

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID A. PERDUE and ELIZABETH
GRACE LENNON,
PETITIONERS

v.

CIVIL ACTION 2021CV357748

RICHARD BARRON, Fulton County
Elections Director, in his individual
capacity, *et al.*,
RESPONDENTS

**ORDER GRANTING PETITIONERS' REQUEST
TO PRESERVE DOCUMENTS AND RECORDS**

Petitioners contend, in the preamble to their 10 December 2021 petition, that certain “acts and omissions” of Respondents “circumvented the majority vote of the people of the State of Georgia and thereby affected the outcome of the statewide General Election on November 3, 2020 in several races including the United States Senate race of Petitioner Perdue.” (Petition at 2). Respondents have filed several motions to dismiss, which are now ripe for consideration. Pending the outcome of those potentially case-dispositive¹ motions -- as well as Petitioners’ demand for declaratory and injunctive relief -- Petitioners have asked that the Court enter an Order preserving the voting records at issue in this litigation. The Clerk of Superior Court of Fulton County is the current custodian of those records; she is statutorily obligated to maintain the records for at least two years (a period which extends to November 2022, if not beyond). O.C.G.A. § 21-2-500(a). There is, at present, no evidence before the Court that indicates that the Clerk is encountering any challenges in fulfilling her statutory record maintenance obligations.

That said, given the scheduling uncertainties occasioned by these complicated pandemic

¹ See 13 October 2021 Order Granting Motion to Dismiss in Civil Action 2020CV343938.

times and the unquestionable significance² of the subject matter of Petitioners' contentions, the Court finds it appropriate to include an additional layer of security by ordering that the records and information described by O.C.G.A. § 21-2-500(a) are maintained by the Clerk of Court *indefinitely* until further order of this Court.

IT IS THEREFORE ORDERED that the Clerk of the Superior Court of Fulton County shall, until further order of this Court, preserve all materials presently in her custody and control³ pursuant to O.C.G.A. § 21-2-500(a) regarding the 3 November 2020 General/Special Election in Fulton County.

SO ORDERED this 7th day of April 2022.⁴



JUDGE ROBERT C.I. MCBURNEY
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

² “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).

³ It bears amplifying: this Order creates no obligation on the Clerk of Court to seek out additional records or data not already in her possession. Rather, the Order merely backstops the Clerk’s statutory obligation to maintain the records described in O.C.G.A. § 21-2-500(a) that are already in her custody and potentially extends that obligation beyond the duration of the requirements of O.C.G.A. § 21-2-500(a).

⁴ By entering this Order, the Court makes no finding that any named Respondent enjoys custody, control, or possession of any of the above-described records or information. To the contrary, as the BOC Respondents have rightly observed, the records at issue are now in the care of an unnamed party, *i.e.*, the Clerk of Superior Court.