

No additional votes for Norwood in Atlanta mayoral runoff recount

Even though a recount on Thursday produced no additional votes for Mary Norwood, the Atlanta mayoral candidate still challenged the outcome of the Dec.-5 runoff, citing votes from recently annexed parts of the city that she argues should not have been counted.

“We will move on to the next step in the process,” she said.

The only next step allowed under Georgia law would be filing a lawsuit disputing the validity of the results in the election in which Norwood’s opponent, fellow City Councilwoman Keisha Lance Bottoms, prevailed by 832 votes.

In an interview on Thursday, Norwood’s attorney, **Vincent R. Russo**, said the campaign was still investigating alleged irregularities and had not yet decided about going to court.

But he said he had already identified hundreds of people who cast ballots in the mayor’s race who should have been prohibited from doing so.

Russo pointed to five recently annexed areas of Atlanta and to a recent Georgia Supreme Court decision, along with a Supreme Court order issued days before the election, that he believes invalidate the ordinances establishing the annexations.

The people who live in those areas — all located in southwest Atlanta, a part of town that Bottoms won — should not have voted in the Atlanta mayor’s race, Russo said.

The Fulton County Board of Elections and Registrations had yet to respond to questions about the number of people in the annexed areas who cast ballots in the Dec. 5 mayoral runoff.

Norwood says some voters in southwest Atlanta shouldn't have voted.

The law allows a candidate to contest the result of a race in the event of irregularities, fraud and counting errors, along with other instances.

But a court can only toss out election results if it determines the irregularities were so significant “as to place in doubt the result of the entire primary, election or runoff.”

“Ordering a new election is an extraordinary remedy that’s normally not done,” said Michael Kang, professor

of law, Emory University. “You’d have to show it cast enough doubt that it’s impossible to reconstruct without having to have a new vote altogether. And that burden is high.” Whether or not the areas in question are legally part of the city is not clear. Attorneys for Bottoms and Fulton County declined to comment on the annexation issue.

In the summer of 2016, the city passed ordinances annexing areas in south Fulton County. The annexations prompted two lawsuits that reached the state Supreme Court. One was settled in June.

In that case, the court upheld a state law incorporating the City of South Fulton and said that in order to comply with that law Atlanta’s annexations should have occurred before July 1, 2016. Therefore, the annexations were invalid.

But a similar lawsuit was making its way through the courts. It involved the area of Loch Lomond. On Nov. 29, the Supreme Court issued a transfer order in that case. That order says that the court has already made a decision on the issues involved in the Lomond case when it ruled on the other annexations in June. In light of that precedent, the Georgia Court of Appeals now had jurisdiction over the second lawsuit.

To Russo, the transfer order clearly indicates that Atlanta improperly annexed Loch Lomond, along with four other areas — Regency Point, Martins Park, and two business districts — which were similarly annexed, but not the subject of lawsuits.

Josh Belinfante, the attorney who successfully opposed Atlanta in the previous Supreme Court case, agreed. The appeals court only needed to issue an order consistent with the higher court’s ruling.

“It’s evident from the decision and, frankly from the briefs that Atlanta filed, that the Loch Lomond and the other neighborhoods are not part of the city of Atlanta,” Belinfante said. “The only question is are they part of unincorporated Fulton County or the City of South Fulton.”

Belinfante is the interim city attorney for South Fulton. He and Russo are members of the same law firm.

It’s still unlikely that Norwood could convince a judge to order a new election even if the votes in the annexed areas were discounted.

The combined population in those places is just over 1,000 people, according to figures on the city’s website. The number of registered voters would be substantially smaller, and of those, less than 40 percent would have cast ballots in the Dec. 5 runoff if turnout there was consistent with the rest of the city.

Russo acknowledged as much, but said the campaign had also identified other problems with the runoff, such as seniors not receiving absentee ballots in time to vote.

Thomas E. Bevan, a Buckhead resident who emailed The Atlanta Journal-Constitution on Thursday, said he signed himself up to automatically receive an absentee ballot. While a ballot arrived by mail for the November election, he didn’t receive one for the December runoff. So he went to the polls.

Bevan said election workers told him he could not vote because he had been issued an absentee ballot. After a poll worker made a phone call, Bevan said he was allowed to vote after signing an affidavit.

“I am concerned that seniors and maybe others who were supposed to receive absentee ballots did not do so,” Bevan wrote. “Some of these folks may have not been able to go to the polls because of health or travel

issues.”