

Judge won't block South Fulton residents from voting on cityhood

A federal judge on Thursday ruled that a referendum to create the City of South Fulton can stay on the ballot, denying a request for a temporary restraining order that would have put a stop to the election.

Eleanor Ross, a judge in Georgia's Northern District, said John Davis, the man who asked that the referendum be delayed, "failed to meet the extremely high burden" for a restraining order that would keep people from voting.

Davis, who lives in unincorporated Fulton County, filed suit earlier this month claiming his right to vote would be "diluted and debased" if the election happened on schedule. He claimed that because the borders of the new city are malleable, some residents who are able to vote in the election will not live in the city, if it is formed.

Davis said he was disappointed in the judge's decision. His attorney, Robert Highsmith, said he will be "very interested" to see the results of the referendum.

If it fails or passes by a large margin, the case is likely done, Highsmith said. But if the margin of victory is narrow, Highsmith said he will try to find out if people in the disputed areas could have influenced the vote totals.

In the Fulton Industrial District, residents can vote in the election, but their area cannot be incorporated as part of the city. A companion piece of legislation that would have repealed a law that keeps the district from being incorporated or annexed into a city was not passed.

This fall, in a case argued by Highsmith in which Atlanta tried to annex the district, the state Supreme Court ruled that the law is valid and the district will remain unincorporated.

Still, the residents there have a vote on the City of South Fulton. Fulton County director of elections and registration Richard Barron said he did not know how many voters were in the district, but that it could be several hundred.

Additionally, residents who are disputing their annexation into Atlanta are able to vote in the referendum, even though they may not live in the new city.

Josh Belinfante, an attorney who represents some of those residents, said they were happy that they had a vote in the matter.

“It’s extraordinary to stop an election,” he said.

Kaye Burwell, the attorney representing Fulton County, argued that since early voting had already begun, the election should not have been halted.

Mary Carole Cooney, the chair of Fulton County’s elections board, said voters will not see any changes at the polls.

“We’re here to carry out the state law and the judge’s orders, and that’s what we’re going to do,” she said.