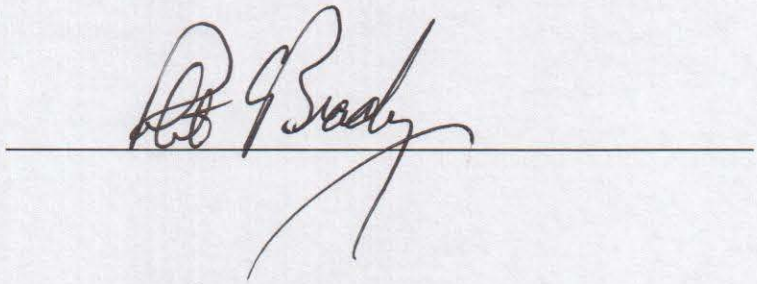


Exhibit A

SERVING SINCE 1879

Americus Times-Recorder

VOL. 138 NO. 64 WEDNESDAY, AUGUST 1, 2018 75 CENTS

1st Friday features art show

AMERICUS — Americus will hold its monthly "First Friday" downtown-wide open house Friday, Aug. 3. This First Friday, Americus Main Street will host an Art Show in downtown Americus! Festivities begin at 5 p.m. with most shops and businesses staying open until 8 p.m. "First Friday After Dark" continues the festivities into the night after 8 p.m.

The First Friday Art Show is meant to showcase the arts in our community. Artists will be staged in businesses and on the sidewalks in downtown displaying and selling their artwork while performing live demonstrations. Attendees can expect to see artwork in the form of acrylic painting, watercolor painting, pottery, photography, wood crafts, glassblowing, and much more. Local artwork will be on display throughout downtown.

The Americus Street Trolley will provide attendees transportation. The trolley will make a loop of the event and is provided by Americus Main Street, free of charge. All activities,

SEE **FRIDAY**, Page 2

INSIDE

Thunderstorms
High 78 Low 70

Delta Air Lines Foundation awards $50,000 grant to SGTC

SUBMITTED BY SGTC

SGTC officials are shown with a team from Delta TechOps. Shown standing, from left, are SGTC aviation maintenance Instructor Charles Christmas, SGTC Vice President of Economic Development Wally Summers, SGTC Assistant to the President Don Smith, SGTC Academic Dean over Aviation Raymond Hold, SGTC aviation maintenance Instructor David Grant, SGTC Vice President of Administrative Services Lea Coe, SGTC Vice President of Academic Affairs David Kuipers and SGTC aviation maintenance Instructor Victoria Herron. On the front row are SGTC President John Watford, Ed.D., (second from right) with Delta officials, Joe Mras, Atlanta Station Manager from Endeavor, and Mike Mackey, Manager of the Delta TechOps Training.

AMERICUS — The Delta Air Lines Foundation is providing South Georgia Technical College (SGTC) and the SGTC Foundation with a restricted grant of $50,000 to enhance SGTC's aviation maintenance technology curriculum development, projects and material support, to increase students' awareness, knowledge and skills of avionics/electrical and composite structures.

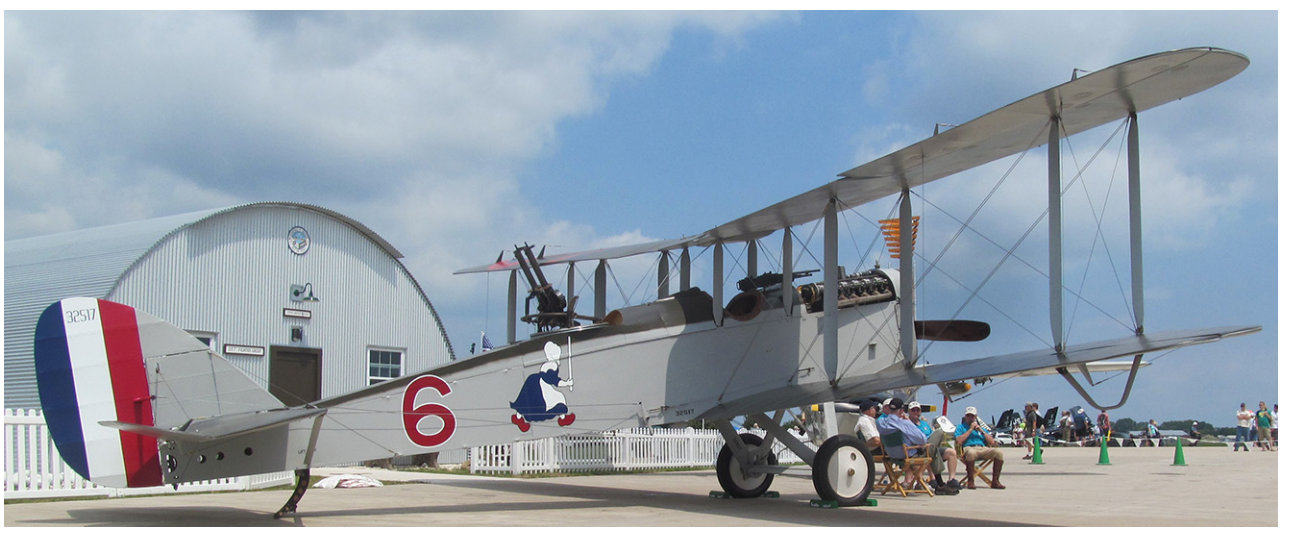
Earlier this year, SGTC officials signed a partnership agreement with Delta Air Lines that allows the college to be designated as a Delta-selected preferred training institution for airframe & powerplant (A & P) mechanics. SGTC is Georgia's oldest aviation school and its rich history makes it one of the oldest aviation training facilities in the United States.

"On behalf of the faculty, staff, and students at South Georgia Technical College, I would like to thank Delta Air Lines for the opportunity to enter into this

SEE **DELTA**, Page 2

Souther Field 'on the road'

By MARTY STEINER



SUBMITTED BY MARTY STEINER

The Annwidh 41, an aircraft used in World War I.

Historic Souther Field sent two of its Innovation Team (I-Team) to the world's largest aviation event in Oshkosh, Wisconsin, last week. The purpose was to identify and contact the owners of aircraft that the team like to see at Souther Field this fall as the field's centennial is celebrated.

Mike Cochran, regarded as Souther Field's historian, and this writer,

SEE **SOUTHER**, Page 2

Sumter County is storm ready

SUBMITTED BY NIGEL POOLE

This is one of 11 'Storm Ready' signs being installed around Sumter County. Four are located at both entrances to U.S. Highway 19 and Ga. Highway 49 to Macon County and U.S. Highway 280 to Crisp County. The remaining signs will be put on county-owned roads in the future.

FRIDAY
From Page 1

exhibits and performances are free. Maps and playbills detailing the events will be available at participating locations. More information can be found at the Downtown Americus – Main Street Facebook page.

Hunter Frames and Artist Studio will be spotlighting a local artist. The historic Rylander Theatre will host its Touch a Theatre event where attendees will have the opportunity to explore the theater and experience it from a new perspective by trying their hand at the light board, sound board, spotlights, etc. Center Stage Market will be celebrating its third birthday with Wolf Creek Wine samples, pen & paint prints, and discounts on Halo Top Ice Cream. Ginger Roots, a salon, will have hair models and will be offering free hair glittering! Mobile Glassblowing Studios invites everyone to participate in its "Many Hands" collage project while enjoying art supplies-themed glassblowing demonstrations.

Attendees can also take advantage of great shopping deals downtown on Friday night. 2LC Bakery, The Kinnebrew Co., Merle Norman Cosmetic Studio, Americus Snoball & Shaved Ice Co., The Maze, Scott's Jewelry, and the Americus Welcome Center will all be open late offering something special in the form of discounts, samples, tastings, giveaways, and more for customers. Stop by The Huss Foundation for free beer and hot dogs!

This event is organized by Americus Main Street and the City of Americus. One of the goals of the organization is to cultivate downtown Americus' economic and cultural enrichment by providing a platform for entertainment and social engagement to the general public on a regular basis.

SOUTHER
From Page 1

writer, visited with owners, restorers and pilots of World War I aircraft. Authentic original aircraft are rare, with full size replicas replacing many types that no longer exist. In addition, scale replicas round out the potential list of displayable planes. All of these gather at the annual EAA AirVenture in Oshkosh each July.

Each of these early aircraft are treasures and not put to needless risk. Travel to aviation events, such as the Great Aero Event and Fly-in at Souther, is usually accomplished by dismantling the airplane, trucking it to the site and then re-assembling it. This requires a variety of local resources to accomplish. The I-Team will begin reaching out to the local community to provide that much needed support.

Souther Field came into existence to prepare pilots for service in World War I. This is also the Centennial of the United States entering the war. While World War I and its aircraft are the focus, the Souther Field event will also include examples from all periods. Examples of these including aviation's Golden Age of the 1920s and '30s; World War II and early jets were also contacted at Oshkosh.

In addition to an aero event this will be a "fly-in" where private pilots and their families will join local and neighboring folks for the weekend's activities. Americus' hospitality will make these special guests feel welcome.

This Centennial event is intended to be the first of annual aviation events at Historic Souther Field. Possible future themes include, in 2019, "The Beginning of the End" featuring the World War II Army Air Forces (Air Corps) aircraft that paved the way for the Normandy Invasion. The year 2019 is the 75th Anniversary of D-Day. Naval aircraft of the great carrier fleets that fought across the Pacific would be the focus in 2020, the 75th Anniversary of V-J Day, the end of the war in the Pacific. Agricultural aviation (crop dusting) will celebrate its centennial in 2021. And so on.

The Historic Souther Field "I-Team" members are excited about the history and future of the airport and hope the community will share in that excitement!

DELTA
From Page 1

ship with our aviation maintenance and avionics technology program," said SGTC President John Watford, Ed.D. "I also want to thank The Delta Air Lines Foundation for this generous grant that will provide additional training materials for the aviation and avionics students on our Americus campus. South Georgia Tech has a rich history of outstanding aviation maintenance education. Our college been offering aviation training since the school opened in 1948. Even prior to being designated as a school, our grounds were utilized as an aviation training base during World War I and World War II."

"This partnership is a tremendous opportunity for the South Georgia Technical College aviation maintenance technology and avionics maintenance technology students to be able to align their skill sets with elite industry standards and be considered for employment by regional and mainline aviation carriers upon graduation," added Watford.

Under the partnership agreement, Delta leaders are invited to attend and participate in the SGTC aviation and avionics maintenance technology advisory board meetings to provide the college with updates on training curriculum as well as offer aircraft and avionics materials to the college for student practice and training.

Additionally, SGTC will continue to promote a safety culture and identify and arrange introductions of its top-performing aviation maintenance students to Delta leaders. The college will also help facilitate meet and greets with students, educating them on opportunities and employment benefits of regional and mainline aviation carriers and expand marketing efforts to make the public more aware of aviation career opportunities.

The aviation maintenance technology and avionics maintenance technology programs at SGTC are six terms in length and new applications are accepted fall and spring semesters. SGTC has a 99 percent job placement rate for graduates.

Students in the AMT program receive an introduction to the occupational area of aviation maintenance as currently understood and practiced by the Federal Aviation Administration (FAA) mechanic certificate holders with airframe and/or powerplant ratings. The combined powerplant and airframe curriculum is designed to provide students with the technical knowledge and skills required to diagnose problems and repair aircraft powerplants, both reciprocating and turbine, their systems and components; and airframes, both metal and wood, their systems and components. Satisfactory completion of all program courses entitles students to participate in FAA powerplant and airframe examinations and certification processes.

The avionics maintenance technology program emphasizes a combination of aircraft, airframe and avionics theory and practical application necessary for successful employment. Program graduates receive an avionics maintenance technology diploma that qualifies them as avionic technicians and prepares them to sit for the FAA Airframe certification exams as well as the Federal Communication Commission (FCC) and General Radio Operating License (GROL) exam.

For more informations visit www.southgatech.edu or call 229-931-2394. Registration for fall semester is Aug. 16. Fall semester classes begin Aug. 20. SGTC has on-campus housing available.

The Delta Air Lines Foundation is a nonprofit corporation formed in 1968, to enhance Delta's charitable giving. The Foundation is focused on the key areas of education and health and wellness.

TOWN CRIER

AMERICUS

Public Hearing: The Sumter County Board of Commissioners has a public hearing to receive public input on the proposed 2018 millage rate at 6 p.m. Aug. 1 at the Sumter County Courthouse. Immediately after the public hearing, the Board will have a special called meeting to set the millage rate. All meetings of the Sumter County Board of Commissioners are open to the public.

Back to School Bash: The Americus Police Department hosts a Back to School Bash for students in all grade levels from 4-6 p.m. Aug. 1 at the Russell Thomas Jr. Public Safety Building, 119 S. Lee St. Door prizes donated by Lowe's of Americus. Sponsors include Walmart, Finnicum Motor Co., South Georgia Technical College, Food Lion and Save a Lot. The Sumter County Health Department will be on hand with information on students' immunization records. For more information contact Sierra Harvey 229-924-3677, ext. 328, or sharvey@americusga.gov

Board of Assessors: The Sumter County Board of Assessors meets at 9 a.m. Aug. 7 at the Sumter County Courthouse in the Board of Assessors office. The meeting is open to the public.

Blood Drive: The Americus Fire & Emergency Services hosts a blood drive from 11 a.n.-3 p.m. Aug. 15 at Station #1 at 119 South Lee St.

Servsafe® Training: Servsafe® Training for Food Service Managers is Aug. 21 and 22. Pre-registration is required by Aug. 3. Cost is $140. Call 924-4476 for information or stop by the Sumter County Extension Office, Sumter County Agricultural Center.

Arts in Rees Park: Arts in Rees Park is a fun-filled family day outside at Rees Park featuring musical entertainment, art demonstrations (glassblowing, painting, ceramics wheel, and art activities), food vendors, school group art exhibits, artists and vendors (jewelry, glass art, quick sketch portraits, bows, ceramics, treasures, acrylic paintings, and beauty products), as well as a storyteller, puppet shows, and a sidewalk chalk art competition. Event is from 10 a.m.-3 p.m. Sept. 8. Free admission.

ALBANY

Alzheimer's Walk: Walk to End Alzheimer's is Oct. 20 at the nature trails behind Modern Gas in Albany. Registration begins at 5 p.m. Nearly 350 people from the South Georgia area including Baker, Clay, Crisp, Dougherty, Early, Lee, Mitchell, Quitman, Randolph, Stewart, Sumnter, Terrell, Webster and Worth counties are expected at this year's event to raise awareness and funds to fight Alzheimer's disease. Walk participants will complete a two-mile walk and will learn about Alzheimer's disease, advocacy opportunities, clinical studies enrollment and support programs and services from the Alzheimer's Association. Walk participants will also honor those affected by Alzheimer's disease with the poignant Promise Garden ceremony. Register today. Sign up as a Team Captain, join a team or register to walk as an individual at alz.org/walk.

ONGOING AMERICUS

Volunteers Needed: Harvest of Hope Food Pantry needs more volunteers of all ages on Monday and Tuesday mornings at 606 McGarrah St. For information contact Jan Olek at btrflyjan@yahoo.com.

Foster Care: HOPE Foster Care, a ministry of The Methodist Home, is working to recruit and train successful foster parents in the Southwest Georgia community. May is National Foster Care Awareness month and the need

SEE **TOWN**, Page 6

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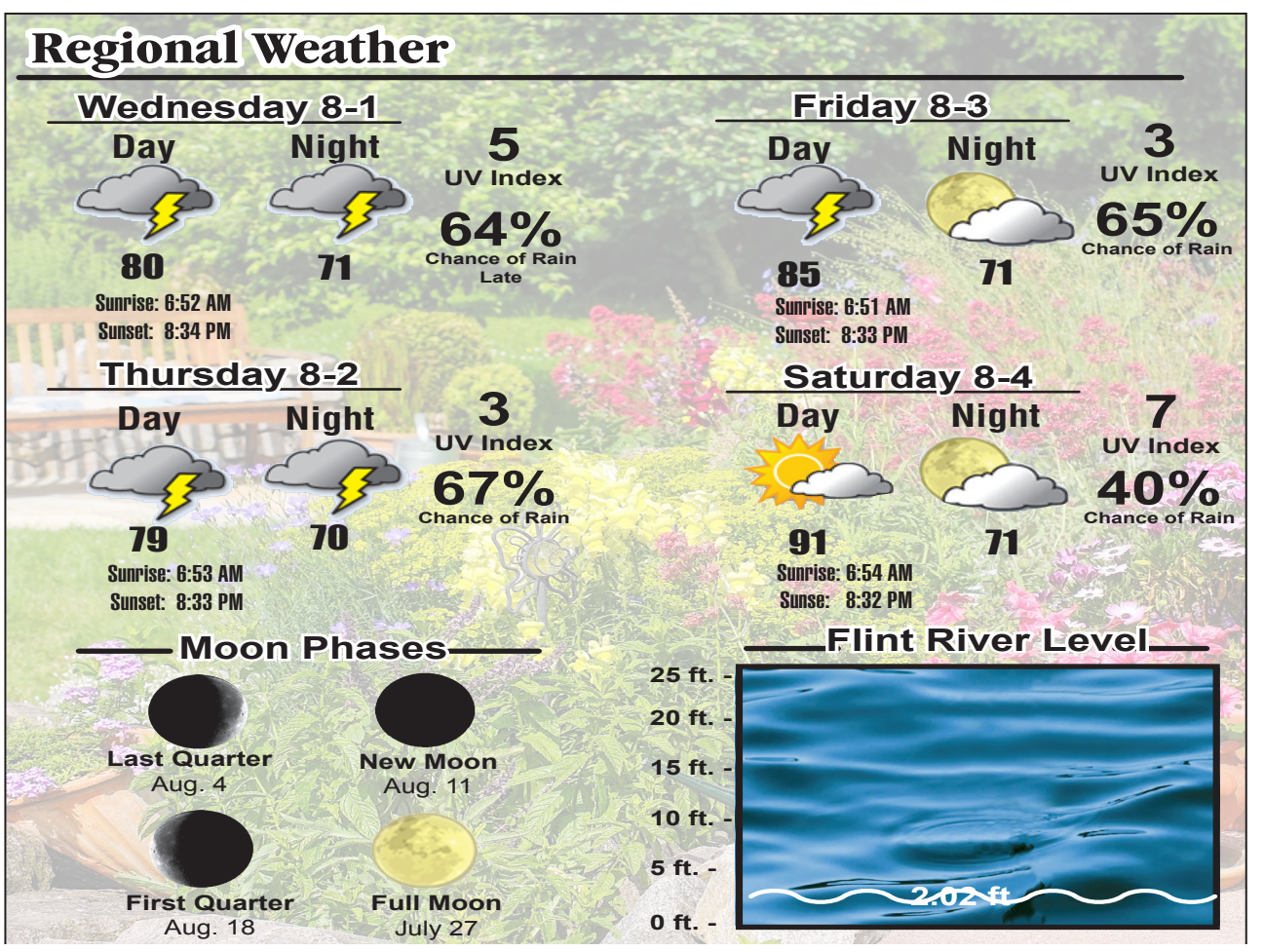
Editorial Corrections:
The Americus Times-Recorder attempts to publish information first, but first this information must be accurate. If you find information in the newspaper that may contain an error, please contact the Americus Times Recorder's editorial department promptly so this informaiton can be reviewed, and if necessary, a correction published in a timely fashion.



AREA BEAT

Americus Fire & Emergency Services

• Firefighters responded to 87 calls for medical assistance.

• Firefighters responded to Hawkins Street to conduct a welfare check.

• Firefighters responded to Ga. Highway 26 East, Ellaville, as mutual aid to Schley County Fire Department, which was already on scene with Sumter County Fire & Rescue. The structure fire was contained prior to their arrival. They assisted in interior overhaul and assisted in extinguishing hot spots.

• Firefighters responded to a traffic accident at Tripp and Lamar streets.

• Firefighters responded to Hill Street where they used a chainsaw to remove a tree from the roadway.

• Firefighters responded to a traffic accident on East Lamar Street.

• Firefighters responded to a traffic accident on Southerfield Road.

• Firefighters responded to Destiny Fitness, 103 Prince St., to a report of a structure fire. They were advised that a tanning bed was smoking while in use. They found that the breaker had been tripped to the tanning bed in the electrical panel. Business personnel were advised to have it checked out before restoring power to it.

• Firefighters responded to a traffic accident at Roney Street and Mary Blount Drive. One of the drivers fled the scene and other occupants were treated by EMS. Fire personnel applied oil dry to fluids leaking from one of the vehicles.

• Firefighters responded to a traffic accident on Murphy Mill Road.

• Firefighters responded to West Dodson Street to check on a door bell that would not stop ringing. They discovered a wiring problem and advised occupant to contact an electrician.

• Firefighters responded to Belk, 1456 E. Forsyth St., to a report of a possible structure fire. They investigated but found no hazards.

• Firefighters responded to O'Hara Road to a smoke alarm malfunction. They replaced the batteries.

• Firefighters responded to East Hill Street where occupant had locked themselves out of the structure. They broke a window pane to unlock the back door.

• Firefighters responded to Davis Drive to remove a tree limb from the roadway.

• Firefighters responded to a traffic accident on West Church Street.

• Firefighters responded to Wheatley Street to a report of a burning odor. Everything was checked and no hazards were found.

• Firefighters responded to East Lester Street where they found a fallen tree blocking the roadway with downed lines. They and Public Works used a chainsaw to cut up the tree for removal from the roadway.

• Firefighters responded to a traffic accident on East Lamar Street.

• Firefighters responded to Winn Street to a report of a possible structure fire. They found a small barbecue grill on the side of the house with burning cloth in it. They extinguished it with a water can.

• Firefighters responded to Big A Party Center, 1201 N. Martin Luther King Jr. Blvd., to an alarm. Sumter Fire was already on scene. Investigation revealed condensation activated the alarm.

• Firefighters responded to Barlow Street to a report of gas odor. No hazards were found.

• Firefighters responded to Walnut Street to a report of wires down. They found a tree had fallen across the roadway striking a power line causing it to sag, along with a sagging cable line.

• Firefighters responded to Broadhurst Street to a report of a gas odor. No hazards were found.

• Firefighters responded to an alarm at Perfect Care, 114 Sullivan Drive. They found that someone had attempted to microwave something in aluminum foil.

• Firefighters responded to East College and South Lee streets to a report of wires down. They blocked the roadway and Georgia Power was notified.

• Firefighters responded to a report of wires down on Bumphead Road. They found a wire lying in the roadway. A worker on scene advised his excavator came into contact with the guide wire and caused a power line to fall, which burned the grass. Georgia Power was notified.

• Firefighters responded to Laurel Circle to a report of a strange noise. They advised the occupant the sound was of frogs outside the residence.

• Firefighters responded to a carbon monoxide alarm on West Dodson Street. No hazards were found.

• Firefighters responded to Barlow Street to a report of a possible structure fire. No hazards were found.

• Firefighters responded to a traffic accident at North Lee and Ashby streets.

• Firefighters responded to Felder Street to a report of wires down. They found a cable wire across the driveway which they rolled to the side.

• Firefighters responded to Patton Drive to a report of a power line down. They found a large tree lying across a power line that had broken a power pole. They established a safe zone and stood by until Georgia Power arrived.

Americus Police Department

Arrest

• David S. King, 29, of 101-B Eastview Circle, Americus; probation violation; jailed. (7-27-18)

Citation

• Travin G. Harris, 22, of 133 Lake Ridge Drive, Americus; reckless driving. (7-27-18)

Georgia State Patrol Post 10, Americus

Arrest

• Nathan B. Payne, 39, of Leesburg; misdemeanor possession of marijuana; released on bond. (7-26-18)

Sumter County Fire & Rescue

• Firefighters responded to Pecan Street to a report of a utility line down.

• Firefighters responded to a grass fire on Ga. Highway 45 South.

• Firefighters responded to a grass fire at Leslie Lamar and Lamar roads.

• Firefighters responded to a report of a vehicle in a ditch on Ga. Highway 30 West. No incident was found.

• Firefighters responded to Pecan Terrace to assist EMS with someone who fallen.

• Firefighters responded to a woods fire on Henry Hart Road.

• Firefighters responded to a woods fire on U.S. Highway 280 West.

• Firefighters responded to a woods fire on Ga. Highway 30 West.

• Firefighters responded to a traffic accident at Ga. Highway 49 North and South Georgia Rech Parkway.

• Firefighters responded to an alarm at the Windsor Hotel, 125 E. Lamar St.

• Firefighters responded to a smoke detector alarm on Hosanna Circle. There was no fire.

• Firefighters responded to an alarm on Hooks Mill Road. The wrong code was entered.

• Firefighters responded to an alarm on Park Row Extension; there was no fire.

• Firefighters responded to a report of a hay bale on fire at Lamar Road and Ga. Highway 195 North. They found a permitted, controlled burn.

• Firefighters responded to an alarm on Sunset Park Drive.

• Firefighters responded to a structure fire on Ridge Street.

• Firefighters responded to a report of smoke in the area on U.S. Highway 280 East.

• Firefighters responded to an alarm on West College Street.

• Firefighters responded to a tree stump on fire on McMath Mill Road.

• Firefighters responded to Yankee Road to a report of a smoke odor.

• Firefighters responded to a traffic accident at Ga. Highway 49 North and New Era Road.

• Firefighters responded to a traffic accident on Wise Road.

• Firefighters responded to an alarm on Habitat Street. It was a system malfunction.

• Firefighters responded to a tree hanging over the roadway at U.S. Highway East and Luke Street.

• Firefighters responded to a tree over the roadway on North Spring Creek Road.

• Firefighters responded to a tree over the roadway on Ga. Highway 308.

ª Firefighters responded to an alarm on Hancock Drive; there was no fire.

• Firefighters responded to an alarm on Tallent Store Road, activated by someone cooking.

• Firefighters responded to a grass fire caused by a downed powerline on Small Piece Road.

• Firefighters responded to a grass fire in the woods at Neon Bass and Calvary Church roads.

• Firefighters responded to a structure fire on Cherokee Street.

• Firefighters responded to an alarm on Ga. Highway 195 North caused by a malfunction.

• Firefighters responded to a tree over the roadway at Ga. Highway 49 North and County Line Road.

• Firefighters responded to a structure fire on Wildwood Circle.

• Firefighters responded to an alarm on Edgewood Drive.

• Firefighters responded to a traffic accident on U.S. Highway 19 North where a vehicle had flipped onto its side,

• Firefighters responded to a structure fire in Webster County as automatic aid.

• Firefighters responded to U.S. Highway 280 West to a report of smoke in a room which was a result of someone putting a plastic plate on the stove.

• Firefighters responded to Pecan Road and U.S. Highway 280 East to a report of a dirt bike accident. Nothing was found.

• Firefighters responded twice to U.S. Highway 280 West to assist EMS.

• Firefighters responded to Ga. Highway 49 South to a cooking fire where someone has left in the stove unattended.

• Firefighters responded to an alarm on Bozeman Circle caused by a malfunction.

• Firefighters responded to a traffic accident on Ga. Highway 27 East.

• Firefighters responded to an alarm on Rigas Road.

• Firefighters responded to a structure fire on Reddick Drive.

• Firefighters responded to a traffic accident on U.S. Highway 19 South.

• Firefighters responded to Little Bear Branch Road where they assisted EMS with lifting a patient.

Sumter County Sheriff's Office

Arrest

• Lindsey B. Conner, 37, of 317 Shirley Road, Americus; possession of a Schedule I Controlled Substance; jailed. (7-26-18)

• Joel Garcia, 30, of 1610 S. Lee St., Americus; misdemeanor possession of marijuana; jailed. (7-27-18)

Citations

• Jean S. Augustin, 48, of 301 Brookdale Drive, Americus; expired or no registration of title. (7-27-18)

• Jennifer J. Barrera, 40, of 5949 Hamilton St., Preston; failure to exercise due care. (7-25-18)

OPINION

OTHER OPINIONS

Naked vacations: yes, that's a thing

According to NBC News, the travel industry's latest trend is the "nacation."

As the name implies, a nacation is a "naked vacation." Florida alone has 30 clothing-optional resorts, and Carnival is among the cruise lines catering to such recreational activities.

I'm not going to try to talk anyone out of nacationing. I don't need the well-worn "Don't knock it until you've tried it" quip. (Hmm ... wouldn't it save a lot of airtime and newsprint if the FDA allowed pharmaceutical companies to skip all the disclaimers about nausea, dizziness, prehensile tails and the like and simply advertise their pills with "Don't knock it until you've tried it"?)

NBC enlisted psychologists to explain nacation mania. Tellingly, the psychologists analyzed the movement from afar, instead of allowing the participants on their couches. Psychologists saw nacations as a healthy release of mankind's primal urges for voyeurism and exhibitionism. ("Next up: let's wipe out the village on the other side of the hill!")

The exhilarating emotional/physical freedom of a nacation speaks to basic human longings. People are chafing under the inhibitions of their daily lives. Some people yearn to escape a war-ravaged country. Some people yearn to escape a physically abusive marriage. Some people yearn to escape relaxed-fit jeans. We all have our crosses to bear.

I'm sure there are uptight people who would like to preach fire and brimstone to the nacationers, but pronouncements of a special corner of hell would likely fall on deaf ears. Our culture's priorities have changed. ("Wailing? Gnashing of teeth? OK, OK. But what's the dress code like?")

Nacations are supposed to break down the class barriers that are perpetuated by clothing. But, honestly, isn't a prideful "Check out this Armani suit" a little less of an imposition than "Check out these irregularly shaped moles. Be thorough, buddy. I spent all my co-payment money on sunscreen"?

Yeah, nacations are touted as the Great Equalizer. As the week progresses, the Beautiful People get taken for granted, and the grossest of the nacationers start looking less repulsive. Redistribution of appeal! Nacations are a form of Democratic Socialism! ("Sorry, I can't go girth-challenged dipping or play nude volleyball until after we nationalize the volleyball factory!")

Nacation "judgment-free zones" are praised as empowering. Your nakedness desensitizes total strangers to the point of saying, "Meh." ("Dance, you jaded puppet, dance!")

But does stripping down really offer a satisfying long-term experience, or is it a "gateway drug" for some? ("Next year, I'm bringing a portable X-ray machine!")

I'm worried that the feel of the ocean on naked flesh is way too life-affirming for some people. Will these powder kegs be able to handle the daily grind of returning to work? ("Flipflops? Tank tops? You call that Casual Friday?")

Nacations certainly have momentum going, but they will never be a mainstream, family-friendly experience until grownups can come to grips with inevitable roadtrip annoyances.

"Are we naked yet? Are we naked yet? Are we naked yet?"

Danny Tyree welcomes email responses at tyreetyrades@aol.com. His weekly column is distributed exclusively by Cagle Cartoons Inc. newspaper syndicate.

YOUR OPINION

Proud of Americus

I have always been proud to be from Americus. This community has been very special to me my entire life. Never more so than when Creed fought his battle with cancer. Through it all, you supported us in ways I could never have imagined.

I couldn't have dreamed I would see the delight in his eyes as a plane loaded with the Easter Bunny dropped eggs for his benefit; or watch him ride a motorcycle with the Bunny himself. But you made that happen. I remember it like it was yesterday.

And then we lost Creed, and you were there. You wrapped your arms around me and my family in love and concern. I couldn't have made it through without you.

And now! After losing Frankie Williams, you chose to remember Creed by joining us in the fight against childhood cancer in his honor. The total donated was a whopping $12,000! You will never know what that means to me. I am more proud of my family, friends, and my community than ever before.

From the bottom of my heart, THANK YOU!

Stephanie Fee
Franklin, Tenn.

INSPIRATION

"In whom we have redemption through his blood, even the forgiveness of our sins."

Colossians 1:14

YOUR TAKE

SUBMITTED BY SGTC

SGTC President John Watford, Ed.D., is shown at left with Warren Hodges Jr., his son Chad Hodges, mother Sue Statham, brother and sister-in-law, John and Becky Statham and his daughter Tiffany Hodges. See story on page 6.

OTHER OPINIONS

Lt. Gov. Casey Cagle should have winked more, talked less

DICK YARBROUGH
Columnist

Dear Casey:

Well, so much for that coronation. Jeepers Creepers. Give me $10.5 million in campaign contributions and the endorsement of one of our most popular governors in recent times and I could have gotten Cameron Charles Yarbrough elected Pope.

Instead, with all that money, Gov. Nathan Deal's endorsement, very high name recognition, two decades of collecting politics IOUs and an early and sizable lead in the polls, you barely got a third of the vote in the Republican primary runoff in Georgia and less than 50 percent in your home county of Hall. Unbelievable.

If you want to know how you lost the race, go look in the mirror. Your opponent, Secretary of State Brian Kemp, didn't win the runoff as much as you lost it.

Much has been made of Kemp's television ads where he intimidates a little dweeb who wants to date his daughter by reminding him that he has a gun in his lap. I was hoping the little dweeb would tell Kemp that he, too, had a gun and was bad-prone to kneecap trash-talking daddies that got on his nerves.

In fact, Brian Kemp could have read recipes out a cookbook ("Y'all cook up one of these here taters and whup it to tarnations and then go find you some pappy ricker and throw it on the tater. Yum! Yum! Them's some good eatin'.") and he still would have waxed you.

Your undoing was your intemperate comments sprinkled with salacious locker room language to former Republican gubernatorial rival and fourth-place finisher Clay Tippins (or rather to Tippins' hidden cellphone) which were absolutely stupefying. You said you were trying to secure his endorsement. So much for that good idea. The guy is a Navy SEAL, for Pete's sakes. You just don't mess around with Navy SEALS. They are different hombres. You are lucky he didn't rip out your jugular vein and feed it to you for lunch.

Yours was one of the worst political gaffes I have witnessed in my long life except for that dodo-head legislator in Woodbine who got duped into yelling racial epithets, pulling down his red underwear (yuck!) and showing his ample behind on national television. That one defies all logic.

I am still trying to figure out what compelled you to say the things you didn't need to say to a guy you didn't even know that well. Did you consult with your crack staff of political consultants prior to the meeting? If so, did you tell them you were going to discuss having forced the passage of a private school tax credit bill that you called bad "in a thousand different ways" so that special interest groups who have nothing but disdain for public education wouldn't dump a few million on your rival, former state Sen. Hunter Hill?

If you did consult with your political consultants about the fact you were going to open your verbal kimono to this guy and they said, "Brilliant idea, chief. And don't forget to mention that the whole campaign has been about 'who had the biggest gun, who had the biggest truck and who could be the craziest. Ha! Ha! Ha! You da man!" you need to ask for a refund.

Obviously, they didn't pass along my advice that in politics you should never write what you can say and never say what you can nod and never nod what you can wink. Had you chosen to wink-wink your way through your meeting with Clay Tippins, we might be talking about you being our next governor and not our soon-to-be former lieutenant governor and the consultants might still be gainfully employed instead of trying to explain to potential clients why they let you blow an almost unsurmountable lead.

OK, what's done is done. The good news is it looks like you are going to have lots of free time on your hands. If you are looking for some fun stuff to do, don't hesitate to give me a call. I owe you that much for not telling you earlier that you were running the wrong kind of campaign. Trying to out-mud wrestle your right-wing opponents was a big mistake. Talking too much instead of wink-winking was a fatal mistake.

In the meantime, if you do decide to take some much-needed R&R, I would strongly suggest you avoid the Georgia Aquarium. That place is full of seals and we know the kind of damage they can do.

All the best,
Dick

You can reach Dick Yarbrough at dick@dickyarbrough.com; at P.O. Box 725373, Atlanta, Georgia 31139 or on Facebook at www.facebook.com/dickyarb.

Americus Times-Recorder

M. Elizabeth Alston
Editor and Publisher

YOUR OPINIONS COUNT

Please address letters to: Letter To The Editor, the Americus Times-Recorder, P.O. Box 1247, Americus, GA 31709.
The newspaper also accepts letters via e-mail at beth.alston@americustimesrecorder.com

Please include your name, full address and daytime phone number so we can verify your letter and discuss any questions about it with you. The Times-Recorder reserves the right to reject any letter to the editor. The opinions of the letter writers do not necessarily reflect the views of the newspaper.

A TO Z Kids News

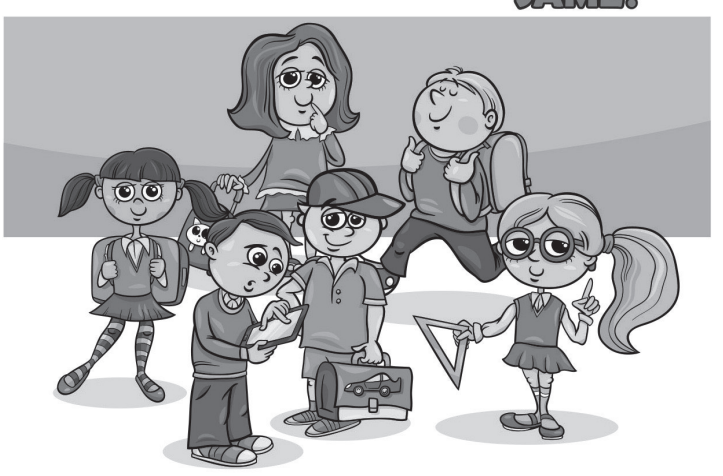
It's that time again! In the United States every August and September, millions of kids and adults return to school. This time is commonly called "Back to School." There are many different types of school programs beginning, such as elementary school, middle school, high school, and colleges and universities. People of all ages attend school to learn many different things. Elementary school is for ages five to 10; middle school is for ages 11 to 13; and high school is for kids from 14 to18, depending on their birthday. Colleges and universities are schools where adults can further their studies. While you may feel nervous about the new school year, it is important to remember that everyone feels a little scared on the first day of school. When you see your old friends and meet your new teachers, you will feel better! One way to fight the jitters is to be prepared. Have your school supplies ready and packed. Get your favorite outfit ready the night before. Be sure to give yourself plenty of time to eat a healthy breakfast before leaving for school or catching the bus. If you see students new to the school on the first day, be kind and courteous to them. They may need your help in finding their classroom. Don't participate in bullying; keep your mobile phones at home; and listen to your teachers. It is important to remember that all the people with whom we attend school deserve respect!

SCHOOL WORD SEARCH

T G F L G C B Q Z K E M L G Y
I L R O N C W B H S L O R R O
S A B O I E R B C K B U S E J
Y P E H N C I K O R L I V H L
O I C C R N T D G O P B M C P
S C I S A E I B N W K Y S A U
N N T R E I N O I E G B S E S
O I E E L C G O L M I G A T E
S R M A T S W K L O F C L G I
S P H D N D T S E H V M C M L
E E T I E M S C P B S I L Y P
L B I N D G H I S T O R Y G P
S T R G U C A F E T E R I A U
X O A E T K U R D K E X N S S
G H E J S K R A Z C Q U V C P

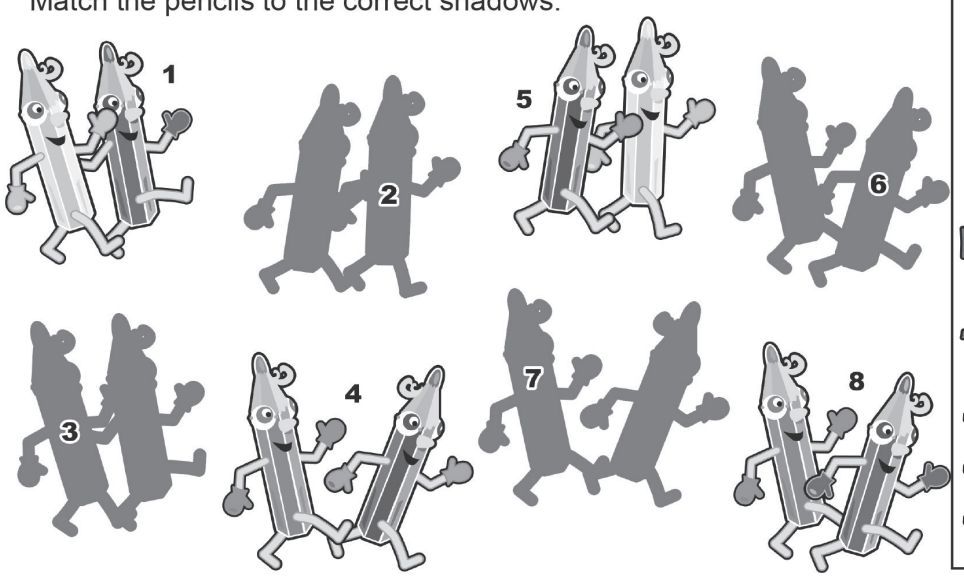
Arithemetic, Bookbag, Books, Bus, Cafeteria, Class, Gym, History, Homework, Learning, Lessons, Principal, Reading, School, Science, Spelling, Student, Supplies, Teacher, Writing

B2S COLOR IT!



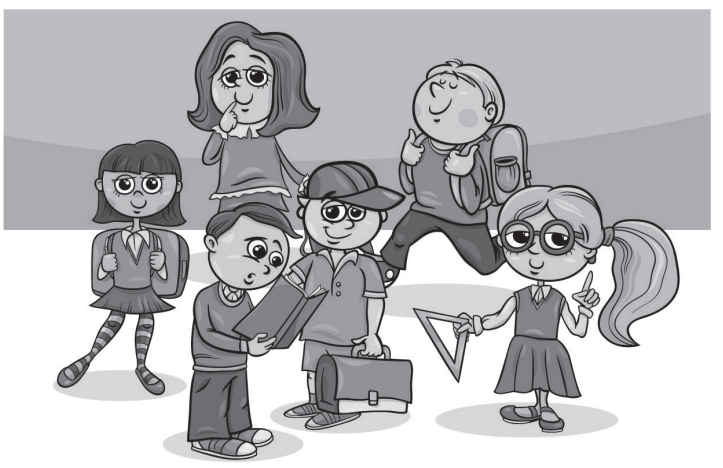
SCHOOL SUPPLY SHADOW MATCH

Match the pencils to the correct shadows.



HOW MANY WORDS CAN YOU SPELL FROM THE WORD TEACHER?

_____
_____
_____



Match Ans: 1-3, 4-7, 5-2, 8-6

WHICH 6 THINGS ARE NOT THE SAME?

A SPECIAL THANK YOU TO ALL OUR SPONSORS!

TOWN
From Page 2

for foster families is significant. There are approximately 1,000 children in foster care in our community and HOPE Foster Care is working to combat that problem by increasing the number of foster parents who feel equipped to welcome a foster child into their home. The next foster parent training will begin in June, so those interested should contact Beth Greene at 478-464-3025. If you are interested in learning more about HOPE Foster Care, visit www.HopeFosterCare.org.

Six Flags Tickets: Stop by the Sumter County 4-H Office, Sumter County Agricultural Center, William Bowen Pointe to purchase your ticket(s) for $48.50 each and save! Cash only and no refunds. Gate price is $74.19. Tickets valid any regular operating day in the 2018 season. Children age to and under get in free. Call 229-924-4486.

Caregivers' Companion: The monthly Caregivers' Companion Support Group meets the at 6 p.m. the second Thursday of every month at the Roman Oven Pizzeria. All former and current caregivers for persons with Alzheimer's disease or a related dementia are welcome. Meals are Dutch treat.

Free Service: Americus Fire & Emergency Services offers free blood pressure checks from 8 a.m.-5 p.m. Monday through Friday at Station 1 (South Lee Street).

Narcotics Anonymous: First Step Group meetings have moved to a new location at 126 Forest Street and are 7:30 p.m. Tuesdays and Fridays.

Weight Watchers: Weight Watchers meets Thursdays at First Presbyterian Church, 125 S. Jackson St. Weigh-in is at 5 p.m., followed by meeting at 5:30 p.m. Visit weightwatchers.com

Mustard Seed House: Calvary Episcopal Church's Mustard Seed House is open from 9 a.m.-1 p.m. every Saturday on Brannan Avenue. Stop by for some great deals.

Al-Anon: You do not have to be an alcoholic to suffer from the effects of alcoholism. Al-Anon offers a safe place to recover from the effects of another person's drinking. Meetings are 7-8 p.m. Tuesdays at the AA Clubhouse, Ga. Highway 30. All meetings are confidential and open to interested persons.

A.A. Meetings: Alcoholics Anonymous meets from 3-4 p.m. Wednesdays at New Beginnings and the Addiction Recovery Center of Middle Flint Behavioral Healthcare, 952 Anthony St. (across from GSW baseball field). Call 928-2201 for more information.

Friends of Bill W.: Alcoholics Anonymous meets at 8 p.m. Mondays and Tuesdays, 6 p.m. Wednesdays, and 8 p.m. Thursdays and Fridays at 702 Adderton St. Call 229-815-6991 for information.

GED Testing Hours: GED testing at the McClain Center at South Georgia Technical College is 8 a.m.-noon and 1-5 p.m. Tuesdays and the first Saturday of each month. Free GED classes are available. Call 229-931-7323.

Anonymous Crime Tipline: The Americus Police Department has an anonymous crime tip line 924-4102. Citizens can leave information for police about crime in their neighborhood or other areas. The calls are completely anonymous.

Faith Clinic: Sumter Faith Clinic is a non-profit organization directed at meeting the spiritual and health care needs of residents of Sumter County who do not have health insurance or an affordable means to health care. Services include basic, non-emergent medical care of acute conditions as well as treatment of some chronic conditions. Services are delivered by volunteers. The clinic is located at 127 S. Jackson St. next to First Presbyterian Church. Hours of operation are 6-9 p.m. Mondays and 1-5 p.m. Thursdays.

CPR Classes: Americus Fire and Emergency Services will offer American Heart Association CPR certification classes. Call Harriett Williams at 924-3213 .

SGTC's Warren Hodges Jr. retires after 30 years

AMERICUS — For 30 years, Warren Hodges Jr., has diligently worked to keep South Georgia Technical College's (SGTC) campus something that the students, faculty, staff, and community could be proud of. He decided it was time to retire and let someone else share that responsibility, but not before a large number of faculty, staff, and family members gathered to thank him for his service and wish him well in retirement.

"Our campus has a wonderful appearance and one of the first things that I hear from visitors when they see the Americus campus is how beautiful the grounds are maintained," said SGTC President John Watford, Ed.D., at the retirement reception held for Hodges in the John M. Pope Industrial Technology Center on the Americus campus recently.

"Warren has had a lot to do with the appearance of this campus for the past 30 years and I may be a little prejudiced, but I think we have one of the most if not the most beautiful campus of any college in the state," said Watford. "Warren has always taken pride in his job duties and it shows. We will certainly miss him."

Hodges first came to South Georgia Tech in 1976, to study automotive mechanics. He finished that program and went to work. He returned to the campus in September 1986, and began his career as a utility worker. He stayed less than a year and resigned. But in April 1989, he returned as a groundskeeper/maintenance worker and from 1989 through June 1, 2018, he made sure that the SGTC campus looked its best.

When Watford thanked Hodges and presented him with a plaque and a card signed by faculty and staff, Hodges said, "You are certainly welcome. It was my pleasure and I plan to come back and check on everything to make sure it is still looking good." The plaque included the SGTC logo with the words, "Presented to Warren F. Hodges Jr., in appreciation for your 30 years of faithful serve to South Georgia Technical College, May 31, 2018.

In addition to the comments by Watford, Don Smith, assistant to the president who oversees the facilities, said, "The whole facilities have changed in the 30 years that you have been here. You had to love South Georgia Tech to do what you have done to make and keep this campus beautiful for all those years."

Jeff Wiseman, director of Maintenance at the college, was Hodges' immediate supervisor. "The first time I met Warren, he told me he kept the grounds up and that he cut all the grass. I didn't think much about that until Warren took two weeks off in the middle of the summer and I had to help cut all the grass. I had a new respect for Warren," laughed Wiseman. "Over the years, the campus got bigger and Warren began to supervise the inmates over the last 15 years to help maintain the campus. I can truly say that Warren has a great work ethic and I am proud to call him my friend and coworker."

Glen Cobb, air conditioning technology instructor on the Americus campus, started as a maintenance technician. He echoed Wiseman's comments and said it was a pleasure to work with Hodges and that he would be missed.

SGTC Marketing Instructor Mary Cross told about what a compassionate person Hodges was and how he performed acts of kindness for faculty, staff and students. "He is a wonderful employee and person," said Cross.

Hodges is the son of Sue Statham who was in attendance at the reception along with his son Chad Hodges of Americus and his daughter Tiffany Hodges. Warren Hodges III, his other son, could not attend. John and Becky Statham, Warren's brother and sister-in-law also attended. John is a retired lieutenant colonel for the U.S. Air Force and Becky is the daughter of Thomas Munn, who retired as an aviation instructor at South Georgia Tech.

NOTICE OF SPECIAL CALLED ELECTION TO THE QUALIFIED VOTERS OF SUMTER COUNTY, GEORGIA
STATE OF GEORGIA
COUNTY OF SUMTER

COMES NOW, ROBERT E. BRADY, ELECTION SUPERVISOR FOR SUMTER COUNTY, GEORGIA, pursuant to a Court Order, issued by the Honorable Joseph Sands, and pursuant to O.C.G.A § 21-2-70(3) and O.C.G.A. § 21-2-540(3) (d) hereby calls a Special Called Election in Sumter County to elect members of the Sumter County Board of Education. Board of Education Seats District 1, 3, 5, and 1 At large Seat are up for election.

The Special Called Election shall be held in conjunction with the November 6, 2018 General Election. Dates for qualifying for this Special Called Election will begin at 8:00 a.m. on August 6, 2018, and will end at 12:00 noon, August 10, 2018. The Qualify Fee for this elected position is $72.00. Qualifying of candidates for Sumter County Board of Education, will take place at the Sumter County Board of Elections and Voter Registration, Sumter County Courthouse, 500 West Lamar Street, Suite 110, Americus, Georgia, 31709.

The polls will open at 7:00 a.m. and close at 7:00 p.m. on November 6, 2018. Early voting will begin on October 15, 2018, and will end on November 2, 2018. Early voting hours will be from 8:00 a.m. until 5:00 p.m., Monday through Friday, in the Sumter County Board of Elections and Voter Registration Office, Sumter County Courthouse, 500 West Lamar Street, Americus, Georgia 31709. Saturday Voting will take place on October 27, 2018, at the Office of Elections and Registration from 9 am until 4 pm.

Absentee voting will begin on October 15, 2018, and will end on November 2, 2018. Requests for absentee ballots may be made to the Election Superintendent in writing at the Sumter County Board of Elections and Voter Registration Office, Sumter County Courthouse, P.O. 1263, 500 West Lamar Street, Americus, Georgia 31709.

The last day to register to vote in the special called election to be held on November 6, 2018, is October 9, 2018, at 5:00 p.m.

/S/ Robert E. Brady
ROBERT E, BRADY, ELECTION SUPERVISOR
SUMTER COUNTY, GEORGIA

SUMTER COUNTY CHAMBER OF COMMERCE SEEKING PRESIDENT & CEO

POSITION DESCRIPTION:
The Sumter County Chamber of Commerce in Americus, Georgia is seeking a full time professional leader to guide the Chamber in day-to-day operations and setting goals for the future of the Sumter County business community. The successful candidate will be responsible for directing the Chamber in the initiatives and goals established by the Board of Directors and Membership to grow existing and future programs. This candidate must have an understanding and experience in managing and growing a member driven organization and be an advocate for teambuilding with all the entities involved with the Sumter County economic development job growth and business development. The ability to work with city and county governments, the corporate community and related partner organizations is critical to the success of this individual.

For a detailed Job Description call the Sumter County Chamber, 229.924.2646 or visit the Chamber's website at www.sumtercounty-chamber.com . All resumes may be mailed to P.O. Box 724, Americus, GA, 31709 and must be received July 31, 2018.

Sumter County School System
Current Year 2018 Tax Digest and Five Year History of Levy

The Sumter County Board of Education hereby announces that the millage rate will be set at the meeting to be held at the Sumter County Board of Education Offices, 100 Learning Lane, Americus, Georgia on August 9, 2018 at 7:00 p. m. Pursuant to the requirements of O. C. G. A. 48-5-32 the Board hereby publishes the following presentation of the current year tax digest and proposed levy along with the history of the tax digest and the levy for the past five years.

County School	2013	2014	2015	2016	2017	Proposed 2018
Real & Personal	761,714,977	769,854,071	783,494,665	765,625,626	765,564,169	769,152,085
Motor Vehicles	73,008,350	63,954,140	40,171,890	31,708,600	24,682,790	20,658,750
Mobile Home	3,202,031	2,962,507	2,810,419	2,843,967	2,931,803	2,892,863
Timber - 100%	3,756,790	3,332,824	5,296,389	4,252,691	3,660,546	4,526,216
Heavy Duty Equipment	53,872	758,941	39,402	11,847	13,178	24,258
Gross Digest	841,736,020	840,862,483	831,812,765	804,442,731	796,852,486	797,254,172
Less M & O Exemptions	110,702,892	115,422,911	115,739,597	119,340,916	116,152,397	111,980,778
Net M & O Digest	731,033,128	725,439,572	716,073,168	685,101,815	680,700,089	685,273,394
State of GA Forest Land Assistance Grant Value	5,142,617	6,338,654	6,252,470	7,217,068	7,440,957	7,941,222
Adjusted Net M & O Digest	736,175,745	731,778,226	722,325,638	692,318,883	688,141,046	693,214,616
Gross M & O Millage	17.533	17.533	17.533	18.253	18.253	18.234
Less Rollbacks					0.029	-0.01
Net M & O Millage	17.533	17.533	17.533	18.253	18.224	18.224
Net Taxes Levied	12,907,369	12,830,268	12,664,535	12,636,897	12,540,682	12,633,143
Net Taxes $ Increase	-32,978	-77,101	(165,733)	-27,638	-76,258	92,461
Net Taxes % Increase	-0.25%	-0.60%	-1.29%	-.22%	-0.60%	0.73%

Former Southland coach McMichael inducted GISA Coaches' Hall of Fame

From STAFF REPORTS

AMERICUS — The GISA Coaches Association recently held its annual summer banquet during the coaches' clinics at St. Simons Island. This year's banquet was a special event for one very special member of the Southland Academy family. Former Southland coach Loveard McMichael was inducted into the Georgia Independent School Association (GISA) Coaches' Hall of Fame.

McMichael, a graduate of Americus High School, played football, basketball and baseball at Americus High. As a junior, his basketball and baseball teams both won state championships. After graduating high school, McMichael received a scholarship to play baseball at the University of South Carolina as a pitcher. He was a standout pitcher for the Gamecocks and still holds two school records: fewest walks per nine innings in a season with an average of 1.03 in 1964 (nine walks in 78 1/3 innings pitched) and fewest walks per nine innings in a career from 1964-66. That's an average of 1.55 (36 walks in 209 innings pitched). That is also an NCAA record.

After college, McMichael entered the coaching profession with stops at Americus High, Treutlen High, Lee County, Southland Academy and Schley County. In total, McMichael spent 39 years coaching.

While at Southland, McMichael's teams won three state championships in football (1986, 1991, and 1992). His overall record as the head football coach at Southland was 106-48. He also coached state championship teams in baseball, winning back-to-back state titles for the Raiders in 1991, and 1992. He also won a state championship in baseball while coaching at Americus High in 1970. In addition to winning state championships in football and baseball at Southland, McMichael also led the Raiders to a state championship in golf in 1998.

Today, McMichael enjoys his days of retirement, but can still be seen around the campus watching his grandkids play for the Raiders.

Congratulations are in order for Loveard McMichael and his family for his well-deserved honor from the GISA.

SUBMITTED BY SOUTHLAND

Former Southland coach Loveard McMichael with his family, from left, son Bryan McMichael, daughter Jill Youngdale, granddaughter Camille Cochran, wife Dorothy McMichael, and granddaughter Canoe Cochran.

Hathaway embracing leadership role for Schley Wildcats

BY KEN GUSTAFSON
ken.gustafson@americustimesrecorder.com

ELLAVILLE — Schley County High School left tackle Archer Hathaway will be a junior this year and is a co-captain for the football team. He is pretty much a "born leader," having been a leader on his ninth-grade and middle school teams. "I've always been one of the ones leading everybody and helping everybody get better … just moving everybody towards what we're working for," Hathaway said.

Hathaway was born on Valentine's Day: Feb. 14, 2002, in Valdosta, to Adam and Heather Hathaway. Adam Hathaway is the Schley County School superintendent and Heather teaches science at Schley County High School. Growing up, Archer Hathaway, along with his 12-year-old sister Sariah, have seen much of the state of Georgia. "My family has moved around because my dad has had different jobs in schools," Hathaway said. Before Adam Hathaway became Schley County superintendent, he served as principal of Gilmer County High School in Ellijay, and was the assistant principal at White County High School in Cleveland.

With his experience and solid technique as an offensive lineman, one might think Archer Hathaway has been playing football since he was very young. The truth is Hathaway didn't start football until later. "They wouldn't let me play football until I was about 11 or 12 because I was too big, bigger than the other kids," Hathaway said. "They waited for the other kids to catch up."

KEN GUSTAFSON/ATR

Junior left tackle Archer Hathaway is a co-captain of the Schley County High School football team. He is already being recruited by several colleges.

As for his favorite position, Hathaway has always been happy being a lineman. "I've always been a lineman just because I've been bigger than everybody else. I like left tackle," he said. As a rising junior, Hathaway has already had many fond memories in high school, but one particular event stands out. It's his greatest memory as a Wildcat so far. "We were playing Marion County last year on this field (Schley County). We beat them. I can't remember what the score was, but we beat them for the first time in a while," Hathaway said. "That was really special to share that with my teammates and to be able to enjoy that with them."

In addition to playing football, Hathaway plays on the Schley County basketball team and is also a member of the track & field team. "Football is my main sport, but I play basketball to keep in shape. I do track to help the team and help the school," Hathaway said.

As for favorite hobbies outside of sports, Hathaway likes to hang out with his friends, swimming, ride four-wheelers and play pick-up basketball at his house. His favorite academic subject, he said, science. His mother teaches science at the high school. "I really enjoy doing that because she helps me with that," Hathaway said. "I was brought up to be better in that subject than any other one. I really enjoy science more than any of the other ones."

Hathaway has aspirations of playing college football once he graduates high school. This summer, Hathaway visited the University of Alabama-Birmingham, the University of Alabama in Tuscaloosa and the University of South Carolina. "I'm being recruited all over this summer and I've been recruited before that, but mostly this summer is when the recruiting process has really taken off," he said.

Hathaway said that playing for Coach Darren Alford and his assistants has been a great experience for him, particularly with Alford's emphasis on building strength in the weight room. "Coach Alford is great. He came here and had an 0-10 team. He put us in the weight room and got us working," Hathaway said. "He really stresses the weight room and how important it is, how it moves us along and helps us get better."

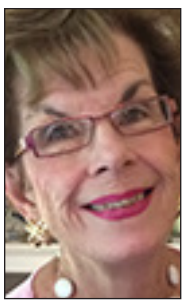
Every high school student-athlete has their favorite food. One might find Hathaway eating at a Buffalo Wild Wings restaurant, or local places, such as JJ's Wings & Things or Wood's Swinging Wings. "I really like buffalo wings. I don't know why. I've always liked them since I was little," he said.

After college, Hathaway plans to follow in his parents' footsteps. "I'm really interested in going into education and becoming a teacher and a coach," he said. "

Hathaway has a message for young kids who aspire to play at the high school level and beyond. "When you're little, football is all fun. You need to keep having fun playing it," Hathaway said. "You need to keep having fun playing football through your middle school, high school and hopefully, college career. Just keep working hard and don't give up. Don't think about it as work. Think about it as hanging out with your friends and having fun."

Hathaway will be helping to lead the Wildcats to greatness in 2018. Schley County has never won a region championship in football. Hathaway is prepared to help lead this team to win that long-sought region championship and to go even farther.

Never be a quitter is good advice



LEILA CASE
Columnist

The big yellow busses will begin rumbling down the streets, highways and byways heading toward another year of school and signaling the end of summer break for students and teachers. Where did the time go? I can attest as can everyone else that time flies, especially when you're having fun.

And it's time to shop for school supplies but while you and your young charges are making selections why not pick up doubles to donate to those who are unable to purchase the necessary items. The supplies can be dropped off at any number of designated places all over town. Take you children along — it gives them the opportunity to realize it's better to give then receive.

On another subject if you're aren't aware already, is that I love politics. I have never been personally involved except to allow political candidates to place yard signs on our lawn. I've made phone calls on their behalf and once did a TV commercial. Years ago, in Athens, I did a radio spot, an experience that hooked me on the world of politics, which I find exciting. Covering Jimmy Carter during the years before and after he was elected president was a wonderful and unforgettable experience. Oh, the people I met and the places I went.

At present, we're in another election year and local and state elected offices are up for grabs. With the state run-off election just behind us we're heading toward the general election in November that promises to be exciting. Stay informed about candidates seeking office so you can vote your convictions. It's the patriotic thing to do.

Who has bragging rights? Everyone does but when you're on the receiving end, it's sometimes boring to hear about what "so-in-so" has achieved or is about to. Your eyes begin to glaze over. So, if you want to tune out or stop reading, it's OK, because I'm putting on my bragging hat.

I'm proud of our three grown children whose father insisted they finish what they started. He taught them to never be a quitter but was very subtle in his approach and advised them to think it over before settling on a final decision like dropping a college course or quitting a sports team. Thankfully they persevered and they were always glad. Now they have passed this advice on to their children — my grandchildren — of whom I'm very proud.

Therefore, with all the pride of a grandmother, our Caroline Herndon, who graduated GSW's School of Nursing last May with the bachelor of science in nursing, continued to burn the midnight oil and worked hard to prepare for the tough national nursing examination. She passed and like her cousin Beau Barrett, CPA, has letters behind her name. Today Caroline Herndon, RN, BSN is moving to Marietta and WellStar Kennestone Hospital where she'll care for oncology patients.

Congratulations as well to Angie Southwell Kauffman who graduated Columbus State University with the Ph.D. in education. She is the daughter of Paula Southwell of Americus.

Those enjoying end-of-summer beach trips are Elaine and Burton Thomas, their daughters and families John and Lydia Ann Fowler and sons, Thomas and Tillman Fowler, and John and Rachel Shealy and daughters, Mary Margaret and Burton Shealy. They spent a week at Mexico Beach on the Gulf along with Rufus and Debra Short, their children and grandchildren; Mary Ann and Nathan Hammack and daughters, Anna Gail and Libby Hammack vacationed at the beach as well as Crystal and Mark Waddell and family; Jeff and Terri Joiner and daughter Sydney were in Destin; Mark and Anne Barrett spent the weekend in Destin with her sister, Carla Sullivan and her husband David Sullivan; Beau Barrett enjoyed lobster fishing this week off the Florida Keys and as well as Miami; Phyllis and Larry Tucker of Leslie recently visited friends, Dick and Luella Pace, former Lake Blackshear residents, at their new home in Dacula and then traveled to Athens to visit with their son, Johnie and Laura Tucker; Steve and Sarah McLain and daughters, Courtney and Halley Minnix enjoyed fun and sun at Atlantis Resort in Paradise Island, Bahamas, British West Indies; Dee Hardin celebrated her birthday at lunch with Nancy Herron; John and Tiffany Dean and daughter Mary Catherine Dean are moving into their handsomely restored home, a charming craftsman's bungalow on Hancock Drive; congratulations to John and Beth Carroll who recently celebrated their wedding anniversary; and Kathryn and Brent Moore along with Christie and Jay Umpleby enjoyed the recent "Hootie and the Blowfish" concert in Atlanta. And celebrating a birthday last week was Sybil Smith.

Leila Sisson Case lives in Americus.

Americus Times-Recorder

SUMTER COUNTY

Service

Tax Service

JUDICIAL IN REM TAX FORECLOSURE SALE Civil Action File Number:18CV73(SZ) **Delinquent Tax Years Due:** 2014-2016 Pursuant to Order of the Superior Court of Sumter County, Georgia, dated May 10, 2018, as referenced by the Civil Action File Number shown above, there will be sold at public out-cry to the highest bidder for cash on the first Tuesday in August, the same being August 7, 2018, during the legal hours of sale before the Sumter County Courthouse door in Americus, Georgia, to satisfy delinquent taxes due the State of Georgia and Sumter County, the following described property, to wit: Legal Description: That certain tract or parcel of land, being one (1) acre, more or less, in the 15th Land District of Sumter County, Georgia, and being part of land lot number fourteen (14); said lot starting at the northeast corner of property now or formerly owned by G. E. Buchanan, Jr., and W. H. Entrekin, and running in a westerly direction along a fence which divides said land from the lands now or formerly owned by G. E. Buchanan, Jr., and W. H. Entrekin, a distance of 335 feet, more or less, thence south a distance of 150 feet, more or less, to an iron stake; thence east a distance of 335 feet, more or less, to water of Crisp Power lakes, thence north along said lake 150 feet to the point of beginning, and bounded as follows: North by above mentioned fence, west and south by lands now or formerly belonging to Milton Mise, and east by lands of Crisp County Power Company. Said tract having a cabin located thereon. Together with full rights of ingress to and from said property over lands of Milton Mise, as heretofore granted in a deed recorded in Deed Book 36, pages 604-605 in the office of the Clerk of Superior Court, Sumter County, Georgia. This is the same land described in deed dated July 28, 1960 from Theo Baldwin to grantors herein as recorded in Deed Book 62, page 187 on August 1, 1960 in the office of the Clerk of Superior Court of Sumter County, Georgia. Known as 476 B N. Spring Creek Circle, Cobb, Georgia. Tax Map / Parcel I.D. No. 1533 14A 12. Together with all rights, title, and interest running with the above-described property but not taxed under a separate tax reference number as delineated on the tax maps of the Petitioner for the year(s) for the taxes being foreclosed. The scheduled sale of said property is a judicial in rem tax foreclosure in accordance with the provisions of O.C.G.A. § 48-4-75 et seq. **Wilkie Smith Sumter County Tax Commissioner 500 West Lamar Street, Suite 120 P.O. Box 1044 Americus, Georgia 31709(229) 928-4530**

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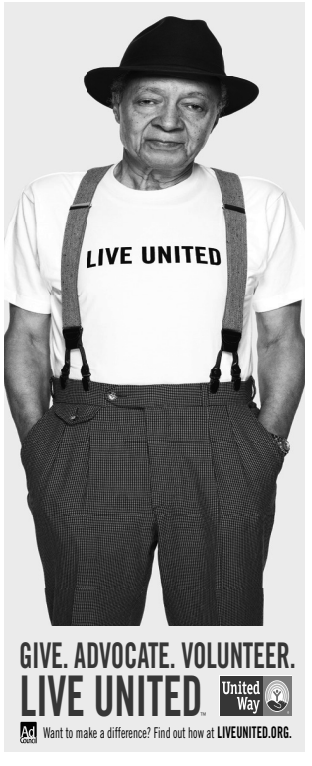

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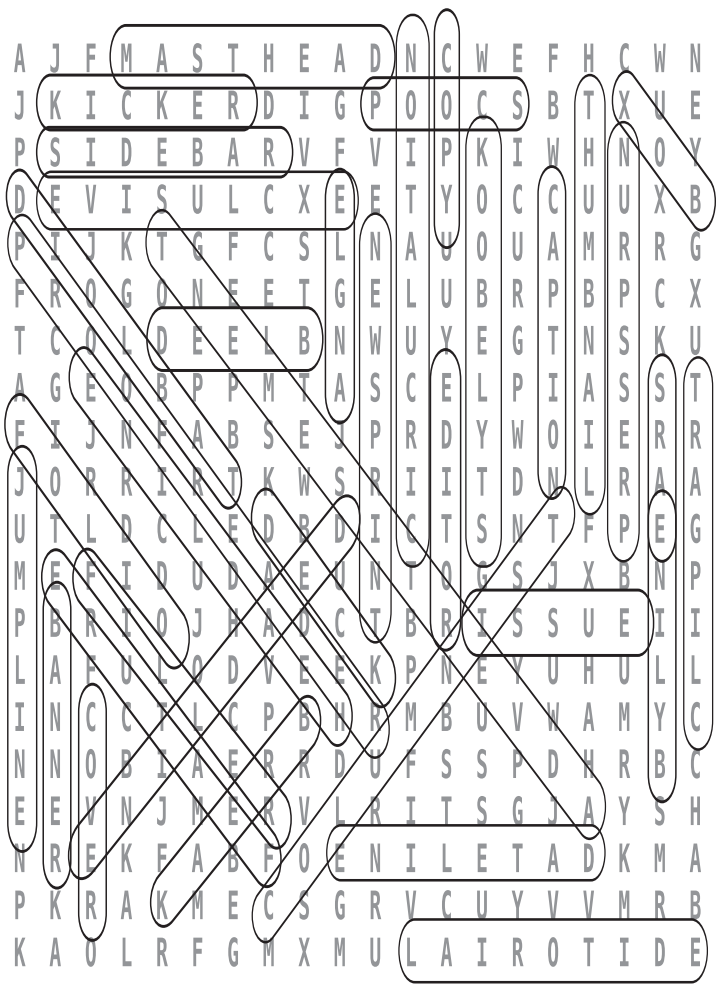

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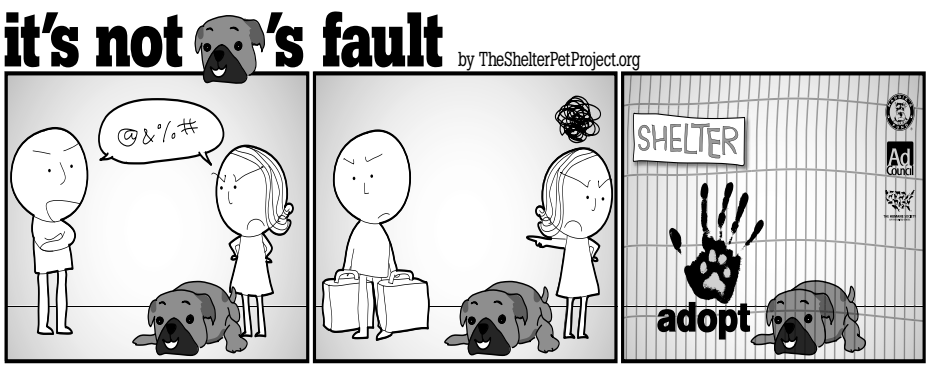
Sudoku puzzles are formatted as a 9x9 grid, broken down into nine 3x3 boxes. To solve a sudoku, the numbers 1 through 9 must fill each row, column and box. Each number can appear only once in each row, column and box. You can figure out the order in which the numbers will appear by using the numeric clues already provided in the boxes. The more numbers you name, the easier it gets to solve the puzzle!



Americus Times-Recorder

CLASSIFIEDS

Employment

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Public Notices

Public Notices

NOTICE OF FORECLOSURE OR RIGHT TO REDEEM Take notice that: The right to redeem the following described property, to wit: **All and only that parcel of land designated as Tax Parcel 2903 147 2, lying and being in Land Lot 147 of the 29th Land District, Sumter County, Georgia, containing 9.0 acres, more or less, described in Deed Book 505, Page 1, the description contained therein being incorporated herein by this reference, known as 435 Ga Highway 228.** The tax deed to which this notice relates is dated July 5, 2017, and is recorded in the office of the Clerk of the Superior Court of Sumter County, Georgia, in Deed Book 1455 at Page 338. The property may be redeemed at any time before the 19th day of August, 2018, by payment of the redemption price as fixed and provided by law to the undersigned at the following address: 100 S. Sumter Street, P. O. Box 178, Oglethorpe, Georgia 31068. Please be governed accordingly. **JON L. COOGLE** Attorney at Law

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STATE OF GEORGIA COUNTY OF SUMTER NOTICE OF FORECLOSURE OF THE RIGHT TO REDEEM To: MARY MCGHEE and WILLIAM MCGHEE, their heirs and assigns, and any and all persons and entities holding any right, title or interest in or lien upon the below described property TAKE NOTE THAT the right to redeem the below described property will expire on October 1st, 2018 (hereinafter known as the Last Date To Redeem) and be forever foreclosed and barred after that date. The property being redeemed is described, to wit: All and only that parcel of land designated as Tax Parcel 1607 97 7, lying and being in Land Lot 97 of the 16th Land District, Sumter County, Georgia, containing 1.0 acre, more or less, being Lot 5, shown in Plat Book 9, Page 37, described in Deed Book 674, Page 157, the description contained therein being incorporated herein by this reference, known as 411 Three Bridges Road.The tax deed to which this notice relates is dated the 5th day of July, 2017, and is recorded in the office of the Clerk of the Superior Court of Sumter County, Georgia in deed book 1455, at page 336. The property may be redeemed at any time on or before the Last Date To Redeem from the Foreclosing Party by the payment of the redemption price as fixed and provided by law, to Annie P. Young and Dennis Young, by and through their Attorney of Record, J. Michael Greene, P. O. Box 1907, Americus, Georgia, 31709 (229) 924-84l2. ALL RIGHTS NOT REDEEMED ACCORDINGLY WILL BE BARRED FOREVER. Be governed accordingly. Prepared by:J. Michael Greene Attorney at Law PO Box 1907 Americus, GA 31709

IN THE SUPERIOR COURT OF SUMTER COUNTY STATE OF GEORGIA Petitioner: Casandra Watts Marbury and Respondent: Folarin Raymond Marbury- Civil Action No. 18CV151(SZ) Service by Publication Dates: Georgia, Sumter County, Filed in office 20th day of July, 2018 /s/ Rebecca Salazer Dep. Clerk **ORDER FOR SERVICE BY PUBLICATION** It appearing by affidavit that the above named Respondent on whom service is to be made in this case resides out of the State, or has departed from the State, or after due diligence cannot be found within the State of Georgia, or conceals (him)(her) self to avoid service of the Summons, and it further appearing, either by affidavit or by verified complaint on file, that a claim exists against the Respondent in respect to whom service is made, and that (he) (she)is necessary or proper party to the action. IT IS HEREBY CONSIDERED, ORDERED AND DECREED that service is made by publication as provided by law. Signed this 20th day of July, 2018 /s/W. James Sizemore Jr, Judge/Clerk of Superior Court Sumter County

Public Notices

NOTICE OF SALE UNDER POWER GEORGIA, SUMTER COUNTY By virtue of a Power of Sale contained in that certain Security Deed from ODESSSA W HOLLEY , JAMES H. HOLLEY, SR. to CITIFINANCIAL SERVICES INC., dated November 9, 2007, recorded November 13, 2007, in Deed Book 1080, Page 27, Sumter County, Georgia Records, said Security Deed having been given to secure a Note of even date in the original principal amount of Forty-Four Thousand Six Hundred Five and 30/100 dollars ($44,605.30), with interest thereon as provided for therein, said Security Deed having been last sold, assigned and transferred to Bayview Loan Servicing, LLC a Delaware Limited Liability Company, there will be sold at public outcry to the highest bidder for cash at the Sumter County Courthouse, within the legal hours of sale on the **first Tuesday in August, 2018,** all property described in said Security Deed including but not limited to the following described property: ALL THAT CERTAIN PARCEL OF LAND LYING AND BEING IN THE COUNTY OF SUMTER AND STATE OF GEORGIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT NO. 212 OF THE 15TH LAND DISTRICT OF SUMTER COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY OF A COUNTY UNPAVED ROAD, SAID POINT LOCATED 19.6 FEET WEST OF THE EAST LINE OF LAND LOT NO. 212, AND THE SOUTH RIGHT OF WAY OF THE SAID ROAD; THENCE RUNNING S 00 DEGREES 33 MINUTES W FOR A DISTANCE OF 240.0 FEET TO A POINT; THENCE RUNNING N 89 DEGREES 27 MINUTES W FOR A DISTANCE OF 182.00 FEET TO A POINT; THENCE RUNNING N 00 DEGREES 33 MINUTES E FOR A DISTANCE OF 240.0 FEET TO A POINT ON THE SOUTH RIGHT OF SAID ROAD; THENCE RUNNING S 89 DEGREES 27 MINUTES E FOR A DISTANCE OF 182.0 FEET ALONG SAID RIGHT OF WAY TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 1.0 ACRES, LESS AND EXCEPT ANY ROAD RIGHT OF WAYS OF RECORD. Said legal description being controlling, however the property is more commonly known as **452 BONE RD, AMERICUS, GA 31709**.The indebtedness secured by said Security Deed has been and is hereby declared due because of default under the terms of said Security Deed and Note. The indebtedness remaining in default, this sale will be made for the purpose of paying the same, all expenses of the sale, including attorneys' fees (notice to collect same having been given) and all other payments provided for under the terms of the Security Deed and Note. Said property will be sold on an "as-is" basis without any representation, warranty or recourse against the above-named or the undersigned. The sale will also be subject to the following items which may affect the title: any outstanding ad valorem taxes (including taxes which are a lien, whether or not now due and payable); the right of redemption of any taxing authority; matters which would be disclosed by an accurate survey or by an inspection of the property; all zoning ordinances; assessments; liens; encumbrances; restrictions; covenants, and any other matters of record superior to said Security Deed. To the best of the knowledge and belief of the undersigned, the owner and party in possession of the property is ODESSSA W HOLLEY , JAMES H. HOLLEY, SR. , or tenants(s). The sale will be conducted subject (1) to confirmation that the sale is not prohibited under the U.S. Bankruptcy Code and (2) to final confirmation and audit of the status of the loan with the holder of the Security Deed. Please note that, pursuant to O.C.G.A. § 44-14-162.2, you are not entitled by law to an amendment or modification of the terms of your loan. The entity having full authority to negotiate, amend or modify all terms of the loan (although not required by law to do so) is: BAYVIEW LOAN SERVICING,LLC, Loss Mitigation Dept., 4425 Ponce de Leon Blvd., 5th Floor, Coral Gables, FL 33146, Telephone Number: 800-771-0299. **BAYVIEW LOAN SERVICING, LLC A DELAWARE LIMITED LIABILITY COMPANY** as Attorney in Fact for ODESSSA W HOLLEY , JAMES H. HOLLEY, SR. THE BELOW LAW FIRM MAY BE HELD TO BE ACTING AS A DEBT COLLECTOR, UNDER FEDERAL LAW. IF SO, ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. Attorney Contact: Rubin Lublin, LLC, 3145 Avalon Ridge Place, Suite 100, Peachtree Corners, GA 30071 Telephone Number: (877) 813-0992 Case No. BVF-17-08183-1 Ad Run Dates 07/11/2018, 07/18/2018,07/25/2018, 08/01/2018 www.rubinlublin.com/property-listings.phpc

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NOTICE TO DEBTORS & CREDITORS All creditors of the Estate of Evelyn B. Thompson, late of Sumter County, deceased, are hereby notified to render in their demands to the undersigned according to law, and all persons indebted to said Estate are required to make immediate payment. This 26th day of July 2018.William H. Thompson, Jr. Executor of the Estate of Evelyn B. Thompson% DIVINE FINNEY DAVIS, PC 600 N. Jackson Street Albany, GA 31701

NOTICE OF SALE UNDER POWER GEORGIA, SUMTER COUNTY By virtue of a Power of Sale contained in that certain Security Deed from JOHN WALKER to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC AS NOMINEE FOR VILLAGE CAPITAL & INVESTMENT LLC., dated March 17, 2015, recorded April 9, 2015, in Deed Book 1365, Page 267-280, Sumter County, Georgia Records, said Security Deed having been given to secure a Note of even date in the original principal amount of One Hundred Sixty-Five Thousand Nine Hundred Three and 00/100 dollars ($165,903.00), with interest thereon as provided for therein, said Security Deed having been last sold, assigned and transferred to Village Capital & Investment, LLC, there will be sold at public outcry to the highest bidder for cash at the Sumter County Courthouse, within the legal hours of sale on the **first Tuesday in August, 2018,** all property described in said Security Deed including but not limited to the following described property: ALL THAT TRACT OR PARCEL OF LAND, WITH ALL IMPROVEMENTS THEREON, LYING AND BEING IN LAND LOT 49 OF THE 26TH LAND DISTRICT OF SUMTER COUNTY, GEORGIA, CONSISTING OF 2.683 ACRES AND BEING MORE PARTICULARLY SHOWN AS TRACT 2 ON THAT CERTAIN PLAT OF SURVEY ENTITLED "PLAT PROPERTY OF CALVIN D. & JUDY A. CRABIL", DATED MAY 22,1998, PREPARED BY ABB W. PRESTON, GEORGIA REGISTERED LAND SURVEYOR NO. 1799, RECORDED IN PLAT CABINET C, SLIDE 18-C OF THE RECORDS OF THE OFFICE OF CLERK OF SUPERIOR COURT OF SUMTER COUNTY, GEORGIA, WHICH PLAT IS MADE A PART OF THIS DESCRIPTION BY SPECIFIC REFERENCE THERETO. SAID PROPERTY IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS ON RECORD AND IS KNOWN AS 118 PASCHAL STREET ACCORDING TO THE CURRENT NUMBERING SYSTEM OF SAID CITY. SAID PROPERTY IS A PORTION OF SAME PROPERTY CONVEYED TO CALVIN D. CRABILL & JUDY A. CRABILL IN THAT CERTAIN TRUSTEE`S DEED, DATED JULY 9, 1993 AND RECORDED IN DEED BOOK 352, PAGE 206 OF THE AFORESAID RECORDS. Said legal description being controlling, however the property is more commonly known as **318 PASCHAL ST, PLAINS, GA 31780.**The indebtedness secured by said Security Deed has been and is hereby declared due because of default under the terms of said Security Deed and Note. The indebtedness remaining in default, this sale will be made for the purpose of paying the same, all expenses of the sale, including attorneys' fees (notice to collect same having been given) and all other payments provided for under the terms of the Security Deed and Note. Said property will be sold on an "as-is" basis without any representation, warranty or recourse against the above-named or the undersigned. The sale will also be subject to the following items which may affect the title: any outstanding ad valorem taxes (including taxes which are a lien, whether or not now due and payable); the right of redemption of any taxing authority; matters which would be disclosed by an accurate survey or by an inspection of the property; all zoning ordinances; assessments; liens; encumbrances; restrictions; covenants, and any other matters of record superior to said Security Deed. To the best of the knowledge and belief of the undersigned, the owner and party in possession of the property is JOHN WALKER, or tenants(s). The sale will be conducted subject (1) to confirmation that the sale is not prohibited under the U.S. Bankruptcy Code and (2) to final confirmation and audit of the status of the loan with the holder of the Security Deed. Please note that, pursuant to O.C.G.A. § 44-14-162.2, you are not entitled by law to an amendment or modification of the terms of your loan. The entity having full authority to negotiate, amend or modify all terms of the loan (although not required by law to do so) is: Village Capital & Investment, LLC, Loss Mitigation Dept., 1 Corporate Drive, Ste 360, Lake Zurich, IL 60047, Telephone Number: 1-866-397-5370. **VILLAGE CAPITAL & INVESTMENT, LLC** as Attorney in Fact for JOHN WALKER THE BELOW LAW FIRM MAY BE HELD TO BE ACTING AS A DEBT COLLECTOR, UNDER FEDERAL LAW. IF SO, ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. Attorney Contact: Rubin Lublin, LLC, 3145 Avalon Ridge Place, Suite 100, Peachtree Corners, GA 30071 Telephone Number: (877) 813-0992 Case No. DMI-18-01840-1 Ad Run Dates 07/11/2018, 07/18/2018,07/25/2018, 08/01/2018 www.rubinlublin.com/property-listings.phpc

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STATE OF GEORGIA COUNTY OF SUMTER NOTICE TO DEBTORS AND CREDITORS IN RE: Estate of Evelyn M. Holloway, deceased. late of Sumter County are hereby notified to render their demands to the undersigned, according to law, and all persons indebted to said estate are required to make immediate payment to me. This 25th day of July, 2018 Edward E. Farr Executor 1732 Pineknoll Lane, Albany, GA 31707

NOTICE OF SALE UNDER POWER Under and by virtue of the Power of Sale contained in a Security Deed from KEVIN JOHN EBERHARDT, a married man to Mortgage Electronic Registration Systems, Inc., as nominee for Greater United Home Funding, its successors and assigns, dated June 22, 2007, and recorded on July 17, 2007, in Book 1061, Page 24, of the Sumter County, Georgia Records; as last assigned to Planet Home Lending, LLC (Secured Creditor); conveying the after-described property to secure a Note in the original principal amount of $98,201.00 with interest thereon as set forth therein, there will be sold at public outcry to the highest bidder for cash before the courthouse door of Sumter County, Georgia, within the legal hours of sale on the first **TUESDAY in September, 2018,** the following described property: **All that tract or parcel of land lying and being in Land Lot 192 of the 27th Land District of Sumter County, Georgia, consisting of Tract 1, containing 1.00 acre fronting a distance of 154.51 feet on the north side of Ed Carson Road as more fully shown on plat of survey prepared by Kenneth Earl Dunmon, entitled "Survey for James Thomas Tanner" dated November 14, 1997 as recorded in Plat Cabinet C, Slide 10-H Clerk of Sumter Superior Court Office. Together with that 2008 Fleetwood Eagle Trace doublewide mobile home with a width of 28' and length of 64' and bearing ID #GAFL705A/B32059-ET11 which by intention of the parties and upon retirement of the Certificate of title** The indebtedness secured by said Security Deed has been and is hereby declared due and payable because of, among other possible events of default, non-payment of the monthly installments as required by said Note and Security Deed. The debt remaining in default, this sale will be made for the purpose of paying the same and all expenses of this sale, as provided in the Security Deed and by law, including attorney's fees (notice of intent to collect attorney's fees having been given) and all other payments provided for under the terms of the Security Deed and Note. Said property will be sold subject to any outstanding ad valorem taxes (including taxes which are a lien, but not yet due and payable), any matters which might be disclosed by an accurate survey and inspection of the property, any assessments, liens, encumbrances, zoning ordinances, restrictions, covenants, and matters of record superior to the Security Deed first set out above. The sale will be conducted subject (1) to confirmation that the sale is not prohibited under the U.S. Bankruptcy Code and (2) to final confirmation and audit of the status of the loan with the holder of the security deed. Pursuant to O.C.G.A. Section 9-13-172.1, which allows for certain procedures regarding the rescission of judicial and non-judicial sales in the State of Georgia, the Deed Under Power and other foreclosure documents may not be provided until final confirmation and audit of the status of the loan as provided immediately above. The entity that has full authority to negotiate, amend, and modify all terms of the mortgage with the debtor is: Planet Home Lending, LLC, 321 Research Parkway, Suite 303, Meriden, CT 06450, 1-866-882-8187. Please understand that the secured creditor is not required to negotiate, amend, or modify the terms of the mortgage instrument. To the best of the undersigned's knowledge and belief, said property is also known as **259 Ed Carson Dr, Americus, GA 31709**, and the party in possession of the property is/are KEVIN JOHN EBERHARDT, a married man or a tenant or tenants of said property. Planet Home Lending, LLC As Attorney-in-Fact for KEVIN JOHN EBERHARDT, a married man SOLOMON | BAGGETT, LLC 3763 Rogers Bridge Road Duluth, GA 30097 (678) 243-2512 THE LAW FIRM IS ACTING AS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. Publish: 7/25/18, 8/1/18, 8/8/18, 8/15/18, 8/22/18, 8/29/18

SUPERIOR COURT OF Sumter COUNTY STATE OF GEORGIA In re the Name Change of: **Ellen Melissa Rogers-Jackson**, Petitioner . **NOTICE OF PETITION TO CHANGE NAME OF ADULT Ellen Melissa Rogers-Jakson** filed a petition in the Superior court of Sumter County on 7/30/18 to change the name from: **Ellen Melissa Rogers-Jackson** to **Ellen Melissa Jackson.** Any interested party has the right to appear in this case and file objections within 30 days after the Petition was filed. Dated: 7/30/2018 /s/ Ellen Melissa Rogers- Jackson Petitioner, Pro se (Signature) Name: Ellen Melissa Rogers-Jackson Address: 912 Cypress Drive Americus, GA, 31719 Email:emelissarogers@yahoo.com phone (day): 229-942-6056

Public Notices

IN THE JUVENILE COURT OF SUMTER COUNTY STATE OF GEORGIA In the Interests of: MLG, FEMALE; DOB: 05/10/2017, CASE NO.; 129-18J-184-01, Child Under 18 Years of Age **NOTICE OF SUMMON** TO ANGELA DENISE GREEN, JOHNNIE WATERS, AND ANY UNKNOWN FATHER OF MINOR CHILD **YOU ARE HEREBY NOTIFIED** that the above-styled action seeking a Petition for Termination of Parental Rights was filed in the Juvenile Court of Sumter County, Georgia, and that by reason of an Order for Service by Publication dated July 18, 2018, **YOU ARE HEREBY COMMANDED AND REQUIRED** to appear before the Juvenile Court of SUMTER County, Georgia, at the courtroom of the **Sumter County Courthouse, 500 W. Lamar Avenue, Americus GA, on Wednesday, October 3, 2018 at 10:00 a.m. The hearing is for the purpose of terminating parental rights.** A copy of the petition may be obtained from the Clerk of the Sumter County Juvenile Court during regular business hours, Monday through Friday, 9:00 a.m. until 5:00 p.m., exclusive of holidays. A free copy shall be available to the parents. Upon request, the copy will be mailed to the requester. The child is presently in the custody of the Sumter County Department of Family and Child Services. The general nature of the allegations is that the child is a dependent child in that she is neglected and/or abused, and in need of the protection of the Court, that the parents have failed, without justifiable cause, to care for the child, provide support for the child, or form a parental bond with the child, for the past 12 months or more. YOU ARE FURTHER NOTIFIED that while responsive pleadings are not mandatory, they are permissible, and you are encouraged to file your objections to the Clerk of this Court, SUMTER COUNTY COURTHOUSE, 500 W. Lamar Street, Americus GA 31719, and serve upon Petitioner's attorney, Gail D. Drake, Special Assistant Attorney General, PO Box 70245, Albany GA 31708, by the last date of publication. Any parent or putative/biological/legal father of the child is hereby notified that he will lose all rights to the child and will not be entitled to object to the termination of parental rights to the child, unless within 30 days of publication of this notice, he or she files the following: (1) a petition to legitimate the child pursuant to O.C.G.A. § 19-7-21.1; and (2) a notice of the filing of the petition to legitimate or acknowledgement of legitimation with the Juvenile Court of Sumter County, Georgia, as required by O.C.G.A. § 15-11-96(h); and unless after filing a petition to legitimate (s) he prosecutes it to a final judgment. All concerned parties are informed that they are entitled to be represented by a lawyer at all stages of these proceedings. If you want to hire a lawyer, please contact your lawyer immediately. If you want a lawyer but are unable to hire a lawyer without undue financial hardship, you may ask for a lawyer to be appointed to represent you. The Court would inquire into your financial circumstances and if the Court finds you to be financially unable to hire a lawyer, then a lawyer will be appointed to represent you. If you want a lawyer appointed to represent you, you must let the Court or the officer of the Court handling this case know that you want a lawyer immediately. WITNESS THE HONORABLE Lisa C. Jones, Judge of said court, this 20th day of July, 2018. Carla Revels Clerk, Sumter County Juvenile Court

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STATE OF GEORGIA COUNTY OF SUMER NOTICE OF FORECLOSURE OF THE RIGHT TO REDEEM To: Tony Weaver, Pam Kay Weaver, any and all persons and entities holding any right, title or interest in or lien upon the below described property TAKE NOTE THAT the right to redeem the below described property will expire on the October 1st, 2018, (hereinafter known as the Last Date to Redeem) and be forever foreclosed and barred after that date. The property being redeemed is described, to wit: All and only that parcel of land designated as Tax Parcel 1615 213 10, lying and being in Land Lot 213 of the 16th Land District, Sumter County, Georgia, containing 5.01 acres, more or less, being Tract 8, shown in Plat Cabinet B, Page 172-J, described in deed book 427, page 250, the description contained therein being incorporated herein by this reference, located on Hooks Mill Road. The tax deed to which this notice relates is dated the 5th day of July, 2017, and is recorded in the office of the Clerk of the Superior Court of Sumter County, Georgia in deed book 1455 at page 333.The property may be redeemed at any time on or before the Last Date To Redeem from the Foreclosing Party by the payment of the redemption price as fixed and provided by law, to Stan Steiner, by and through his Attorney of Record, J. Michael Greene, Greene and Greene, Attorneys at Law, P. O. Box 1907, Americus, Georgia, 31709. ALL RIGHTS NOT REDEEMED ACCORDINGLY WILL BE BARRED FOREVER. Be governed accordingly. Prepared by: J. Michael Greene Attorney at Law PO Box 1907 Americus, GA 31709

Public Notices

NOTICE OF CHANGE OF CORPORATE NAME Notice is given that Articles of Amendment which will change the name of Boys & Girls Club of Americus/Sumter County, Inc. to Youth Academic & Enrichment Program of Americus/Sumter County, Inc. have been delivered to the Secretary of State for filing in accordance with the Georgia Business Corporation Code. The registered agent of' the corporation is G. Bardin Hooks, .Jr., and the registered office of the corporation is located at 416 W. Lamar Street, Americus, Georgia 31709. G. Bardin Hooks, .Jr.,Arnold & Hooks, LLC 416 W. Lamar StreetPO Box6540 Americus, GA 31709

Exhibit I

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:14-cv-42 (WLS)
	)	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	)	
	)	
Defendant.	)	
	)	

DEFENDANT'S OBJECTIONS TO PERMANENT INJUNCTION

On March 30, 2018, the Court issued a permanent injunction against the Sumter County School Board redistricting plan. ECF No. 204 at 7. It offered the County until today, Friday, April 6, to file objections to that injunction. Defendant Sumter County respectfully responds to that order with the following objections.

OBJECTIONS

1. The Court enjoined the elections without affording Defendant a fair opportunity to brief and submit evidence on the relevant issues. The Court cancelled briefing on the preliminary-injunction motion and only entertained five pages of briefing on the abstract question of how the May election should proceed prior to the liability finding (and when such a finding did not appear, by the Court's accounting, imminent, ECF Nos. 179, 197). Defendant never had the opportunity to present evidence on how, in light of the Court's March 17 liability ruling, an injunction would affect election administration.

2. The opportunity to file "objections" now does not cure the lack of opportunity for fair briefing before the injunction was issued. The injunction is currently in effect, and Sumter

County officials have no other choice than to take steps to comply. *See, e.g.*, Declaration by Robert Brady ("Brady Decl.") (attached as Exhibit A) at ¶3. This state of affairs appears practically guaranteed to preclude further changes in the Court's injunction. That is why Local Rule 7 affords non-moving parties the opportunity to file oppositions to motions before, not after, they are decided.[1]

3. Defendant objects to the issuance of the Court's Order without any factual input from the Sumter County Board of Elections and Registration, the named Defendant, which is the party best-suited to inform this Court on election due-dates and administration issues. As an example, Defendant sought to file by Wednesday, April 4, 2018, a brief in opposition to Plaintiff's motion and to correct factual errors in that motion. ECF No. 203. The Court denied Defendant's request based on Plaintiff's statement that "[i]n the absence of an injunction, those elections will go forward beginning on Monday, April 3." Pl.'s Mot. 1, ECF No. 202; *see also*, *id.* at 4 ("Without an injunction, in other words, voting begins on Monday.") (citing O.C.G.A. § 21-2-384(a)(2)). This deadline is a factual error: voting did not "begin" on Monday, April 2, or Tuesday, April 3, 2018. Brady Decl. ¶3(a). The first date on which voting could begin is April 7, 2018. *Id.* There was time for Defendant to brief this Court before voting began.

4. The County objects to the Court's plan to "set[] interim boundaries for the new Sumter County Board of Education districts" no later than July 23, 2018, Order 7, ECF No. 204, without further input by Defendant Sumter County Board of Elections and Registration. First, as indicated by Objection 3, Defendant has useful factual input for the Court regarding due dates

[1] This places Defendant in the unfortunate position of challenging the Court's reasoning after the fact, rather than attempting to influence it in advance. Defendant lodges these objections with respect for the Court and its efforts to handle a difficult case in a difficult procedural and practical posture.

and the actual operation of elections in the County, and Plaintiff is not a reliable sole-source for that information. Second, the Court's plan would rely on Plaintiff's Supplemental Brief in Support of Remedial Proposals (Dkt. 199), which itself relies nearly wholesale on inadmissible testimony. Dkt. 199 at 2 (citing Ex. 1 at 94-109 (Owen dep. Mar. 14, 2018)).

5. Defendant objects to the Court's finding on the merits for reasons stated in prior briefing.

6. The Court is incorrect to find that giving the General Assembly the opportunity to craft a remedial plan is impractical. The General Assembly has plenty of time to craft a remedial plan in the 2019 session. The Court's finding is based on the incorrect premise that the 2018 elections simply must be conducted under a new plan. Not only is that not the law, but the Court also found that a court-ordered remedy is *also* impracticable by May 2018. *See* ECF No. 204 at 1-2. The Court's approach simply trades one impractical solution for another.

7. The infringement of "black voters' right to vote" in Sumter County is not "severe." ECF No. 204 at 6. The Court's finding appears to be predicated on a view that Section 2 requires proportional representation, but it does not. Rather, the measure of severity is the proposed alternative, which the Court (incorrectly) viewed as affording three opportunity districts out of seven, or 42%. That is a difference of 13 percentage points. A violation any less "severe" would likely not even be a violation. Moreover, the Court did not find—and, indeed, made finding to the contrary—that Sumter County harbored discriminatory animus.

8. The Court's finding that "vastly disproportionate representation would continue for another two years," ECF No. 204, also fails to compare that (incorrectly predicted) result with the alternative. In this regard, it is unclear what representation will look like in the next two years because the Board members serve staggered terms, and Court's injunction is not clear as to

which electoral districts will be involved in the November elections. Brady Decl. ¶9.

9. The Court's finding that "enjoining this election and moving it to November would cause minimal disruptions" is also incorrect. ECF No. 204 at 6. The changes throw confusion onto school-board members' terms because it remains unclear what districts will be up for election. Brady Decl. ¶¶5-11. And, for the same reasons, representation for Sumter County's residents remains unclear because new district lines will overlap with former district lines, so a partial slate of candidates may result in double-representation for some residents and no representation for others. *Id.* In short, the Court's weighing of equities did not engage the facts of how elections in Sumter County actually work and therefore either under-weighed the injunction's impact on term lengths or under-weighed its impact on representation.

10. The Court's decision appears not to weigh the injunction's impact on candidates. Candidates have already qualified, spent money for filing, researched the constituencies, and launched campaigns. Brady Decl. ¶¶4, 8. These include both black and white candidates and candidates who may obtain the support of minority voters. These efforts may not translate into a new districting scheme because candidates may not reside in the districts where they expected to run, where new elections will occur, or where they previously identified a base of support. Brady Decl. ¶8. The impact of injunctions on candidates is a factor courts weigh in making a determination regarding injunctions. *Sw. Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 919 (9th Cir. 2003).

11. The Court's order concedes that responding to the injunction is an administrative nightmare. *See* ECF No. 204 at 7 (ordering that ballots be altered and notices be printed). But it does not weigh those costs and challenges in deciding *whether* to enjoin the election. *See id.* at

6.[2]

12. The Court's order, while acknowledging the proximity of the election, fails to take that into account. By comparison, the Supreme Court has stayed election injunctions issued *much further* out from election day than this one. *See, e.g.*, *Whitcomb v. Chavis*, 396 U.S. 1055 and 396 U.S. 1064 (1970) (staying injunction issued weeks before candidate qualification and months before election); *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006).

13. The Court concedes that "voters may be confused by the changed election date," ECF No. 204 at 6, but gives this minimal weight. By statute, non-partisan general elections occur in May, and that is when voters expect those elections.

14. The Court is also incorrect that placing school board elections on the ballot in November "is unlikely to disrupt the election process." ECF No. 204 at 6. To the contrary, it means there will be a *second* wave of confusion because the Court has determined to act only by the end of July on imposing a new plan. Brady Decl. ¶¶5-14. Presumably, that plan will not match School Board and County Commissioner districts, so County officials will have to undertake the arduous tasks of reclassifying voters for the new districts. Brady Decl. ¶7. This was based on a schedule Plaintiff proposed, but Plaintiff has no experience running Sumter County elections.

15. Defendant respectfully disagrees that the "Court is acting with proper judicial restraint." ECF No. 204 at 6. Leaving open the "opportunity" for the General Assembly to enact a new plan *after* this exceptional intrusion into Sumter County elections hardly makes the

[2] When Defendant received the Court's Order on Friday, it proceeded with trying to find the most economical route to comply. Defendant's compliance with the Court's Order is detailed in the attached declaration. Brady Decl. at ¶3.

intrusion less exceptional. To the contrary, it places the thumb heavily on the scale *against* General Assembly action because further meddling with the Sumter County districting scheme will only impose further burden, cost, and confusion. Brady Decl. ¶¶5-14.

Date: April 6, 2018

Respectfully submitted by:

s/ Katherine L. McKnight
E. Mark Braden (pro hac vice)
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ATTORNEYS FOR DEFENDANT SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record in this case.

Dated this 6th day of April, 2018.

/s/ Katherine L. McKnight
E. Mark Braden (pro hac vice)
Katherine L. McKnight (pro hac vice)
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Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR., Plaintiff, v. SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION, Defendant.	CIVIL ACTION NO. 1:14-CV-42 (WLS)

DECLARATION OF ROBERT BRADY

1. My name is Robert Brady and I am over the age of 18 and competent to testify.
2. I offer this declaration in my official capacity as the Supervisor of Elections in Sumter County, Georgia.
3. Following issuance of the Court's Order on Friday, March 30, 2018, my office, the Sumter County Board of Elections and Registration, has taken the following actions:
    a. Confirmed that the first date of voting is April 7, 2018. O.C.G.A. § 21-2-384(A)(2). The EBD (Electronically issued) UOCAVA (Ballots to Over Seas Voters) Ballots per Federal Law have to begin to be delivered on April 6, 2018 at midnight for the May 22, 2018 election and have to be delivered or issued by midnight April 7, 2018. The Secretary of State's Office handles issuing and delivering Electronic Ballots to UOCAVA voters, and the Local Authorities handle the issuance and delivery of mail type ballots, as well as Absentee in Person Voting.

b. Contacted the head of the Center for Election Systems ("CES"), the division of the Secretary of State's Office that builds ballots. We had not yet received copies of the paper ballots and we sought to determine if changes could still be made. We requested that he move Sumter County's Ballot creation to the "bottom of the stack" to delay as long as possible and create the opportunity to exclude the Board of Education races from the ballots, not totally rebuilding the Ballots or printing them with information that requires redacting.

c. Received notification from the CES that the Sumter County Board of Education Election will NOT appear on the May 22, 2018 ballot because of the injunction.

d. Proofed the re-designed Ballots excluding the School Board Election, and instructed that the ballots be sent to our printer, to be transmitted to my local in house printer to be printed as needed.

e. Notified various other officials about the injunction including the Director of the Elections Division in the Secretary of State's office, the General Counsel for the Elections Division, and the Sumter County Board of Elections.

f. Discussed how to handle the Qualifying Fees, set at $72 per candidate, that have already been paid by all qualified candidates.

g. Requested that the names of the no longer qualified School Board candidates be removed from the Secretary of State's website listing the names of all of the qualified candidates in Sumter County, and requested that I be notified when that was accomplished.

4. As of the date of the Court's March 30 Order, candidates for the Sumter County School Board up for election in the May 2018 elections have already undertaken the following:

    a. Completed Qualifying Documents and presenting them in a timely fashion before the deadline to cease Qualifying occurred.

    b. Paid Qualifying Fees of $72.00.

    c. Completed Ethics (Georgia Government Transparency & Campaign Finance Commission) mandated paperwork.

    d. Formed Campaign Committees / volunteer groups.

    e. Bought signs and/or campaign material.

    f. Attended Candidate Forums presented by various civic organizations.

    g. Shaped their platform and communicated it to those they sought to represent.

    h. Ordered and obtained Voter's Lists from the Secretary of State's Office (costing about $60).

    i. Campaigned in their districts, going door-to-door, meeting their potential voters and asking for their support.

    j. Spent time securing permission to place signs and banners on private property, then having the signs placed, or placing them themselves, on the private property

5. Costs and challenges related to compliance with the Court's injunction are likely to continue into the future because additional complications may arise in administering the

May 2018 elections (such as queries from confused voters) and because the plan has been enjoined without a current replacement. When the replacement is implemented, further costs will arise.

6. The Court's order does not specify what Sumter County must do with the qualifying fees that have been paid already. My office has yet to receive guidance on how to handle this.

7. Once a new plan is implemented, it will be necessary to reassign the voters to their new permanent school board districts from their interim districts. This effort involves anywhere from three-days' work to several weeks non-stop depending on the complexity of the changes.

8. Any redistricting will affect candidates for office, including those who invested time and money planning to run in May 2018. They may end up in districts were they did not anticipate running, they may be paired with incumbents or opponents they did not anticipate, and they may be paired with constituencies they did not anticipate. Among other problems this may create, it may, for example, result in would-be-minority candidates ending up in majority-white districts where the Court concluded they are unlikely to be successful. Or it may result in their ending up in districts where no election will take place.

9. Significant details of the November election remain un-addressed. For example, the School Board elections are staggered, and not all seats were up for election in May 2018. If the Court chooses to run races for all seats in November, it must cut short the terms of Board members. If the Court chooses to run races for only seats already scheduled to be run, there may be portions of the electorate unrepresented because of the mismatch

between current and former district lines. Some residents could be represented by two members, or even three.

10. Additionally, questions of eligibility may arise. Officeholders may be moved out of their districts, raising the question whether they are entitled to continue serving. Their terms may be cut short inadvertently.

11. It also remains unclear whether the current set of candidates will choose to run under the circumstances. The November elections may then involve uncompetitive races or races with no candidates. Or, for example, many of the candidates may end up in a single district, flooding the race there and leaving neighboring districts with no candidates.

12. I understand that the Court has left open the option for the General Assembly to create a new plan in 2019. If it chooses to do so (which is not within my control), all of the above-described problems will occur again.

13. I have administered elections in Sumter County for 5 years. In my experience, even small changes in elections administration can confuse and vex voters, and my office, in turn, bears the brunt of complaints and questions. My office is staffed by two people. In my experience, I will be expected personally to field all questions that come to our office about possible changes to a voter's district. The time leading up to the November elections is a very busy and trying time for my office because of all the demands of the voting season. My office prides itself on the accuracy and completeness of information it dispenses but this takes time and will take substantial time during an already busy time of year.

14. Based on this experience and information, I anticipate further confusion, expense, and difficulty with compliance with the Court's injunction.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on April 6, 2018, in Georgia, United States.