

Ga. Election Law Doesn't Violate Voter Rights, Judge Finds

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Law360 (October 3, 2022, 8:55 PM EDT) — A Georgia federal judge has ruled against Fair Fight Action Inc., the voting rights group started by the Democratic nominee for governor, Stacey Abrams, finding that the state's election law does not violate voters' constitutional rights.

U.S. District Judge Steven Jones on Friday upheld Georgia election laws on all counts in the case the group brought days after the 2018 election, concluding the long-running suit that had challenged Georgia's absentee ballot practices, oversight of voter rolls and the state's "exact match" law, which requires a citizen's government-issued ID to precisely match the name listed on voter rolls.

"Although Georgia's election system is not perfect, the challenged practices violate neither the constitution nor the VRA," Judge Jones said in his **288-page opinion**, referring to the Voting Rights Act of 1965.

Though the judge noted that his opinion should "not be construed to mean that Georgia's election procedures are flawless," he said the "burden on voters is relatively low," even for those who are marked with "Missing ID Required," or MIDR, status when their voter registration information does not exactly match the information on file about them in the U.S. Social Security Administration or Georgia Department of Driver Services databases.

Fair Fight Action and the other plaintiffs in the case, which include several churches and a nonprofit that advocates for domestic workers, had argued that the exact match law, and by extension the MIDR status, were racially discriminatory because almost 70% of the nearly 50,000 Georgians whose voter registrations were put on hold before the 2018 election as a result of it were Black. But Judge Jones said no evidence had been presented about actual voters who were harmed.

"Plaintiffs have not provided direct evidence of a voter who was unable to vote, experienced longer wait times, was confused about voter registration status by being in MIDR status, or experienced heightened scrutiny at the polls due to MIDR status," Judge Jones said. "Also, there is no testimony about how a voter is treated by a poll worker because of the MIDR flag."

Overall, Judge Jones, an appointee of former President Barack Obama, said Fair Fight Action had failed to prove that the burdens imposed by the law "outweigh the state's interest in preventing fraud."

In a statement, Fair Fight Action Executive Director Cianti Stewart-Reid described the ruling as "a significant loss for the voting rights community in Georgia and across the country."

"However," Stewart-Reid said, "It does not undermine the tireless work that Fair Fight Action and our allies continue to undertake to support Georgia voters and mitigate the obstacles they face to make their voices heard at the ballot box. Fair Fight Action will continue to support Georgians as they navigate the voting process and the hurdles placed in their way by [Secretary of State Brad] Raffensperger and the State Election Board's policies and practices."

In a statement shared on her Twitter, Abrams said the case exposed "voter suppression" under Raffensperger and Georgia Gov. Brian Kemp — who was the Georgia secretary of state before becoming governor — and vowed to continue the fight for increased voting access.

"As governor, I will expand the right to vote," Abrams said. "I will defend minority voters, not bemoan their increased power or grow 'frustrated' by their success. This case demonstrates that the 2022 election will be a referendum on how our state treats the most marginalized voices."

Kemp, who is running for reelection, said in a statement that Judge Jones' ruling exposed the suit as being a "tool wielded by a politician hoping to wrongfully weaponize the legal system to further her own political goals."

"Today, Stacey Abrams and her organization lost in court — on all counts. From day one, Abrams has used this lawsuit to line her pockets, sow distrust in our democratic institutions, and build her own celebrity," Kemp said. "In Georgia, it is easy to vote and hard to cheat — and I'm going to continue working to keep it that way."

Raffensperger, for his part, said in a statement that the ruling would allow local officials to focus on "running a safe, secure and accessible election."

"Stolen election and voter suppression claims by Stacey Abrams were nothing but poll-tested rhetoric not supported by facts and evidence," Raffensperger added.

The lawsuit, filed three weeks after Election Day in November 2018, alleged that Kemp had "grossly mismanaged" the 2018 election by failing to provide an adequate number of working voting machines or advise local election officials to prepare for high turnout. It also called for Georgia to use paper ballots to validate the accuracy of elections, better train its poll workers, change rules that allowed voter registrations to be canceled if a person had not voted in recent elections, guarantee enough election equipment that voters would not have to wait hours in long lines to cast their ballots and do away with the exact match law.

Before the case went to trial in April, court hearings related to mass voter cancelations for infrequent voters led the secretary of state's office to reinstate 22,000 voters whose registrations were initially canceled in 2019. Many of the claims related to long lines, voting machines and poll worker training were addressed by changes in state law before trial or were thrown out by the court, leaving only allegations concerning the exact match law, the statewide voter registration list and in-person cancelation of absentee ballots for trial.

The trial began in April and "is believed to have been the longest voting rights bench trial in the history of the Northern District of Georgia," according to Judge Jones' order.

Voter rights continue to be a hot-button issue in Georgia at the moment, with a lawsuit still in play concerning a new law, known as Senate Bill 202, that was passed by the state's general assembly after the 2020

presidential election.

The U.S. Department of Justice **sued** the state over the law in June 2021, challenging provisions that the department says reduce the amount of time voters have to request an absentee ballot, limit the number of ballot drop boxes, ban third-party groups from handing out food or water to voters waiting in long lines to cast in-person ballots and reduce the likelihood that out-of-precinct provisional ballots will be counted.

Fair Fight Action Inc., Care in Action Inc., Ebenezer Baptist Church of Atlanta, Georgia Inc., Baconton Missionary Baptist Church Inc., Virginia-Highland Church Inc. and The Sixth Episcopal District Inc. are represented by Allegra J. Lawrence, Leslie J. Bryan, Lovita T. Tandy, Celeste Coco-Ewing, Michelle L. McClafferty, Monica R. Owens, Maia Cogen, Thomas R. Bundy and Suzanne Smith Williams of Lawrence & Bundy LLC, Dara Lindenbaum of Sandler Reiff Lamb Rosenstein & Birkenstock PC, Kurt G. Kastorf of Kastorf Law LLC, Matthew G. Kaiser and Sarah R. Fink of Kaiserdillon PLLC, Kali Bracey, Ishan Bhabha, Jeremy M. Creelan and Elizabeth A. Edmondson of Jenner & Block LLP, Von A. DuBose of DuBose Miller LLC, Jonathan Diaz and Paul M. Smith of Campaign Legal Center, and Andrew D. Herman of Miller & Chevalier Chtd.

Raffensperger and the State Election Board are represented by **Alexander Fraser Denton, Carey Allen Miller, Danielle Maria Hernandez, Anna Nicole Edmondson, Brian Edward Lake, Edward Bedard, Melanie Leigh Johnson, Vincent Robert Russo Jr., Javier Pico-Prats, Joshua Barrett Belinfante**, Kimberly K. Anderson and Andrew M. Swindle of **Robbins Alloy Belinfante Littlefield LLC**, Bryan Francis Jacoutot, Loree Anne Paradise and Diane Festin LaRoss of Taylor English Duma LLP and Bryan P. Tyson of Strickland Brockington Lewis LLP.