

## Lin Wood Election Suit Fails Standing Test In 11th Circ.

Law360 (August 6, 2021, 7:56 PM EDT) — Controversial pro-Trump attorney L. Lin Wood can't challenge the constitutionality of Georgia's runoff elections for the U.S. Senate because he suffered no particularized injury as a voter, the Eleventh Circuit ruled on Friday.

A three-judge appellate panel affirmed in a per curiam unpublished opinion that Wood's suit against Georgia Secretary of State Brad Raffensperger and members of the state election board lacked the minimum federal standing requirements under Article III of the U.S. Constitution. A Georgia federal trial judge dismissed the case on those grounds in late December.

Wood, a staunch Republican, wanted the court to halt Georgia's runoff elections that were held in early January to determine the state's two U.S. senators. Democratic candidates Raphael Warnock and Jon Ossoff ultimately beat the Republican incumbents and turned the Senate blue.

The Eleventh Circuit panel said Wood failed to show how the value of his vote in the elections would be devalued in a way that others wouldn't by the state's alleged mishandling of absentee ballots and use of Dominion voting software.

"Wood has shown nothing more than a textbook generalized grievance that is insufficient for Article III standing," the panel said. "And to the extent Wood argues in passing that he had standing because he believes the procedures were 'unlawful,' 'illegal' and 'unconstitutional,' the injury to his right that the government be administered according to the law is likewise an insufficient generalized grievance."

Wood sued the Georgia election officials in mid-December, claiming they had wrongly allowed mail-in absentee ballots to be verified, opened before the close of polls on Election Day, and placed into drop boxes for the Senate runoff elections. He also claimed the Dominion voting equipment Georgia used was unreliable.

Wood said he was living in Atlanta at the time of the elections and planned to vote in person, but the state's absentee ballot policy meant his vote would be diluted. He claimed violations of his constitutional rights to equal protection, due process, and a guarantee of a republican form of government.

The state's election methods violated the Guarantee Clause of the Constitution because they did not provide for the certainty of a free and fair election, Wood alleged.

But the trial and appellate courts held that Wood failed to show the state voting procedures specifically disadvantaged his vote, rather than impacting the proportional effect of every vote.

"At most, Wood's asserted injuries were shared identically by all Georgians who voted in person," the Eleventh Circuit said.

The court said Wood had abandoned his due process and Guarantee Clause claims on appeal by not raising any arguments to support his standing in relation to them. Even if the claims were not abandoned, they failed for lack of standing, the court said.

The Eleventh Circuit cited a separate election suit by Wood, that it had affirmed the dismissal of in December. That case sought to halt the certification of Georgia's 2020 general election results but was tossed by a Georgia trial judge on standing and other grounds in November. The U.S. Supreme Court subsequently denied Wood's certiorari request in February.

Georgia election officials in the present case asked to supplement the appellate record with documentation showing Wood did not vote in the runoff elections as proof that he lacked standing, but that request was denied as moot because the court said he lacked standing anyway.

The court did not decide a separate issue of whether Wood's appeal was moot because the elections had come and gone, saying his lack of standing precluded that.

Parties and judges in other federal cases challenging Georgia's election methods are closely eyeing the Eleventh Circuit's take on standing. State election officials in a case pending since 2017 asked a Northern District of Georgia judge in January to certify for appeal her ruling on standing, given the dismissal of similar suits.

Wood did not immediately respond to a request for comment on Friday.

The Georgia Secretary of State's Office did not immediately respond to a request for comment Friday.

U.S. Circuit Judges Beverly B. Martin, Adalberto Jordan and Britt C. Grant sat on the panel for the Eleventh Circuit.

Wood is representing himself through his law firm L. Lin Wood PC.

Georgia election officials are represented by **Carey A. Miller, Josh Belinfante and Melanie L. Johnson of Robbins Ross Alloy Belinfante & Littlefield LLC** and Charlene S. McGowan of the Georgia attorney general's office.

The case is L. Lin Wood v. Brad Raffensperger et al., case number 20-14813, in the U.S. Court of Appeals for the Eleventh Circuit.