

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555- JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> ,  <i>Plaintiffs,</i>  v.  BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> ,  <i>Defendants,</i>  REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,  <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229- JPB

**NGP PLAINTIFFS' RENEWED MOTION FOR PRELIMINARY  
INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs New Georgia Project, Black Voters Matter Fund, Rise, Inc., Elbert Solomon, Fannie Marie Jackson Gibbs, and Jauan Durbin respectfully renew their motion for an Order enjoining Defendant Keith Gammage, in his official capacity as the Solicitor General of Fulton County, and Defendant Gregory W. Edwards, in his official capacity as the District Attorney for Dougherty County, from enforcing during the 2024

elections the provisions of O.C.G.A. § 21-2-414 that impose criminal penalties on those who distribute food, drink, and other gifts “[w]ithin 25 feet of any voter standing in line to vote at any polling place,” otherwise known as the “Supplemental Zone.”

For the reasons set forth in NGP Plaintiffs’ accompanying Brief in Support of Plaintiffs’ Renewed Motion for Preliminary Injunction, and incorporating by reference their factual evidence and briefing from their initial preliminary injunction motion, *see* ECF Nos. 185, 185-1–8, 217, NGP Plaintiffs have established that they are likely to succeed on the merits of their claim that the challenged prohibition—and the accompanying criminal penalties—violates the First Amendment by unjustifiably restricting their ability to engage in expressive conduct in the Supplemental Zone. Enforcement of this law would irreparably harm NGP Plaintiffs and similar organizations and voters across the State; this injury outweighs any harm Defendants Gammage and Edwards would suffer were the Court to order the relief sought by NGP Plaintiffs; the balance of hardships weighs in NGP Plaintiffs’ favor; and a preliminary injunction is in the public interest.

Respectfully submitted this 17th day of May, 2023,

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: May 17, 2023

/s/ Uzoma N. Nkwonta  
*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 17, 2023, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: May 17, 2023

/s/ Uzoma N. Nkwonta  
*Counsel for Plaintiffs*

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**NGP PLAINTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS' RENEWED  
MOTION FOR PRELIMINARY INJUNCTION**

## Table of Contents

<b>INTRODUCTION</b> .....	<b>1</b>
<b>BACKGROUND</b> .....	<b>3</b>
<b>ARGUMENT</b> .....	<b>4</b>
I.    Plaintiffs are likely to succeed on the merits of their claim. ....	4
II.   The remaining factors weigh heavily in Plaintiffs’ favor. ....	8
III. <i>Purcell</i> does not weigh against granting the preliminary injunction. ....	9
<b>CONCLUSION</b> .....	<b>10</b>

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Anderson v. Spear</i> , 356 F.3d 651 (6th Cir. 2004) .....	6
<i>First Nat’l Bank of Bos. v. Bellotti</i> , 435 U.S. 765 (1978).....	7
<i>Ne. Fla. Chapter of Ass’n of Gen. Contractors of Am. v. City of Jacksonville</i> , 896 F.2d 1283 (11th Cir. 1990) .....	9
<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006).....	2
<i>Riley v. Nat’l Fed’n of the Blind of N.C., Inc.</i> , 487 U.S. 781 (1988).....	7
<i>Russell v. Lundergan-Grimes</i> , 784 F.3d 1037 (6th Cir. 2015) .....	6, 7
<i>White v. Baker</i> , 696 F. Supp. 2d 1289 (N.D. Ga. 2010).....	9
<b>Statutes</b>	
O.C.G.A. § 15-18-66(a) .....	8
O.C.G.A. § 21-2-414.....	5
O.C.G.A. § 21-2-414(a) .....	6
O.C.G.A. § 21-2-567.....	6
O.C.G.A. § 21-2-570.....	6

## INTRODUCTION

Last summer, this Court concluded that Plaintiffs had “established each of the preliminary injunction factors” as to Georgia Senate Bill (“S.B.”) 202’s Food and Water Ban (the “Ban”), as it pertains to any individuals providing food or drink within 25 feet of any voter in line (the “Supplemental Zone”). *See* August 18 Order on Prelim. Inj. (“Order”) at 74, ECF No. 241. The Court noted that the Supplemental Zone had “no limit” and could thus extend “thousands of feet away from the polling station (and across private property).” *Id.* at 55. As a result, the Ban in the Supplemental Zone was substantially likely to be unconstitutional because it constituted an “impermissible burden” on Plaintiffs’ constitutional right to free speech. *Id.* at 55–56. The Court also found that Plaintiffs had demonstrated irreparable harm because the threat of prosecution of line relief activities in the Supplemental Zone had deterred Plaintiffs and other organizations from engaging in such behavior. *Id.* at 59. Because such an infringement upon Plaintiffs’ First Amendment rights constitutes a “serious and substantial injury” and the government “has no legitimate interest in enforcing an unconstitutional [statute],” *id.* at 61 (quoting *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006)), the Court concluded that Plaintiffs had shown the balance of equities and public interest weighed in their favor.



Despite finding that all of the preliminary injunction factors weighed in Plaintiffs' favor, the Court ultimately did not enjoin the Food and Water Ban in the Supplemental Zone. At the time the Court issued its ruling, the general election was less than three months away and a primary for that election had already been held. As a result, the Court concluded that an injunction might cause voter confusion and burden on election administrators, and therefore denied relief under *Purcell v. Gonzalez*, 549 U.S. 1 (2006). *See* Order at 72.

As the AME and GA NAACP Plaintiffs explain in their renewed motion, which the NGP Plaintiffs join and incorporate here, fact discovery is now over, and the merits of Plaintiffs' challenges to the Food and Water Ban in the Supplemental Zone are only stronger. *See generally* AME Renewed Motion ("AME Br."), ECF No. 535-1. This is especially so with regard to the NGP Plaintiffs' claim, which seeks relief from Defendants Keith Gammage, the Solicitor General ("SG") of Fulton County, and Gregory W. Edwards, the District Attorney ("DA") for Dougherty County (collectively, the "County Prosecutors"). Deposition testimony from these two individuals demonstrates that the Food and Water Ban does not address the State's concern about maintaining a restricted zone around voters. The County Prosecutors also explicitly fail to disclaim their intent to enforce the Food and Water Ban, thus confirming Plaintiffs' legitimate concern about the threat of

prosecution for line relief activities in Fulton and Dougherty Counties. And importantly, the *Purcell* considerations that led to the Court's denial of relief are no longer implicated, as the next statewide election in Georgia is no less than nine months away.

For these reasons, NGP Plaintiffs renew their Motion for Preliminary Injunction to enjoin the Food and Water Ban in the Supplemental Zone against the County Prosecutors. Because the Court has already found that Plaintiffs have demonstrated the merits of their claim for injunctive relief as to that Zone, and equitable considerations about confusion and administration of criminal penalties are not implicated, especially months before the next statewide election, the Court should enjoin the County Prosecutors from enforcing the Food and Water Ban in the Supplemental Zone.<sup>1</sup>

### **BACKGROUND**

NGP Plaintiffs incorporate by reference the factual evidence and briefing from their initial preliminary injunction motion, *see* NGP Prelim. Inj., ECF Nos. 185, 185-1-8; NGP Prelim. Inj. Reply, ECF No. 217; *see also* AME Br. at 3. NGP Plaintiffs address relevant new evidence obtained during discovery below.

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<sup>1</sup> NGP Plaintiffs maintain the portion of their First Amendment claim as to the zone within 150 feet of the polling place entrance, but do not renew this part of the claim in this motion.

## ARGUMENT

### **I. Plaintiffs are likely to succeed on the merits of their claim.**

As the Court has already concluded, Plaintiffs are likely to prevail on their claim that the Food and Water Ban in the Supplemental Zone violates Plaintiffs' constitutional rights. To avoid repetition and for the Court's convenience, NGP Plaintiffs join and incorporate the AME and GA NAACP Plaintiffs' arguments in their renewed motion, and emphasize several pieces of additional evidence obtained in discovery from the County Prosecutors that further demonstrate the unconstitutionality of the Ban. *See* AME Br. at 4–10.

The Food and Water Ban in the Supplemental Zone is indeed “unreasonable,” Order at 56, because it does not serve the State's proffered interests of “restoring peace and order around the polls; protecting voters from political pressure and intimidation; and supporting election integrity.” *Id.* at 51–52. As both County Prosecutors have admitted, Georgia law, including the Food and Water Ban, does not actually prohibit anyone from approaching a voter in line, or engaging a voter in conversation while they stand in line, as long as that individual is not engaged in behavior otherwise prohibited by law, such as electioneering or intimidation. *See* Edwards Tr. (Ex. 1), 59:14-21 (agreeing that a person wearing an unmarked shirt and not carrying any food or gifts could walk into the 150-foot “Buffer Zone” or

Supplemental Zone and freely have a conversation with a voter); 61:12-62:4 (agreeing that a person not engaged in any conduct prohibited by O.C.G.A. § 21-2-414 could still approach a voter in either Zone); *see also* Gammage Tr. (Ex. 2), 65:22-66:9 (stating it was not a violation of any law for someone to approach a voter in line as long as they were not engaging in any conduct identified in O.C.G.A. § 21-2-414).<sup>2</sup> So, even if the State’s purported concerns about sharing food and drink in the Supplemental Zone were justified, voters are no more insulated from any hypothetical disruption, intimidation, and improper influence from others that can legally and freely approach any voter waiting in line to vote. *See* Order at 52–53. In other words, the Ban does not actually address the risk that individuals can approach and interact with voters in line. The Ban also does not address the risk that those conversations or interactions could lead to behavior aimed at influencing a voter’s decision at the ballot box—it simply prevents people from sharing food and water with voters in long lines.

Nor does the Ban insulate voters from any behavior that was not previously unlawful. It is already a crime in Georgia to “solicit votes in any manner or by any

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<sup>2</sup> The State Election Board has also testified as much. During its 30(b)(6) deposition, the Board agreed that nothing in SB 202 prohibits individuals from approaching voters in line and interacting with them, as long as they are not campaigning, being disruptive, or offering anything to voters. *See* SEB 30(b)(6) Tr. (Ex. 3), 250:21-251:2.

means or method,” and to “distribute or display any campaign material” in an effort to influence a voter. O.C.G.A. § 21-2-414(a). Before SB 202, Georgia law already prohibited giving or offering to give “money or gifts for the purpose of . . . voting.” *Id.* § 21-2-570. And Georgia law broadly prohibits the intimidation of voters. *Id.* § 21-2-567. Contrary to the State Defendants’ claims, the Ban does not *create* a restricted zone where individuals cannot solicit votes, engage in electioneering, or bribe or intimidate voters—that zone was already in place because of laws that predate SB 202.

Finally, as the AME and GA NAACP Plaintiffs have explained, the State has failed to articulate why there is *any* need to create a Supplemental Zone that extends prohibitions on protected speech—with no limit—even further beyond the existing Buffer Zone. *See* AME Br. at 8–10. As this Court has already recognized, the existing Buffer Zone is already larger than any zone found to be constitutional by the Supreme Court. *See* Order at 53. And because a “buffer zone runs in all directions from [a] building,” any extension beyond the 100-foot zone in *Burson* has a magnified area of coverage. *See Anderson v. Spear*, 356 F.3d 651, 661 (6th Cir. 2004) (finding that a 500-foot buffer zone covered an area 25 times larger than the area at issue in *Burson*); *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1053–54 (6th Cir. 2015) (finding that a 300-foot buffer zone covered an area nine times larger than

the area at issue in *Burson*). Not only is the Buffer Zone already more than two times larger than the area at issue in *Burson*, but the addition of an unlimited Supplemental Zone—on top of an already enlarged Buffer Zone—“impairs a substantial amount of speech beyond what is required to achieve acceptable objectives.” *Russell*, 784 F.3d at 1054.<sup>3</sup> For these reasons, the Food and Water Ban in the Supplemental Zone is overbroad and “must be invalidated.” *Id.* (quoting *Citizens United v. FEC*, 558 U.S. 310, 336 (2010)); *id.* at 1054–55 (finding Kentucky’s 300-foot buffer zone unconstitutional where the State failed to present evidence justifying a zone nine times larger than the zone in *Burson*).

Because Georgia law already provides clear enforcement mechanisms against improper electioneering, bribery, and intimidation at the polls, but prohibits Plaintiffs from engaging in expressive conduct, like sharing food and water, and is far greater than is necessary, the Food and Water Ban in the Supplemental Zone is a “prophylactic, imprecise, and unduly burdensome” rule that is “suspect” and not permitted “in the area of free expression.” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 800–01 (1988) (citation omitted); *see also First Nat’l Bank of Bos. v. Bellotti*, 435 U.S. 765, 794 (1978) (holding that a regulation that is

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<sup>3</sup> The zone approved by the Supreme Court in *Burson* covers an area of  $100^2\pi$ , or 31,415 square feet, and the Buffer Zone under Georgia law covers an area of  $150^2\pi$ , or 70,650 square feet, which is more than twice the area of the zone in *Burson*.

overinclusive is not narrowly tailored to its goal). Thus, the Food and Water Ban in the Supplemental Zone violates the First Amendment, and the County Prosecutors should be enjoined from enforcing it.

## **II. The remaining factors weigh heavily in Plaintiffs' favor.**

The Court has already correctly concluded that without an injunction of the Food and Water Ban in the Supplemental Zone, Plaintiffs will suffer irreparable harm because the undeniable, ongoing risk of criminal enforcement against line relief activities deters protected speech. Order at 58–59; *see generally* Honor Decl. (Ex. 4), Hector Decl. (Ex. 5), Johnson Decl. (Ex. 6), Durbin Decl. (Ex. 7); *see also* AME Br. at 10–11. Evidence obtained in discovery only further supports the Court's conclusion because the County Prosecutors have now acknowledged that it is their duty to enforce the Food and Water Ban and refused to disclaim any intent to enforce the Ban in the future. *See* Edwards Tr. 43:15-22; 50:19-51:3; *see also* O.C.G.A. § 15-18-66(a) (delineating authority of prosecuting attorneys to bring criminal cases in Georgia). DA Edwards also confirmed that there is no official or entity that could prevent him from bringing a prosecution under his authority. Edwards Tr. 46:16-25 (speaking generally about all laws); 51:15-19 (speaking specifically about the Food and Water Ban); *see also* Gammage Tr. 61:7-21 (“I cannot categorically state that I’ll never bring a prosecution for the offenses contained in the [Food and Water]

statute in which we speak.”).

This record makes clear that NGP Plaintiffs face the threat of criminal prosecution if they engage in line relief activities in the Supplemental Zone. *See also* NGP Reply at 14, ECF No. 217; Exs. 4–7. Because this threat chills their speech, Plaintiffs continue to experience irreparable injury. *See Ne. Fla. Chapter of Ass’n of Gen. Contractors of Am. v. City of Jacksonville*, 896 F.2d 1283, 1285-86 (11th Cir. 1990) (ongoing First Amendment violation is irreparable injury); *White v. Baker*, 696 F. Supp. 2d 1289, 1312–13 (N.D. Ga. 2010) (“Plaintiffs that show a chilling effect on free expression have demonstrated an irreparable injury.”). Thus, the irreparable harm factor for preliminary injunctive relief continues to weigh in Plaintiffs’ favor.

And because an “infringement of First Amendment rights balances the equities in Plaintiffs’ favor, and neither Defendants nor the public have a legitimate interest in enforcing an unconstitutional statute[,] . . . Plaintiffs have satisfied their burden as to the third and fourth prongs of the preliminary injunction test.” Order at 61.

### **III. *Purcell* does not weigh against granting the preliminary injunction.**

The *Purcell* doctrine is no barrier to relief here. As the AME and GA NAACP Plaintiffs correctly point out, the next statewide primary will be no sooner than nine



months from now, and the next statewide general election is even farther away. *See* AME Br. at 1, 12. Even the presidential preference primary is not scheduled to conclude sooner than mid-March 2024. There is ample time for any relief to be implemented in advance of the 2024 elections. And enjoining the County Prosecutors' enforcement of the Food and Water Ban in the Supplemental Zone at this stage is even further removed from the concerns that animate the *Purcell* doctrine. *See* NGP Prelim. Injun. at 18–20; NGP Prelim. Inj. Reply at 2–4.

### **CONCLUSION**

For these reasons, NGP Plaintiffs' Renewed Motion for Preliminary Injunction should be granted.

Respectfully submitted this 17th day of May, 2023,

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### **CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: May 17, 2023

/s/ Uzoma N. Nkwonta  
*Counsel for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I hereby certify that on May 17, 2023, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: May 17, 2023

/s/ Uzoma N. Nkwonta  
*Counsel for Plaintiffs*

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**DECLARATION OF UZOMA NKWONTA IN SUPPORT OF  
NGP PLAINTIFFS' RENEWED MOTION FOR PRELIMINARY  
INJUNCTION**

I, Uzoma Nkwonta, hereby declare as follows:

1. I am over the age of 18 and competent to make this declaration. I am an attorney with the law firm Elias Law Group LLP, and am counsel for Plaintiffs New Georgia Project, Black Voters Matter Fund, Rise, Inc., Elbert Solomon, Fannie Marie Jackson Gibbs, and Jauan Durbin. I submit this declaration to provide the

Court true and correct copies of certain documents submitted in support of NGP Plaintiffs' Renewed Motion for Preliminary Injunction:

2. **Exhibit 1** is a true and correct copy of excerpts of the February 27, 2023 deposition transcript of Gregory W. Edwards.

3. **Exhibit 2** is a true and correct copy of excerpts of the March 2, 2023 deposition transcript of Keith E. Gammage.

4. **Exhibit 3** is a true and correct copy of excerpts of the March 7, 2023 deposition transcript of the Georgia State Election Board.

5. **Exhibit 4** is a true and correct copy of the declaration of Billy Honor, dated May 16, 2023.

6. **Exhibit 5** is a true and correct copy of the declaration of Mary-Pat Hector, dated May 16, 2023.

7. **Exhibit 6** is a true and correct copy of the declaration of Christopher G. Johnson, dated May 17, 2023.

8. **Exhibit 7** is a true and correct copy of the declaration of Jauan Durbin, dated May 17, 2023.

Respectfully submitted this 17th day of May, 2023,

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Dated: May 17, 2023

/s/ Uzoma N. Nkwonta  
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*Counsel for Plaintiffs*

GREGORY W. EDWARDS  
IN RE GEORGIA SENATE BILL 202

February 27, 2023

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

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IN RE GEORGIA SENATE BILL 202 : Master Case No.  
: 1:21-MI-55555-JPB  
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DEPOSITION OF GREGORY W. EDWARDS  
ALBANY, GEORGIA  
MONDAY, FEBRUARY 27, 2023

REPORTED BY: TANYA L. VERHOVEN-PAGE,  
CCR-B-1790

FILE NO. J9319235

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February 27, 2023

10:15 a.m.

Deposition of  
GREGORY W. EDWARDS, held at the Dougherty  
County District Attorney's Office, 225  
Pine Avenue Albany Georgia before  
Tanya L. Verhoven-Page, Certified  
Court Reporter.



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WITNESS: GREGORY W. EDWARDS

Examination	Page
BY MR. MOCINE-MCQUEEN	8
BY MR. BOYLE	63

EXHIBITS:

Plaintiff's (Edwards) Deposition Exhibit	Description	Page
Exhibit 183	Section 15-18-6 of the Georgia Code	22
Exhibit 184	Section 21-2-414 of the Georgia Code	47

1 ALBANY, GEORGIA; MONDAY, FEBRUARY 27, 2023

2 10:15 A.M.

3  
4 P R O C E E D I N G S  
5

6 MS. VANDER ELS: Irene Vander Els.  
7 I'm with Dekalb County Law Department,  
8 and I'm here on behalf of the Dekalb  
9 County Defendants.

10 MS. EVANS: From the U.S.  
11 Department of Justice, I'm Rachel Evans,  
12 and on, is also my colleague, Joi Hyatte.

13 MR. LOWMAN: I'm David Lowman with  
14 the Office of the Fulton County Attorney,  
15 and I'm here on behalf of the Fulton  
16 County Board of Registration and  
17 Elections.

18 MR. BOWMAN: Good morning. I'm  
19 Brad Bowman, also with the Office of the  
20 Fulton County Attorney, and I am here  
21 representing Solicitor Gammage.

22 MS. SZILAGYI: Hi. My name is  
23 Heather Szilagyi. I'm with the Lawyers  
24 Committee for Civil Rights Under Law, and  
25 I represent the Georgia NAACP Plaintiffs

1 in this case.

2 MR. CATHEY: Good morning. This is  
3 Tom Cathey from Hull Barrett. I'm here  
4 on behalf of the Columbia County  
5 Defendants.

6 MR. MOCINE-MCQUEEN: We do have --  
7 yes, from the Elias Law Group -- our  
8 colleague, Samuel Ward-Packard.

9 My name is Marcos Mocine-McQueen.  
10 I'm with the Elias Law Group, and we  
11 represent the New Georgia Project  
12 Plaintiffs.

13 MS. JOHNSON: Mindy Johnson also  
14 representing the New Georgia Project  
15 Plaintiffs.

16 MR. BOYLE: I'm Donald Boyle  
17 representing the witness, Mr. Edwards.

18  
19 Thereupon --

20 GREGORY W. EDWARDS,  
21 called as a witness, having been first duly sworn,  
22 was examined and testified as follows:

23  
24 EXAMINATION

25 BY MR. MOCINE-MCQUEEN:

1 to take a moment here.

2 So just one last question: Must all  
3 misdemeanor prosecutions proceed either through an  
4 indictment or an accusation?

5 A That's correct.

6 Q Okay. There are no other avenues to  
7 prosecute a misdemeanor criminal offense other than  
8 those two paths that we --

9 A Not that I'm aware of in the State of  
10 Georgia. I mean, to my legal knowledge, I'm not  
11 aware of any other process that would bring a matter  
12 forward.

13 Q Great. This has been very helpful.  
14 Thank you for explaining those terms to me.

15 So, Mr. Edwards, did you take an oath  
16 when you assumed your office?

17 A I did.

18 Q Okay. I don't need an exact recitation  
19 of that oath. Although, you've done it enough times  
20 you probably could.

21 What is your understanding of what that  
22 oath compels you to do?

23 A It compels me to -- to do what's right  
24 and to -- to do what's right. I can't sum it up even  
25 more than that. You know, the duty of a prosecutor,

1 as I see it, is not necessarily to prosecute every  
2 matter that appears. It's not the duty of a  
3 prosecutor to convict everybody that's charged with a  
4 crime.

5 My duty is to seek the truth and to do  
6 whatever is appropriate to make sure that the truth  
7 about whatever the situation is is the net result.

8 Q So you listed several things there. Is  
9 one of the duties that you have as the District  
10 Attorney to enforce the law?

11 A That's correct.

12 Q With regard to enforcing the laws, you  
13 also mentioned some things there. You said it is not  
14 always to get a conviction.

15 Are there any laws that you categorically  
16 do not enforce?

17 A No. I do not have any laws that I do  
18 not -- I'm not engaged in what people describe as a  
19 prosecutorial veto. I will look at each case, each  
20 circumstance and look at the law and make decisions  
21 based upon what I think is the best and most  
22 appropriate thing to do.

23 Q And you said this, but I just want to  
24 make sure I'm understanding correctly. You make that  
25 judgment on a case by case basis?



1 A That's what I do.

2 Q Yes, sir.

3 What are some of the factors that you  
4 weigh when you're making that determination?

5 A The totality of circumstances,  
6 particularly the law, the facts of that particular  
7 situation, the defendant. All of those things are  
8 matters that I put into the calculus of deciding what  
9 I want to do or should do in a particular instance.

10 Q So is the -- it sounds like -- would the  
11 type of crime be one of the factors that you're  
12 considering whether -- when you're considering  
13 whether to prosecute an individual?

14 A Perhaps, in relation to other  
15 circumstances. Like I said, including, perhaps, the  
16 history of that individual, the history of that  
17 offense by other individuals. All of the factors --  
18 it's -- all the variables would need to be weighed.

19 Every case should be evaluated on its  
20 specific circumstances.

21 Q When you say how others have been  
22 prosecuted on those type of actions, can you explain  
23 to me, sir, a little bit more about what you mean by  
24 that?

25 A Well, I would certainly look at the

1 notion that, if there are matters where, you know,  
2 one person may have done the crime and not been  
3 prosecuted and then now a subsequent person is, you  
4 know, alleged to have done the same thing and not  
5 prosecuted, you know, that would be something that I  
6 would certainly weigh into my evaluation of the  
7 situation. I try not to mix the proverbial, you  
8 know, other matters and look at each case, but, you  
9 know, I look holistically at what's going on in the  
10 community, what's going on with the law, what's going  
11 on with these individual circumstances. So my  
12 intentions is always to look at everything.

13 Q Okay. And are there any circumstances --  
14 let me narrow that down. Are there any categories of  
15 crime in which you feel you do not have the  
16 discretion to go through this weighing process?

17 A No. I think that prosecutorial  
18 discretion is one of the most important things, you  
19 know, of being a prosecutor, and prosecutorial  
20 discretion with the notion of getting to the truth,  
21 getting to justice, is what should be the guiding  
22 principle.

23 Q Okay. And I think we've actually gone  
24 through a lot of the next questions. I just want to  
25 make sure that I ask just a couple of very quick

1 follow-up questions on what we've already discussed.

2 So Georgia's Attorney General can  
3 potentially prosecute crimes here in Dougherty  
4 County, but he cannot prevent you from prosecuting a  
5 crime; is that correct?

6 A To my knowledge and information, that's  
7 correct. He can prosecute any matter that I could  
8 prosecute, and I'm not aware of any directive that  
9 would prevent -- you know, I'm an independent elected  
10 official in this circuit, and there's nothing that  
11 I'm aware of that would prevent me from doing my  
12 duties as an elected official in this judicial  
13 circuit.

14 Q And I think you just answered this  
15 question, but I just want to make sure.

16 To your knowledge, are there any  
17 officials or official bodies that can prevent you  
18 from bringing a prosecution under your authority as  
19 the District Attorney in Dougherty County?

20 A Not that I'm aware of. I'm not aware of  
21 anything that would bar me from bringing a  
22 prosecution other than, perhaps, the legal bar of the  
23 statute of limitations, which is the legal bar for  
24 any prosecution if you don't bring it within the  
25 allotted time for that particular offense.

1 Q Okay. So the statutory limitations on  
2 the crime itself, things like the statute of  
3 limitations, can prevent you, but as far as  
4 authorities, as far as officials who might have  
5 county power or state power, to your knowledge, there  
6 are no officials that can prevent you from bringing a  
7 prosecution?

8 A I'm not aware of any official who has  
9 authority over the actions of the district attorney.

10 MR. MOCINE-MCQUEEN: We've been  
11 going about hour. It seems like a good  
12 moment to take a break, if that's okay  
13 with you?

14 THE WITNESS: Sure.

15 (Brief pause.)

16 (Plaintiff's (Edwards) Deposition  
17 Exhibit No. 184 was marked for the  
18 record.)

19 BY MR. MOCINE-MCQUEEN:

20 Q Mr. Edwards, we're going to shift a  
21 little bit. I'm going to hand you an exhibit that  
22 we're going to mark as Exhibit 184.

23 I apologize. There are no staples on  
24 this one either, but it is two pages, and these two  
25 pages are Georgia Annotated Code 21 -- they are just

1 a printout of the Annotated Code 21-2-414, 21-2-414.  
2 I'll give you a moment, sir, to read that, and I'm  
3 particularly going to be discussing today Paragraph A  
4 and its subparts. So --

5 I'm just taking a look at my notes.  
6 Thank you for your patience.

7 So I'm just going to read this so that --  
8 for the folks who are not with us here and can't see  
9 the physical exhibits, they have a chance to hear it.

10 This is Georgia Annotated Code 21-2-414,  
11 Paragraph A, and I'm going to read A, subparts -- and  
12 including Subparts 1, 2 and 3, and it reads: No  
13 person shall solicit votes in any manner or by any  
14 means or method, nor shall any person distribute or  
15 display any campaign material, nor shall any person  
16 give, offer to give or participate in the giving of  
17 any money or gifts, including, but not limited to,  
18 food and drink, to an elector, nor shall any person  
19 solicit signatures for any petition, nor shall any  
20 person, other than election officials discharging  
21 their duties, establish or set up any tables or  
22 booths on any date in which ballots are being cast:  
23 Subpart 1 reads: Within 150 feet of the outer edge  
24 of any building within which a polling place is  
25 established; Subpart 2: Within any polling place; or

1 Subpart 3: Within 25 feet of any voter standing in  
2 line to vote at any polling place, and the concluding  
3 sentence reads: These restrictions shall not apply  
4 to conduct occurring in private offices or areas  
5 which cannot be seen or heard by such electors.

6 Are you familiar, Mr. Edwards, with this  
7 section of the Georgia statute?

8 A I became aware it had been enacted as  
9 dated, yes.

10 Q Okay. And if I refer to this as  
11 Georgia's electioneering law, will you understand  
12 that I'm referring to this statute here?

13 A Yes.

14 Q Okay. Can you describe, in your  
15 understanding, of what conduct is covered by this  
16 statute?

17 A Well, my understanding would be that, if  
18 there's any conduct within the forbidden area of  
19 150 feet; such as, contacting persons who are in the  
20 line to vote by any means with any materials or  
21 contact, that that possibly would be a violation of  
22 this particular statute.

23 Q Okay. And we'll ask some more details  
24 about that in a moment. Thank you for that.

25 Do your duties as the District Attorney

1 here in Dougherty County include, if it were needed,  
2 enforcing this law?

3 A Possibly, yes.

4 Q Would anyone else in Dougherty County  
5 enforce this statute other than yourself?

6 A Not that I'm aware of. I would  
7 anticipate that someone might investigate it and make  
8 a report to a magistrate or to me about it.

9 Q Okay. And when I asked if you would  
10 prosecute this in Dougherty County, your answer was  
11 possibly. Am I to understand that as a -- how do I  
12 understand your use of the word "possibly" as opposed  
13 to yes or no?

14 A Simply as that. I would look at the  
15 facts relating to the allegations to see if there is,  
16 beyond a reasonable doubt, and that's my standard --

17 Q Okay.

18 A -- a violation of this particular law.

19 Q Okay. So as far as enforcing the law,  
20 that is a responsibility of your office? Not looking  
21 at the facts of a specific -- I'm not asking you now  
22 about the facts of any specific case, but as far as  
23 who has the duty to enforce this law, that would be  
24 your office; is that correct?

25 A It would be my office if the matter is

1 brought to my attention, and there's evidence beyond  
2 a reasonable doubt that it occurred, then it would be  
3 my duty to enforce it.

4 Q Okay. Understood. And so with regards  
5 to that, have you ever brought charges under this  
6 section of the Georgia code?

7 A No, sir, I have not.

8 Q Okay. Would anyone outside of your  
9 office -- and I think we -- we actually already went  
10 over that. I'm going to stop that question. I'll  
11 move on.

12 This kind of goes back to some earlier  
13 questions we asked, but I just want to make sure I  
14 understand.

15 Is there anyone outside of your office  
16 who could prohibit you from enforcing this law?

17 A I'm not aware of any authority or an  
18 individual that would have the authority to keep me  
19 from enforcing the law.

20 Q Okay. And if you were to enforce this  
21 law, would it proceed through the processes that we  
22 discussed earlier, either an indictment or a criminal  
23 accusation?

24 A That's correct.

25 Q Okay. So I'd like to take a look -- just



1 briefly take a closer look at some of the language in  
2 this statute. I'd like to specifically start with  
3 understanding physically where this law can be  
4 enforced.

5 I'm going to -- can you look at the --  
6 the subparagraphs one, two and three, and just as a  
7 starting question, I would just ask: Would you agree  
8 with me that these describe where physically this law  
9 applies?

10 A In my estimation, I would say yes.

11 Q Yes, sir. So these are the ones that say  
12 within 150 feet of the outer edge of any building in  
13 which a polling place is established within the  
14 polling place or within 25 feet of any voter standing  
15 in line at any polling place.

16 Do you -- in your understanding, does  
17 this statute, the electioneering statute, have  
18 anything to say about behavior taking place outside  
19 of those zones?

20 A It seems to have an exclusive zone within  
21 that described perimeter, 150 feet. So I anticipate  
22 that anything beyond 150 feet is not covered.

23 Q Okay. And then it also mentions -- just  
24 to make sure we're on the same page -- within the  
25 polling place is subparagraph B. So would this also

1 Q So I'll move on from that question. The  
2 next clause reads: Nor shall any person distribute  
3 or display any campaign material.

4 What would constitute campaign material?

5 MR. BOYLE: Object. Calling for a  
6 legal interpretation. You may answer.

7 THE WITNESS: I would use the plain  
8 meaning of that -- that phrase. Campaign  
9 material is something that denotes an  
10 individual or a cause or -- that they  
11 would want to have that elector consider.

12 BY MR. MOCINE-MCQUEEN:

13 Q Okay. And would that -- would that  
14 person or cause need to be something that appeared on  
15 the ballot?

16 A I would think that would be something  
17 that would go hand and hand with that consideration.  
18 If it's somebody that, you know, you have a current  
19 election and -- but you're looking at other elections  
20 down the road and you see many candidates beginning  
21 their campaigns now for elections to come in 2024, so  
22 it would depend, again, on what is being asked of the  
23 elector.

24 Q Okay. So what if -- so can you give me  
25 some -- just, in your understanding, an example of

1 what would be electioneering in terms of what would  
2 clearly be prohibited by this statute -- let's say --  
3 in the context of a candidate for office?

4 A Certainly anything with an image,  
5 certainly anything with a name, certainly anything  
6 with, perhaps, marketing cliches that have been  
7 presented by a known candidate, a potential  
8 candidate.

9 Those are the three things that would be  
10 what I would look at at least initially.

11 Q Okay. So I'll move on to kind of some  
12 related questions. I'd like to understand what would  
13 fall outside of this statute. So what would not be  
14 prohibited by this statute. So if I'm -- so if a  
15 person is wearing an unmarked T-shirt, they are not  
16 carrying any food or any sort of gift and they are  
17 not asking any -- the voter in line to vote for or  
18 against anything on that ballot, can just a normal  
19 citizen walk into the zone and begin having a  
20 conversation with a voter?

21 A That seems to be allowed.

22 Q And are you aware that -- so I want to  
23 reference something that I'm going to call SB 202,  
24 and I will explain that. By that, I mean Senate Bill  
25 202 that was passed by the Georgia General Assembly

1 in 2021, and it became effective, I believe, in March  
2 of 2021, but it is Georgia Senate Bill 202 as enacted  
3 by the General Assembly in 2021.

4 If I refer to that as SB 202, will you  
5 know what I mean?

6 A I'll follow that.

7 Q Okay. So SB 202 made some changes to  
8 this specific statute. Are you aware of that?

9 A I have not researched it or --

10 Q Okay. Do you have a general idea of  
11 about what changes might have been made to the  
12 statute?

13 A No, I have not --

14 Q Okay.

15 A -- paid any particular attention to that  
16 particular statute because of other matters.

17 Q Okay. And the reason I was asking is  
18 earlier you made reference to the statute being  
19 enacted, and I was trying to understand as to whether  
20 you meant the changes made by SB 202 or if you meant  
21 as it stands now or what you meant by enacted?

22 A Well, what I meant was that I was aware  
23 that there were changes in the election laws. I had  
24 not given a lot of, you know, intense research in it.

25 Q Okay.

1           A           So just in passing with other information  
2 that I get usually on a daily basis about changes in  
3 the laws among prosecutors, you know, we have our  
4 continuing discussions about changes in the law and  
5 potential laws, and so quite literally, it's probably  
6 in the mix of all of these other things that I've  
7 been looking at over these past couple of years.

8           Q           Okay. We're nearing the end of my  
9 questions. We'll probably pause for a moment for me  
10 to make sure that I've gotten them, but I do have  
11 just a couple of follow-up questions here at the end.

12                       So we talked about a person approaching a  
13 voter. If that person isn't participating in any --  
14 or isn't engaging in any of the prohibited conduct as  
15 laid out in 414, it was your understanding that they  
16 could still approach a voter in one of these zones;  
17 is that correct?

18           A           Right. I would anticipate you might have  
19 any instance where, you know, an emergency situation  
20 where somebody is going to talk to their -- talk to  
21 somebody who is in the line, or, you know, you never  
22 know when a person might need to talk to somebody in  
23 the line.

24           Q           And so if they are not discussing some of  
25 the matter prohibited by Section 414, they can engage

1 in a conversation -- a citizen can engage in a  
2 conversation with a voter who is standing in line or  
3 who is otherwise in one of these protected zones?

4 A That seems to be allowed.

5 Q Okay.

6 MR. MOCINE-MCQUEEN: Let's take a  
7 five-minute break. We may be near the  
8 conclusion here.

9 Let me take a five-minute break.

10 (Brief pause.)

11 MR. MOCINE-MCQUEEN: We are back on  
12 the record. I'll ask, once again, if  
13 someone who is on-line can unmute to  
14 confirm that they can hear us.

15 MS. EVANS: Yes.

16 MR. MOCINE-MCQUEEN: Great. Thank  
17 you.

18 Mr. Edwards, I have no further  
19 questions for you at this time.

20 Does anyone joining us, who is  
21 making an appearance on Zoom, wish to ask  
22 any questions?

23 I'm going to give folks a moment to  
24 unmute since I know that can be a  
25 struggle.

D I S C L O S U R E

The following representations and disclosures are made in compliance with Georgia Law, more specifically:

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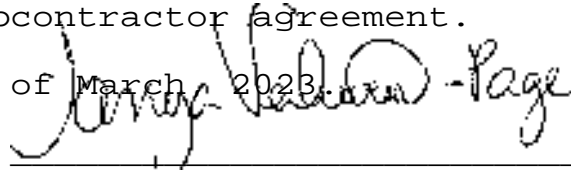
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I am a certified court reporter in the State of Georgia. I am a subcontractor for Esquire Deposition Solutions. I have been assigned to make a complete and accurate record of these proceedings.

I have no relationship of interest in the matter on which I am about to report which would disqualify me from making a verbatim record or maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contract with any party in this action and my compensation is determined solely by the terms of my subcontractor agreement.

This 10th day of March 2023.

  
\_\_\_\_\_  
Tanya L. Verhoven-Page,  
B-1790.

C E R T I F I C A T E

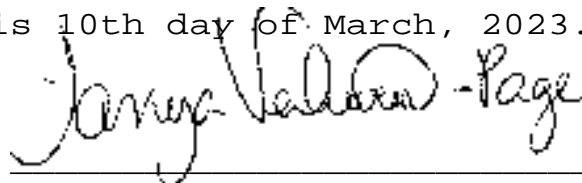
STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing deposition was reported, as stated in the caption, and the questions and answers thereto were reduced to written page under my direction, that the preceding pages represent a true and correct transcript of the evidence given by said witness.

I further certify that I am not of kin or counsel to the parties in the case, am not in the regular employ of counsel for any of said parties, nor am I in any way financially interested in the result of said case.

Dated this 10th day of March, 2023.



Tanya L. Verhoven-Page,  
Certified Court Reporter,  
B-1790.





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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA

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4 IN RE: )  
5 GEORGIA SENATE BILL 202 )  
6 )  
7 ) Civil Action No.  
8 ) 1:21:MI-55555-JPB  
9 - - - - - )

10  
11 DEPOSITION OF

12 KEITH E. GAMMAGE, ESQUIRE

13  
14 Thursday, March 2, 2023, 10:02 a.m. (EST)  
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19

20 HELD AT:

21 Fulton County Attorney's Office  
22 141 Pryor Street, Suite 4038  
23 Atlanta, Georgia 30303

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KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

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KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

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KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

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INDEX OF EXAMINATIONS

KEITH E. GAMMAGE

By Mr. Ward-Packard

Page 6

INDEX OF EXHIBITS

NO.	DESCRIPTION	PAGE
PLAINTIFF'S		
Exhibit 185	Georgia Code Section 15-18-66	21

INDEX OF EXHIBITS (PREVIOUSLY MARKED)

NO.	DESCRIPTION	PAGE
PLAINTIFF'S		
Exhibit 184	Georgia Code Section 21-2-414	52

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 KEITH E. GAMMAGE, ESQUIRE,  
2 being duly sworn, was examined and testified as  
3 follows:

4 - - - - -

5 EXAMINATION

6 BY MR. WARD-PACKARD:

7 Q Good morning, sir. Could you please state  
8 your full name for the record.

9 A Keith E. Gammage.

10 Q Thank you. My name is Sam Wood-Packard.  
11 I'm an attorney with the Elias Law Group in  
12 Washington DC, and I represent the New Georgia  
13 Project plaintiffs in this consolidated case. I'm  
14 joined by my colleague Mindy Johnson.

15 I'm going to first ask if you're  
16 represented by an attorney today?

17 A I am. I'm represented by Mr. Bowman of  
18 the County Attorney's Office of Fulton County,  
19 Georgia.

20 MR. WARD-PACKARD: Thanks, and could I ask  
21 that the other folks in the room introduce  
22 themselves as well.

23 MS. LaROSS: Sure. I'm Diane LaRoss, and  
24 I represent the State defendants.

25 MR. ROSENBERG: Steve Rosenberg. I am

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 general counsel to the Solicitor General.

2 MR. WARD-PACKARD: Thank you. And I  
3 believe we're also joined by some attorneys on  
4 Zoom. Could I ask the folks on Zoom to  
5 introduce themselves, starting with anybody on  
6 the plaintiffs' side.

7 Do we have anybody from the Georgia NAACP?  
8 If you could just unmute and introduce  
9 yourself.

10 (No Response.)

11 MR. WARD-PACKARD: Anybody from AME.

12 MS. AHSAN: My name is Ayesha Ahsan. I'm  
13 a legal extern with the Southern Poverty Law  
14 Center.

15 MR. WARD-PACKARD: Thank you.

16 Anybody from AAA?

17 (No Response.)

18 MR. WARD-PACKARD: Anyone from  
19 VoteAmerica?

20 (No Response.)

21 MR. WARD-PACKARD: Anybody from Concerned  
22 Black Clergy?

23 MR. ZATZ: Yes. Good morning. Cliff  
24 Zatz, Crowell Moring, for the Concerned Black  
25 Clergy of Metropolitan Atlanta plaintiffs.



KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 MR. WARD-PACKARD: Anyone from CGG?

2 (No Response.)

3 MR. WARD-PACKARD: And anyone from the  
4 Department of Justice?

5 MS. EVANS: Yes. Good morning. Rachel  
6 Evans for the United States.

7 MR. WARD-PACKARD: And did I miss anyone  
8 else on the call from the plaintiff's side?

9 (No response.)

10 MR. WARD-PACKARD: All right, I'll next  
11 ask the attorneys for any defendants on the  
12 Zoom to identify themselves. I don't have a  
13 comprehensive list of those, so if you could  
14 just speak up.

15 MS. MARTIN: Yes. My name is Maggie  
16 Martin, and I'm here on behalf of the  
17 Athens-Clarke County defendants.

18 MR. BELL: Jordan bell on behalf of the  
19 Columbia County defendants.

20 MS. MOMO: Good morning. Shelley Momo on  
21 behalf of the DeKalb County defendants.

22 MR. WARD-PACKARD: Anyone else?

23 (No Response.)

24 BY MR. WARD-PACKARD:

25 Q All right. So, Mr. Gammage, have you ever

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 County?

2 MR. BOWMAN: I'll object based on  
3 speculation, but go ahead and answer.

4 A Ethically, I'm unable to speculate or  
5 answer something related to a future potential  
6 violation without knowing what those facts might be.

7 Q In that case, is it your testimony today  
8 that you cannot state categorically that you would  
9 not prosecute a violation of the electioneering law?

10 A As an elected prosecutor in Georgia, I  
11 would not state categorically about any type of  
12 offense that I would or would not prosecute, because  
13 I'm required to examine each case on an  
14 individualized basis.

15 Q And would you give the same answer if I  
16 asked whether specifically there are any  
17 circumstances in which you would initiate a  
18 prosecution for a violation of the line warming ban?

19 MS. LaROSS: Objection as to form.

20 A I'm sorry. Could you ask me again,  
21 please?

22 Q Are there any circumstances in which you  
23 would initiate a prosecution of the line warming  
24 ban?

25 A I don't know.

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 Q Are you able to state today categorically  
2 that there are no circumstances in which you would  
3 initiate a prosecution of the line warming ban?

4 MS. LaROSS: Objection as to form.

5 A Can you turn my attention back to the  
6 statute that governs line warming ban?

7 Q So when I say line warming ban, what I'm  
8 referring to is the portion of Section 21-2-414,  
9 that says: "Nor shall any person give, offer to  
10 give, or participate in the giving of any money or  
11 gifts, including, but not limited to, food and drink  
12 to an elector."

13 So when I say "line warming ban," I mean  
14 the ban on giving food and drink to an elector.

15 To repeat the question, can you  
16 categorically state that you would not in any  
17 circumstances bring a prosecution for a violation of  
18 that provision?

19 A No, I cannot categorically state that I'll  
20 never bring a prosecution for the offenses contained  
21 in the statute in which we speak.

22 Q I'd like to move on, just to get your  
23 understanding of where specifically this provision  
24 applies.

25 So if you could please take a look at

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 Subsection (a), Paragraphs 1, 2, and 3.

2 First of all, would you agree these three  
3 paragraphs define where the electioneering law  
4 applies?

5 A Yes, sir. As we established earlier, I  
6 would agree.

7 Q So on that basis then is it correct that  
8 the prohibitions contained in the electioneering law  
9 govern only activities taking place in those three  
10 areas?

11 A I don't want to -- you know, I want to be  
12 responsive. I hope I am.

13 Q Let me ask the question this way.

14 A Yes, sir.

15 Q So the electioneering law applies within  
16 150 of the outer edge of any building within which a  
17 polling place is established, within any polling  
18 place, or within 25 feet of any voter standing in  
19 line to vote at any polling place.

20 Is there anywhere else that it applies?

21 A In as much as I can interpret this statute  
22 as a prosecutor, deferring other interpretations to  
23 the court, I would say that it would be limited in  
24 scope to the provisions of law here established in  
25 21-2-414.

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 Q I'd finally like to ask you a few  
2 questions about the substantive prohibitions in this  
3 subsection we've been discussing.

4 So, first, to your understanding, what  
5 does it mean to solicit a vote?

6 A Seek out, encourage, attempt to suggest, a  
7 particular manner in which an individual or  
8 individuals might cast their vote for particular  
9 candidate or candidates.

10 Q And the clause following that one reads:  
11 "Nor shall any person distribute or display any  
12 campaign material." In the context of that clause,  
13 what does it mean to distribute or display  
14 something?

15 A Counsel, where are where within the  
16 statute, please?

17 Q Sure.

18 So in Subsection (a), in the first line,  
19 as the exhibit has been presented to you: "No  
20 person shall solicit votes in any manner or by any  
21 means or method, nor shall any person distribute or  
22 display any campaign material."

23 And my question is, in that context, what  
24 does it mean to distribute or display?

25 A Illustrative examples would be anything

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 presented in a public fashion by any means related  
2 to, by any means that suggests, encourages, shows,  
3 reveals any information recommended to a particular  
4 candidate or candidates, or I would imagine even  
5 party potentially. Campaign material, that could be  
6 a T-shirt, sweatshirt, wristband, armband, headband,  
7 hat, cap, any of the like.

8 I imagine it could be any other methods by  
9 which someone could display, share, or show  
10 traditional campaign material, or nontraditional  
11 things, postcard, push cart, poster, label, or any  
12 other kind of tangible display.

13 Q My next question was whether a T-shirt can  
14 count as campaign material. It sounds like your  
15 answer to that is definitively yes?

16 A Yes, sir.

17 Q The last clause I'm interested in says:  
18 "nor shall any person give, offer to give, or  
19 participate in the giving of any money or gifts,  
20 including, but not limited to, food and drink to an  
21 elector."

22 First of all, are you aware the Georgia  
23 legislature added that clause to this statute in  
24 2021?

25 A Yes, sir.

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 Q And the clauses following that clause  
2 prohibit gathering, petition signatures within the  
3 restricted zones, and setting up booths and tables  
4 within the restricted zones.

5 Do you agree with that?

6 A That is the status of the law.

7 Q Yes.

8 A Yes, sir.

9 Q So I just want to ask you one question  
10 about how this law is applied, and I just want you  
11 to assume for purposes of the question that there's  
12 no setting up of tables or petitioning happening.

13 So does the electioneering law prohibit a  
14 person from approaching a voter in the restricted  
15 zones if the person approaching the voter is not  
16 soliciting votes, displaying campaign material, or  
17 giving out food, water or gifts?

18 MR. BOWMAN: Objection as to form.

19 A I'm not sure I'm clear, sir.

20 Approaching someone, I don't see how  
21 that's a violation of the law.

22 Q I think that does answer my question. My  
23 question is whether merely approaching a voter in  
24 the line without doing any one of the further things  
25 identified as prohibited conduct in itself violates

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 law?

2 A Okay.

3 Q And your answer is no, it does not, as you  
4 understand the law?

5 A Simply approaching someone without -- sort  
6 of like I just approached you?

7 Q Yes.

8 A I don't see how that would be a violation  
9 of any law, sir.

10 MR. WARD-PACKARD: I'm going to suggest we  
11 take another brief break, five minutes.

12 Does that work for everyone?

13 And if there's other plaintiffs' counsel  
14 on the call who might have questions for Mr.  
15 Gammage, now will be the time to consider  
16 whether you do and what those questions are.

17 (A recess was taken at 11:51 a.m. until  
18 11:57 a.m.)

19 MR. WARD-PACKARD: We're back on the  
20 record .

21 Mr. Gammage, I have no further questions  
22 for you at this time. I really appreciate your  
23 time this morning.

24 Is there anyone else from the plaintiffs'  
25 side on the call who has questions for the



KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

1 witness?

2 (No Response.)

3 MR. WARD-PACKARD: All right. Anybody in  
4 the room who has any questions for the witness?

5 MS. LaROSS: I do not have any questions  
6 on behalf of the State defendants.

7 MR. BOWMAN: No questions from us.

8 MR. WARD-PACKARD: I think we're all set.

9 (Whereupon, the deposition concluded at  
10 11:57 a.m.)

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KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript of KEITH E. GAMMAGE, ESQUIRE was taken down, as stated in the caption, and the questions and answers thereto were reduced by stenographic means under my direction;

That the foregoing Pages 1 through 67 represent a true and correct transcript of the evidence given upon said hearing;

And I further certify that I am not of kin or counsel to the parties in this case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of March, 2023.

*Wanda L. Robinson*

Wanda L. Robinson, CRR, CCR No. B-1973  
My Commission Expires 10/11/2023

KEITH E. GAMMAGE, ESQ.  
IN RE: GEORGIA SENATE BILL 202

March 02, 2023

D I S C L O S U R E

STATE OF GEORGIA ) 3/02/23 DEPOSITION OF  
FULTON COUNTY KEITH E. GAMMAGE, ESQUIRE  
Pursuant to Article 10.B of the Rules and  
Regulations of the Board of Court Reporting  
of the Judicial Council of Georgia, I make the  
following disclosure:

I am a Georgia certified court reporter.  
I am here as a representative of Esquire Deposition  
Solutions, LLC, and Esquire Deposition Solutions,  
LLC was contacted by the offices of Elias Law Group  
to provide court reporter services for this  
deposition. Esquire Deposition Solutions, LLC will  
not be taking this deposition under any contract  
that is prohibited by O.C.G.A. 9-11-28 (c).

Esquire Deposition Solutions, LLC has no  
contract/agreement to provide court reporter  
services with any party to the case, or any counsel  
in the case, or any reporter or reporting agency  
from whom a referral might have been made to cover  
this deposition.

Esquire Deposition Solutions, LLC will  
charge the usual and customary rates to all parties  
in the case, and a financial discount will not be  
given to any party to this litigation.

THOMAS MATTHEW MASHBURN 30(b)(6)  
IN RE GEORGIA SENATE BILL 202

March 07, 2023

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

IN RE GEORGIA SENATE BILL 202

Master Case No:  
1:21-MI-55555-JPB

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30(B)(6) VIDEOTAPED DEPOSITION OF  
GEORGIA STATE ELECTION BOARD  
(THOMAS MATTHEW MASHBURN)

March 7, 2023

9:59 a.m.

1600 Parkwood Circle, Suite 200

Atlanta, Georgia

Marcella Daughtry, RPR, RMR  
Georgia License No. 6595-1471-3597-5424  
California CSR No. 14315

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10 Also Present:

11 Nadav Flax, Paralegal Southern Poverty Law  
12 Maya Carter, videographer  
13  
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INDEX OF EXAMINATION

WITNESS: THOMAS MATTHEW MASHBURN

| EXAMINATION          | PAGE |
|----------------------|------|
| BY MS. KHAN          | 11   |
| BY MS. JHAVERI       | 154  |
| BY MR. FOGELSON      | 190  |
| BY MR. OXFORD        | 202  |
| BY MS. MENG MORRISON | 242  |
| BY MR. SCHAERR       | 250  |

FURTHER EXAMINATION

|             |     |
|-------------|-----|
| BY MS. KHAN | 258 |
|-------------|-----|

\* \* \*

## INDEX TO EXHIBITS

| EXHIBITS    |                                                                                                                                   | PAGE |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------|------|
| Exhibit 187 | Notice of Rule 30(b)(6)<br>Deposition                                                                                             | 16   |
| Exhibit 188 | Deposition transcript of T.<br>Matthew Mashburn dated 9/12/22                                                                     | 19   |
| Exhibit 189 | O.C.G.A 21-2-31 Citation                                                                                                          | 26   |
| Exhibit 190 | Complaint for the State Election<br>Board Website printout                                                                        | 37   |
| Exhibit 191 | Senate Bill 202                                                                                                                   | 52   |
| Exhibit 192 | E-mail from Ryan Germany to<br>Mr. Mashburn 8/16/21<br>"Subject: FW: Affidavit Draft"<br>CDR00072974                              | 65   |
| Exhibit 193 | State Election Board Notice<br>of Proposed Rulemaking<br>183-1-14-12<br>SPLC1011850 to 11855                                      | 68   |
| Exhibit 194 | State Election Board Notice<br>of Proposed Rulemaking<br>183-1-12<br>SPLC11011856 to 11899                                        | 91   |
| Exhibit 195 | GPB news article dated<br>2/8/23                                                                                                  | 108  |
| Exhibit 196 | E-mail from Ryan Germany to<br>Mr. Mashburn 10/30/20<br>"Subject: Re: Intrusions into<br>150 Foot bubble"<br>CDR00077364 to 77368 | 114  |
| Exhibit 197 | E-mail from Mr. Mashburn to<br>J Campbell 11/10/20<br>"Subject: Fwd: Stop Voter Fraud"<br>CDR00137182 to 184                      | 128  |
| Exhibit 198 | State Election Board Hearing<br>Transcript dated 2/10/21                                                                          | 130  |

INDEX TO EXHIBITS

| EXHIBITS    |                                                                                  | PAGE |
|-------------|----------------------------------------------------------------------------------|------|
| Exhibit 199 | Article: State Election Board<br>Member fact-checks fraud claims                 | 133  |
| Exhibit 200 | Consolidated Plaintiffs' Third<br>Set of Requests for Production of<br>Documents | 150  |

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3  
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1 THE VIDEOGRAPHER: Today's date is March 7th,  
2 2023, and the time is 9:59 a.m. This will be the 30  
3 (b)(6) video deposition of the State Election Board given  
4 by Thomas Matthew Mashburn in the matter of In Re Georgia  
5 Senate Bill 202, taken at 1600 Parkwood Circle, Suite  
6 200, in Atlanta, Georgia.

7 Will counsel please identify themselves for the  
8 record.

9 MR. SCHAERR: Gene Schaerr representing the  
10 State defendants, and with me is Joshua Prince.

11 MS. KHAN: Sabrina Khan with the Southern  
12 Poverty Law Center representing the AME plaintiffs.

13 MS. JHAVERI: Sejal Jhaveri for the United  
14 States.

15 MR. FLAX: Nadav Flax with plaintiffs,  
16 paralegal for the Southern Poverty Law Center.

17 THE VIDEOGRAPHER: If counsel on Zoom will  
18 identify themselves for the record.

19 MS. HOUK: Good morning. Julie Houk, Lawyers'  
20 Committee for Civil Rights Under Law representing the  
21 Georgia NAACP plaintiff group.

22 MR. JEDRESKI: Matthew Jedreski from Davis  
23 Wright Tremaine on behalf of the AME plaintiffs, along  
24 with my colleague Shontee Pant.

25 MS. MENG MORRISON: Good morning. Tina Meng

1 Morrison with Elias Law Group on behalf of NGP  
2 plaintiffs.

3 MR. OXFORD: Good morning. This is Neil Oxford  
4 from Hughes Hubbard & Reed, also for the Georgia NAACP  
5 plaintiffs.

6 THE VIDEOGRAPHER: Is that everyone?

7 MS. RAMAHI: Good morning.

8 MR. CATHEY: This is Tom Cathey from Hull  
9 Barrett on behalf of the Columbia County defendants.

10 MS. KHAN: Anyone else?

11 MS. RAMAHI: This is Zainab Ramahi from Keker  
12 Van Nest & Peters on behalf of the Asian Americans  
13 Advancing Justice plaintiffs.

14 MS. MILORD: This is Sandy Milord on behalf of  
15 the Fulton County defendants.

16 MS. WAITE: Tristen Waite on behalf of DeKalb  
17 County defendants.

18 MS. MACK: Rachel Mack on behalf of the  
19 Richmond County defendants.

20 MR. SPARKS: Good morning. Adam Sparks,  
21 Krevolin & Horst, on behalf of the NGP plaintiffs.

22 THE VIDEOGRAPHER: Okay. Will the court  
23 reporter please swear in the witness.

24 >>>

25 >>>

1 THOMAS MATTHEW MASHBURN,  
2 called as a witness herein, having been first duly sworn  
3 by the shorthand reporter to speak the truth and nothing  
4 but the truth, was examined and testified as follows:

5

6 EXAMINATION

7 BY MS. KHAN:

8 Q Could you please state and spell your name for  
9 the record.

10 A Thomas Matthew Mashburn, T-h-o-m-a-s; Matthew,  
11 M-a-t-t-h-e-w; Mashburn, M-a-s-h-b-u-r-n.

12 Q Good morning, Mr. Mashburn. My name is Sabrina  
13 Khan. I'm an attorney with the Southern Poverty Law  
14 Center, and I represent the AME plaintiffs in this  
15 matter. I will be taking the 30(b)(6) deposition today,  
16 and I'm here with Nadav Flax, a paralegal in our office.

17 As a preview of the day, after we complete the  
18 30(b)(6) deposition, we will shift to deposing you in  
19 your individual capacity if there's time. And as we  
20 previously agreed to with opposing counsel, if necessary,  
21 we will carry that over to March 14th. Okay?

22 A Okay.

23 Q We are joined today -- oh, I think we already  
24 introduced all counsel.

25 So we are just going to cover some basic ground

1           So the poll managers are usually very good  
2 about doing everything they can to try and work things  
3 out, but they do have the ultimate authority over whether  
4 or not something is disruptive.

5           Q    Okay. And if a photographer wanted to take a  
6 photo of folks that are potentially interacting with  
7 voters who are waiting in line outside of a precinct,  
8 similar to what you did in 2020 in Cobb County, is there  
9 any code you are aware of in the Georgia -- any provision  
10 in the Georgia Code you are aware of that would prohibit  
11 them from doing so?

12           A    There -- there are provisions that you can't  
13 take a picture of the face of a ballot, but I've -- in  
14 my -- in my -- in my experience of watching lines, I have  
15 seen any number of media come in and do their job and  
16 take their pictures in an unobtrusive way, and as long as  
17 they aren't trying to take pictures of ballot screens,  
18 they will pretty much be left to do their -- their job,  
19 as long as they are not disruptive.

20           MS. MENG MORRISON: Great. Those are all the  
21 questions I have for you. Thank you, Mr. Mashburn.

22           MS. KHAN: Thank you. And before I turn this  
23 over to defense counsel, last call for any other  
24 plaintiffs' counsel to ask questions.

25           Okay, hearing none.

1 MR. SCHAERR: Let's take a short break.

2 MS. JHAVERI: Can we -- sorry.

3 THE VIDEOGRAPHER: The time is 4:55 p.m., and  
4 we are off the record.

5 (The deposition was at recess from 4:55 p.m. to  
6 5:09 p.m.)

7 THE VIDEOGRAPHER: The time is 5:09 p.m., and  
8 we are on the record.

9

10 EXAMINATION

11 BY MR. SCHAERR:

12 Q Thank you, Mr. Mashburn. As you know, my name  
13 is Gene Schaerr, and I have got just a couple of  
14 questions to ask you.

15 First of all, in the -- in the most recent line  
16 of questioning you were asked about whether -- whether  
17 S.B. 202 would prohibit people from -- in what  
18 circumstances would S.B. 202 prohibit people from  
19 approaching voters in line. Do you recall that?

20 A Yes.

21 Q Now, to your understanding, is there anything  
22 in S.B. 202 that would prohibit someone who is not  
23 campaigning and is not being disruptive and not offering  
24 anything to voters, to approaching someone who is  
25 standing in line waiting to vote?



1           A    There is nothing in S.B. 202 that prohibits  
2   that.

3           Q    Okay.  You were also asked some questions  
4   about -- about the unlimited voter challenges provision  
5   in S.B. 202.  To your understanding, were unlimited  
6   challenges allowed before S.B. 202 was enacted?

7           A    There were no limits under prior law.  It just  
8   wasn't explicitly stated that there was no limits --

9           Q    Okay.

10          A    -- that there were no stated limits.

11          Q    So the additional language -- is it fair to say  
12   the additional language just made it -- made it expressed  
13   what was already reasonably clear from the statute as it  
14   existed before?

15               MR. OXFORD:  Objection to form.

16               THE WITNESS:  That is the Board's  
17   understanding.

18          Q    BY MR. SCHAERR:  Okay.  And in your  
19   understanding, under the statute, who has the burden in a  
20   challenge to voter qualification?

21          A    The statute says that the challenger has the  
22   burden of proof.

23          Q    Okay.  You mentioned earlier this morning that  
24   the SEB rarely exercises its authority to propose  
25   election laws.  Do you recall that?

1 A Yes.

2 Q In your experience, why are such  
3 recommendations from the SEB so rare?

4 A The Board is not set up -- it's just not set up  
5 as a proactive policy vehicle. It has no budget. It has  
6 no staff. It's reactive in what it does, in that its  
7 primary role is -- or it's primary obligation or primary  
8 actions is to implement laws that the General Assembly  
9 gives us to implement and to hear cases. So in order --  
10 there's just no forum that's really well set up for the  
11 Board to be very proactive in making policy.

12 Q Okay.

13 A You know, forward-thinking policy.

14 Q And in your experience, how does the level of  
15 experience among SEB members with respect to elections  
16 compare with the level of experience of elected  
17 legislators?

18 A The -- all of the current members of the  
19 Board -- well, except for Judge Duffey and Dr. Johnston,  
20 have extensive experience in election law. But at the  
21 same time, the legislator -- none of us have -- well, Ed  
22 has won elections. Edward has won elections, so he -- he  
23 has been a member of the General Assembly, but none of  
24 the other members of the Board have.

25 So again, the General Assembly views themselves

CERTIFICATE OF REPORTER

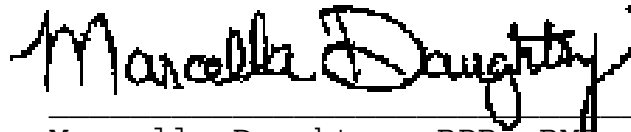
STATE OF GEORGIA        )  
                                          )  
COUNTY OF DEKALB        )

I, Marcella Daughtry, a Certified Reporter in the State of Georgia and State of California, do hereby certify that the foregoing deposition was taken before me in the County of DeKalb, State of Georgia; that an oath or affirmation was duly administered to the witness, THOMAS MATTHEW MASHBURN; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to typewriting; that the transcript is a full, true and accurate record of the proceeding, all done to the best of my skill and ability;

The witness herein, THOMAS MATTHEW MASHBURN, has requested signature.

I FURTHER CERTIFY that I am in no way related to any of the parties nor am I in any way interested in the outcome hereof.

IN WITNESS WHEREOF, I have set my hand in my office in the County of DeKalb, State of Georgia, this 20th day of March, 2023.



Marcella Daughtry, RPR, RMR  
GA License No.  
6595-1471-3597-5424  
California CSR No. 14315

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

|                                                                                                                                                                                                                                                                                                             |                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| IN RE GEORGIA SENATE BILL 202                                                                                                                                                                                                                                                                               | Master Case No.:<br>1:21-MI-55555-JPB  |
| THE NEW GEORGIA PROJECT, <i>et al.</i> ,<br><br><i>Plaintiffs,</i><br><br>v.<br><br>BRAD RAFFENSPERGER, in his official capacity<br>as the Georgia Secretary of State, <i>et al.</i> ,<br><br><i>Defendants,</i><br><br>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,<br><br><i>Intervenor-Defendants.</i> | Civil Action No.:<br>1:21-cv-01229-JPB |

**DECLARATION OF BILLY HONOR**

I, Billy Honor, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. My name is Billy Honor. I am currently the Director of Organizing at New Georgia Project (“NGP”), a 501(c)(3) nonpartisan, community-based nonprofit organization based in Fulton County, Georgia that is dedicated to helping Georgians become more civically active through voter education and engagement.

3. I previously provided a declaration in this case on June 3, 2022. *See* ECF No. 185-5. The following is intended to supplement that declaration.

4. Because of the Food and Water Ban in SB 202, groups like NGP have been prohibited from providing food and water to voters waiting in line at a polling precinct since March 2021.

5. Since that time, NGP has been forced to adapt its programs to comply with the Ban. We now set up tables to provide food and water to anyone who passes and wishes to take it, regardless of whether they are heading to the polling place. However, these events take place far away from polling locations and they are no substitute for providing support and encouragement directly to voters waiting in line.

6. NGP has also had to retrain volunteers on how to engage with voters and comply with the Food and Water Ban, including by informing them that they are no longer permitted to engage directly with voters in line on election day, and instead must operate on the fringes, specifically more than 150 feet from a precinct and more than 25 feet from any voter in line.

7. These restrictions have ultimately required NGP to put more resources into training volunteers and developing initiatives to effectively organize in Georgia under this new legal landscape. This has taken time, attention, and effort that would otherwise be spent on voter registration and mobilization.

8. All of these burdens persisted through the 2022 cycle. For each election that year, NGP was unable to engage in handing out food, water, and other items to support voters waiting in line. And as a result, NGP has been unable to communicate its message of support to voters.

9. In response to SB 202's new line relief restrictions and for the 2022 election cycle, NGP was forced to significantly scale back its Party at the Polls program because performers and volunteers fear SB 202's new criminal penalties on line relief activities.


10. NGP's faith-based Poll Chaplain program also had to be significantly reduced in size and scope because of SB 202's Food and Water Ban. While the Poll Chaplain program operated in approximately 40 precincts in 2018 and 120 precincts during the 2020 elections, SB 202 has since forced NGP to reduce its Poll Chaplain program to reach only around a dozen precincts in 2022.

11. NGP also discontinued its Water Carriers program that was created to provide water to voters in line during the 2020 and 2021 elections because of concerns about SB 202's new criminal penalties for providing drinks to voters.

12. As long as the Food and Water Ban remains in place, NGP cannot freely express its message of support and solidarity to encourage these voters to persevere even when faced with difficult conditions, or convey that participating in elections is an important and highly valued act of democracy.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on 5/16/2023

By: 

Billy Honor  
Organizing Director  
New Georgia Project

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

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| IN RE GEORGIA SENATE BILL 202                                                                                                                                                                                                                                                                               | Master Case No.:<br>1:21-MI-55555-JPB  |
| THE NEW GEORGIA PROJECT, <i>et al.</i> ,<br><br><i>Plaintiffs,</i><br><br>v.<br><br>BRAD RAFFENSPERGER, in his official capacity<br>as the Georgia Secretary of State, <i>et al.</i> ,<br><br><i>Defendants,</i><br><br>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,<br><br><i>Intervenor-Defendants.</i> | Civil Action No.:<br>1:21-cv-01229-JPB |

**DECLARATION OF MARY-PAT HECTOR**

I, Mary-Pat Hector, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. My name is Mary-Pat Hector. I am currently the CEO of Rise, Inc. (“Rise”). Before my promotion to CEO in May 2023, I served as Rise’s Georgia Program Director, a position I started in 2020.
3. Rise, Inc. is a student-led 501(c)(4) nonprofit organization that runs statewide advocacy and voter mobilization programs in Georgia and on a number of



campuses nationwide. Rise is a student- and youth-driven organization, and our leadership is comprised of students and young people, as are our organizers, partners, and volunteers.

4. Rise operates nationwide, including in Georgia. We launched our Georgia campaign because of the wealth of colleges and universities in state, including HBCUs, offering tremendous opportunity to advance our goals. When I was serving as state director from 2020 to 2023, I managed the Georgia campaign.

5. I previously provided a declaration in this case on June 3, 2022. *See* ECF No. 185-3. The following is intended to supplement that declaration.

6. During the 2020 primary, general, and runoff elections, Rise staff and volunteers participated in get-out-the-vote activities on election day and also supported Georgians waiting in line to vote. As part of these efforts, volunteers provided food, water, and other aid such as chairs for elderly and disabled individuals who were unable to stand for long periods of time.

7. Rise engaged in these activities to express to voters that every Georgian should be able to cast a vote without undue barriers. By providing food and water, we sought to support voters by encouraging them to persist, despite challenges such as long lines or inclement weather, and that their vote is important and necessary.

8. However, under SB 202, I am aware that it is now illegal to offer food and water and other support materials to voters waiting in line at polling places.

9. In response to this law, Rise was forced to cease all efforts to support Georgians waiting in line to cast their votes during the 2022 general election.

10. But for the ban on line relief, Rise would organize and deploy student organizers, grant recipients, and volunteers to provide food and water and other relief and convey the organization's message to Georgians waiting in line to vote.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on 5/16/2023

By:  \_\_\_\_\_

Mary-Pat Hector  
CEO  
Rise, Inc.

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

|                                                                                                                                                                                                                                                                                                             |                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| IN RE GEORGIA SENATE BILL 202                                                                                                                                                                                                                                                                               | Master Case No.:<br>1:21-MI-55555-JPB  |
| THE NEW GEORGIA PROJECT, <i>et al.</i> ,<br><br><i>Plaintiffs,</i><br><br>v.<br><br>BRAD RAFFENSPERGER, in his official capacity<br>as the Georgia Secretary of State, <i>et al.</i> ,<br><br><i>Defendants,</i><br><br>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,<br><br><i>Intervenor-Defendants.</i> | Civil Action No.:<br>1:21-cv-01229-JPB |

**DECLARATION OF CHRISTOPHER G. JOHNSON**

I, Christopher G. Johnson, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. My name is Christopher G. Johnson. I am a retired pastor and currently serve as the Chair and Executive Director of the Greater Augusta’s Interfaith Coalition (“the Coalition”). I am a resident of Augusta, Georgia.
3. The Coalition is a 501(c)(3) non-profit organization comprised of more than 400 community service and faith-based groups. The Coalition advocates for

greater social justice, including improved support for the intellectually and developmentally disabled and care for the earth. We advocate primarily through encouraging citizens to engage in the civic process by voting. We do not advocate for or against any candidate or party represented on the ballot.

4. I previously provided a declaration in this case on June 3, 2022. *See* ECF No. 185-7. The following is intended to supplement that declaration.

5. In 2020, our Power the Vote program at the Coalition received funding from the Black Voters Matter Fund (“BVMF”) to provide water, bologna sandwiches, cheeseburgers, and other food to voters waiting in line in order to further our shared goals of promoting civic participation and engagement. The message we sent—in conjunction with BVMF—by providing food and water was one of support and solidarity. And voters were appreciative of our message.

6. Because SB 202 criminalizes these voter support activities, BVMF and the Coalition’s efforts to provide food and water and other support items to voters waiting in line would have subjected our organizations and our volunteers to criminal penalties.

7. As a result, during the 2022 election, the Coalition and BVMF ceased all early voting and election day support efforts that involved providing food, water, or other items to voters waiting in line. In other words, the Coalition and BVMF had to fundamentally alter how they engaged with voters during the 2022 election.

8. If providing food and water to voters in line is permitted in future elections, the Coalition will once again partner with BVMF and deploy volunteers to engage in voter support efforts during early voting and on election day.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on 5/17/2023

By:  \_\_\_\_\_

Christopher G. Johnson  
Chair and Executive Director  
Greater Augusta's Interfaith Coalition

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

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| IN RE GEORGIA SENATE BILL 202                                                                                                                                                                                                                                                                               | Master Case No.:<br>1:21-MI-55555-JPB  |
| THE NEW GEORGIA PROJECT, <i>et al.</i> ,<br><br><i>Plaintiffs,</i><br><br>v.<br><br>BRAD RAFFENSPERGER, in his official capacity<br>as the Georgia Secretary of State, <i>et al.</i> ,<br><br><i>Defendants,</i><br><br>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,<br><br><i>Intervenor-Defendants.</i> | Civil Action No.:<br>1:21-cv-01229-JPB |

**DECLARATION OF JAUAN DURBIN**

I, Jauan Durbin, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. I am 24 years old and a resident of Atlanta, Georgia, in Fulton County. I have been a registered Georgia voter since I turned 18.

3. I have my undergraduate degree from Morehouse College, where I was elected “Mr. HBCU.” In that role, I organized students in support of a number of political issues important to young Black people, including voting rights. Helping

young Black people navigate and overcome obstacles imposed by the political process remains one of my top priorities.

4. I previously provided a declaration in this case on June 3, 2022. *See* ECF No. 185-4. The following is intended to supplement that declaration.

5. I voted in-person in the November 2022 general election and December 2022 runoff. During both elections, I was unable to express my solidarity with voters waiting in line by ordering food for them because of the criminalization of such activity under SB 202.

6. As I mentioned in my previous declaration, I was fortunate to receive encouragement and support from various organizations that provided me with water and snacks while I waited in 2.5 to 3 hour long lines to vote in the 2018 general election. Their message of support lifted my spirits and strengthened my resolve to persevere through adversity. I did not see these organizations providing any such assistance in 2022.

7. I plan to vote in person again in the 2024 primary and general elections and am concerned that these restrictions will continue to silence the messages of solidarity and encouragement that were critical in helping me to make sure my voice was heard despite long lines, and that remain essential for activists like me to share with fellow Georgians.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on: 5/17/2023  
Date

By: JUAN DURBIN  
Juan Durbin



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

|                                                                                                                                                                                                                                                                                                             |                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| IN RE GEORGIA SENATE BILL 202                                                                                                                                                                                                                                                                               | Master Case No.:<br>1:21-MI-55555-<br>JPB  |
| THE NEW GEORGIA PROJECT, <i>et al.</i> ,<br><br><i>Plaintiffs,</i><br><br>v.<br><br>BRAD RAFFENSPERGER, in his official capacity<br>as the Georgia Secretary of State, <i>et al.</i> ,<br><br><i>Defendants,</i><br><br>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> ,<br><br><i>Intervenor-Defendants.</i> | Civil Action No.:<br>1:21-cv-01229-<br>JPB |

**[PROPOSED] ORDER ON NGP PLAINTIFFS’  
RENEWED MOTION FOR PRELIMINARY INJUNCTION**

THIS MATTER comes before this Court on NGP Plaintiffs’ Renewed Motion for Preliminary Injunction. Upon considering the motion and supporting authorities, the responses from Defendants, and the evidence and pleadings of record, this Court finds that NGP Plaintiffs are likely to succeed on the merits of their claim, that they will be irreparably harmed if this motion is not granted, that the balance of equities

tip in NGP Plaintiffs' favor, and that the requested equitable relief is in the public interest. It is hereby:

**ORDERED** that NGP Plaintiffs' Renewed Motion for a Preliminary Injunction is **GRANTED**, and Defendant Keith Gammage, in his official capacity as the Solicitor General of Fulton County; Defendant Gregory W. Edwards, in his official capacity as the District Attorney for Dougherty County; their respective agents, officers, employees, and successors; and all persons acting in concert with each or any of them are hereby **ENJOINED** from enforcing during the 2024 elections, and any other elections held before final judgment in this case, the provisions of O.C.G.A. § 21-2-414 imposing criminal penalties on those who "give, offer to give, or participate in the giving of any money or gifts, including, but not limited to, food and drink, to an elector . . . [w]ithin 25 feet of any voter standing in line to vote at any polling place."

IT IS SO ORDERED this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Hon. J. P. Boulee  
United States District Judge  
Northern District of Georgia