

Georgia Appeals Court Victory



May 23rd, 2023 – Roswell, GA

"We're Baaack!"

Garland Favorito



A non-partisan, non-profit Georgia Election Integrity leader for 17 years

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Appeals Court Victory Press Conference Agenda

- I. Supreme Court Standing Decision Recap
- II. Court of Appeals Decision and Our Response
- III. New Superior Court Shenanigans and our Response

Fulton Counterfeit Ballot Case Initiation

- ❖ Attorney Todd Harding filed complaint on 12/23/20 against Fulton Co
- ❖ 4 sworn affidavits from senior poll managers they handled counterfeit ballots in hand count audit on 11/14/20
- ❖ Complaint funded by VoterGA and co-petitioner Sean Draime
- ❖ VoterGA included 7 more petitioners
- ❖ Petitioners eventually split into two identical cases:
Favorito et al v. Wan et al (7) and Jeffords v. Fulton Co. (2)

Fulton Co. Counterfeit Ballot Case Chronology

- ❖ Obtained protective order on ballots
- ❖ Obtained original mail-in ballot images (original in-person images were destroyed)
- ❖ Defeated motion to dismiss
- ❖ We were granted a motion to unseal the ballots
- ❖ Fulton hires criminal defense attorneys to prevent us from seeing ballots



Fulton Co. Counterfeit Ballot Case Ruling

- ❖ Case dismissed after 10 months for lack of standing “no particularized injury”
- ❖ Applied 11th circuit ruling in Lin Wood case although state law should apply
- ❖ Decision violated all precedents in GA history since established in 1788
- ❖ Decision violated all U.S. Supreme Court precedents dating back 100 years
 - *“We regard it as equally unquestionable that the right to have one's vote counted is as open to protection by Congress as the right to put a ballot in a box.” U.S. V. Mosely (1915)*
 - *“The right to vote ...[cannot]... be diluted by ballot box stuffing” Reynolds v. Sims (1964)*

Fulton Co. Counterfeit Ballot Case Appeal

Our Citations:

- Sierra Club v. Morton, 405 U.S 727 ,731 (1972).
- Purcell v. Gonzalez, 549 U.S. 1 (2006).
- Guinn v. United States , 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340.
- Lane v. Wilson. 307 U.S. 268, 59 S.Ct. 872,83 L.Ed. 1281.
- United States v. Classic, 313 U.S. 299,315,61 S.Ct. 1031, 1037,85 L.Ed. 1368.
- Ex parte Siebold, 100 U.S. 371,25 L.Ed.717.
- United States v. Saylor,322rJ.S. 385,64 S.Ct. 1101, 88 L.Ed. t34l.
- Reynolds v. Sims,377 U.S. 533, 555 (1964).
- Feminist Women's Health Center v. Bursess , 282 Ga. 433 , 434 (l) (2007).
- Parker v. Leeuwenburg, 300 Ga. 789 (2017).
- Agan v. State,272 Ga, 540,542 (1) (2000)).
- Jacobson v. Fla. Sec of State,974F.3d 1236 (11th Cir. 2020).
- Gill v. Whitford, 138 S. Ct. 1916,1929 (2018).

Appeals court upheld lower court decision without mentioning any citations!

Georgia Supreme Court Order: 12/20/22



SUPREME COURT OF GEORGIA
Case No. S22C1285

December 20, 2022

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

GARLAND FAVORITO et al. v. ALEX WAN et al.

The petition for certiorari is granted, the judgment is vacated, and the case is remanded to the Court of Appeals for reconsideration in light of *Sons of Confederate Veterans v. Henry County Board of Commissioners*, ___ Ga. ___ (Case Nos. S22G0039 & S22G0045; decided October 25, 2022). Petitioners' motion to expedite consideration of the petition for certiorari is dismissed as moot.

All the Justices concur, except Pinson, J., disqualified.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk

Writ of Certiorari:

- ❖ Unanimous confirmation of standing
(one disqualified)
- ❖ No Hearing Needed
- ❖ Confirmed all previous Georgia precedents
(not new ruling)
- ❖ Remanded case to Court of Appeals

Supreme Court Order [S.C.V. v. Henry Co. Pg. 50-52]

'With all of the prior case law regarding citizen taxpayer standing as the legal backdrop ... it is no surprise that we continued to recognize under the current Constitution that taxpayers and citizens have standing to enforce a public duty'

'And it is unsurprising that we have extended this logic to "voters" because they , like citizens and taxpayers, are community stakeholders. Voters may be injured when elections are not administered according to the law ... so voters may have standing to vindicate public rights'

'these types of cases reflect that community stakeholders – citizens, residents, voters and taxpayers – are injured when their local governments do follow the law. Where a public duty is at stake, a plaintiff's membership in the community provides the necessary standing to bring a cause of action to ensure a local government follows the law'

Appeals Court Order Remands Case to Superior Court

Remands case to
Superior Court for
Fulton Co. plaintiffs

Reactivates ballot
protective order

FIFTH DIVISION
MCFADDEN, P. J.,
GOBEIL and LAND, JJ.

NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
days of the date of decision to be deemed timely filed.
<https://www.gaappeals.us/rules>

May 11, 2023

In the Court of Appeals of Georgia

A22A0939. FAVORITO et al. v. WAN et al.

A22A1097. JEFFORDS et al. v. FULTON COUNTY et al.

MCFADDEN, Presiding Judge.

This case returns to us from the Supreme Court after review on certiorari. It arises out of the 2020 presidential election.

Appellants Garland Favorito, Caroline Jeffords, Trevor Terris, Christopher Peck, Michael Scupin, Sean Draime, Stacy Doran, Brandi Taylor, and Robin Sotir brought claims founded on vote dilution against members of the Fulton County Board of Registration and Elections. Jeffords and Sotir also claimed that Fulton County had violated the Georgia Open Records Act. The trial court dismissed the vote dilution claims for lack of standing and the open records claims because they had already been


Non-Fulton Co. plaintiffs
sent notice of intent to
appeal to GA Supreme
Court

Community stakeholders
in a statewide race are in
all counties




UNIFORM RULES

**SUPERIOR COURTS OF THE
STATE OF GEORGIA**



COUNCIL OF SUPERIOR COURT JUDGES



Judge cannot take case if they are biased against any party or similarly situated parties

Transfer Rules of Superior Court

UNIFORM RULES
SUPERIOR COURTS OF THE
STATE OF GEORGIA



COUNCIL OF SUPERIOR COURT JUDGES

Judge can transfer a case to another judge who is willing to receive it

Judge cannot receive case if they have known bias against any party or similarly situated parties

Recusals require judge to rule on complaint sufficiency before another judge rules on recusal



McBurney Presided Over Fulton Special Grand Jury

- ❖ 6 month “investigation” of phone call had 75 witnesses at taxpayer expense
- ❖ Released scam “report” w/ only 9 mostly blank pages, did not mention call
- ❖ *Falsely concluded: “...no widespread fraud took place in the Georgia 2020 Presidential election that could result in overturning that election [,]”*
- ❖ Never considered evidence from VoterGA, Perdue / Favorito / Jeffords Petitioners
- ❖ Majority believed some unknown witnesses “*may have committed perjury*”

Petitioner Motion to Recuse Judge Robert McBurney

Fulton County Superior Court
EFILEDCW
Date: 5/16/2023 5:07 PM
Cathelene Robinson, Clerk


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GARLAND FAVORITO, et al,
PETITIONERS,)
Vs.) CIVIL ACTION NO.:2020CV343938
ALEX WAN, et al,
RESPONDENTS.)

PETITIONERS' MOTION TO RECUSE

COME NOW, PETITIONERS, GARLAND FAVORITO, TREVOR TERRIS, AND CHRISTOPHER PECK, by and through their attorney of record in the above styled case, and move the Court, pursuant to Uniform Superior Court Rule 25.1, that Honorable Judge Robert McBurney be recused or be disqualified from hearing this civil action. In support of this motion, and pursuant Uniform Superior Court Rule 25.1 and 25.2, the above-named Petitioners have attached an affidavit fully outlining and asserting the facts upon which the motion is founded. Said affidavit details the prejudice or bias toward the moving parties in particular, or a systematic pattern of prejudicial conduct toward persons similarly situated to the moving parties, which would influence the judge and impede or prevent impartiality. This motion is timely filed within five (5) days of when the Affiant first learned of the alleged grounds for disqualification in this particular case. The above-named Petitioners are entitled to **RECUSAL** or **DISQUALIFICATION** as there is no just reason for delay.

Respectfully submitted this the 16th day of May, 2023.

HARDING LAW FIRM, LLC

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Terris, and Peck

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Based on extrajudicial biased remarks against Perdue Petitioners who are making same arguments as Favorito Petitioners

Based on extrajudicial biased release of Fani Willis' Special Purpose Grand Jury excerpts (Trump phone call)

The release damaged identifiable witnesses similarly situated to Favorito Petitioners

Perdue & Favorito Petitioners Are Similarly Situated

- ❖ Judge McBurney Order: *Perdue et al v. Barron et al* references ***Favorito et al v. Wan et al*** multiple times as a similarly situated case.
- ❖ Judge McBurney order: “Petitioners’ claims here are **very similar to those raised by the petitioning voters in Favorito** and many of the Respondents named in this case were also respondents in Favorito.”
- ❖ The Court of Appeals *Perdue et al v. Barron et al* order references *Favorito et al v. Wan et al* multiple times as a similarly situated case on pages 8 and 9

Prejudice against Perdue Petitioners assumes pre-judgement of Favorito case

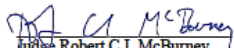
McBurney's Prejudiced Order to Dismiss Perdue Case

Faircloth, 354 Ga. App. 326, 329 (2020) (“equity will not step in where there is an adequate and complete remedy at law”).¹¹

III. CONCLUSION

Petitioners have failed to state a claim for declaratory relief. Their demand for injunctive relief is moot. Their remaining requests for equitable relief, absent the declaratory relief they cannot have, are left supported only by sour grapes which make a wine this Court will not serve. Respondents, including the non-moving Respondents,¹² are entitled to judgment as a matter of law on all four of Petitioners' claims. Any motion not specifically addressed to date is hereby DENIED as moot. The Clerk should mark this matter “closed.”

SO ORDERED this 11th day of May 2022.


Judge Robert C.I. McBurney
Superior Court of Fulton County
Atlanta Judicial Circuit

¹¹ The Court notes that, until they move to substitute parties, Petitioners also seek equitable relief against individuals who no longer work for the County or its elections in any capacity.

¹² Petitioners claim that the three non-moving Respondents (Wingate, Ruth, and Nuriddin) actually support Petitioners and the relief they are seeking. (Petitioners' response to Respondent Barron's motion to dismiss at 6). Even if true, this changes none of the factual findings and legal analysis buttressing the Court's conclusion that the remedies Petitioners are pursuing are unavailable to them.

Extra Judicial Biased Remarks:

“[claims] ... supported only by sour grapes which make a wine this court will not serve.”

“This Quixotic journey will not take place.”
(foolish, impractical, unrealistic)

Petitioners want experts to *“...hunt for speculative vote fraud or error”*

Biased Remarks in Perdue Case Dismissal

- ❖ Petitioners want experts “... to intrude upon sealed ballot materials...” and “...***hunt for speculative voter fraud or error.***”
 - Claims are not speculative, but based on four sworn affidavits from senior Fulton Co. poll managers, that counterfeit ballots exist in certified results
- ❖ Petitioners claims are “***Sour grapes***”
 - Claims also based on State Farm Arena video that shows multiple violations of Georgia election law
- ❖ Petitioner’s claims for relief represent a “***quixotic journey***”
 - Petitioners seek to ensure their rights are protected by correct election results
 - Petitioners seek a ballot inspection under custody of election officials easily completed in less than one week at Petitioners’ cost with no taxpayer expense

Order Releasing Excerpts from Special Grand Jury

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE
FEB 16 2023
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

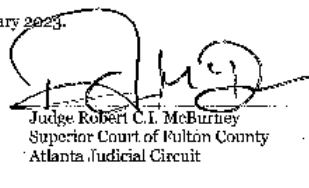
IN RE 2 MAY 2022 SPECIAL PURPOSE
GRAND JURY

2022-EX-000024

**ORDER ENTERING PORTIONS OF SPECIAL PURPOSE GRAND JURY'S
FINAL REPORT INTO COURT RECORD**

On 13 February 2023, the undersigned entered an Order directing the publication, pursuant to O.C.G.A. § 15-12-80 and consistent with the holding in *Thompson v. Macon-Bibb Cnty. Hosp. Auth.*, 246 Ga. 777 (1980), of certain portions of the Special Purpose Grand Jury's final report that sets forth its findings and recommendations to the District Attorney of Fulton County concerning its investigation into possible criminal interference in the 2020 general election in Georgia. Those three portions are attached to this Order as Exhibits A - C. The Clerk is directed to make this Order and its attachments available to the public.

SO ORDERED this 16th day of February 2023.


 Judge Robert C.L. McBurney
 Superior Court of Fulton County
 Atlanta Judicial Circuit

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McBurney
says order
based on

GA
Supreme
Court
finding

36516
Supreme Court of Georgia

Thompson v. Macon-Bibb County Hosp. Auth

246 Ga. 777 (Ga. 1980) · 273 S.E.2d 468
Decided Dec 3, 1980

36516.

ARGUED SEPTEMBER 9, 1980.

DECIDED DECEMBER 3, 1980.

Certiorari to the Court of Appeals of Georgia
154 Ga. App. 766.

Willie B. Sparks, III, Thomas J. Matthews,
Assistant District Attorneys, for appellants.

John D. Carter, H. T. O'Neal, Jr., for appellees.

NICHOLS, Justice.

This court granted certiorari to review the decision in *Thompson v. Macon-Bibb County Hospital Authority*, 154 Ga. App. 766 (270 S.E.2d 46) (1980). The case arose when the Bibb County Grand Jury, after investigating charges against an employee of the Medical Center of Central Georgia, returned an indictment against the employee and subsequently issued a report critical of the conduct of the staff and administration at the Medical Center. The trial court ordered the report expunged and the Court of Appeals affirmed. This Court affirms.

The powers of the grand jury are set out in Code Ann. § 59-301 et seq. These code sections authorize the grand jury to return presentments or indictments for any violations of the law. The grand jury is also authorized in specifically defined situations to examine county records and county facilities and to report on their condition. The issue presented in this case is: Does this specific statutory authority of the grand jury

permit it to issue a report critical of the actions of identifiable persons without subjecting the report to expungement?

This question was answered in the negative in *Kelley v. Tanksley*, 105 Ga. App. 65 (123 S.E.2d 463) (1961). *Kelley* distinguished between reports "casting reflections of misconduct in office upon a public officer" and those reports specifically authorized by statute. The latter reports are allowed, but if they contain "statements unnecessary to the purpose sought to be accomplished by the report," they are overbroad and exceed the powers of the grand jury. Under *Kelley* and the Court of Appeals' decision in this case, the only proper way to accuse an identifiable person with misconduct would be to return a presentment or an indictment. On the other hand, reports of a general nature concerning those areas where the grand jury has a statutory duty to investigate are acceptable. The dividing line between acceptable reports and those reports that go too far in criticizing individuals for unindictable activity is a tenuous one. Because of the practical difficulty involved in trying to distinguish in each case between permissible and impermissible reports, and because of the fundamental individual rights implicated by a report that criticizes identifiable individuals but does not indict, this court is of the opinion that statutory reform of Code Ann. § 59-301 et seq. is required before reports similar to the one in this case could be permitted without threat of expungement. Through a revision of the

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Thompson v. Macon-Bibb Co. Hospital Authority

- ❖ *"The issue presented in this case is: Does this specific statutory authority [59-201] of the grand jury permit it to issue a report critical of the actions of identifiable persons without subjecting the report to expungement? This question was answered in the negative in Kelley v. Tanskley" (1961)*
- ❖ *"The only proper way to accuse an identifiable person with misconduct would be to return a presentment or indictment"*
- ❖ *"...when an indictment is returned the accused has the right of an open hearing in which to be tried and thereby assert his innocence. Reports of the kind that we are dealing with here offer no such right to the one defamed."*

Releases Not Allowed For Identifiable Witnesses

- ❖ *“Several courts have pointed out that injury to an individual...can arise not only from the grand jury proceeding, but also from the public’s belief that the grand jury speaks with judicial authority.”*
- ❖ *“The individual who is named in the report or identifiable from it has little if any opportunity to adequately respond to the report’s accusations.”*
- ❖ *“An informal report...drafted after a secret investigation and based on an uncertain standard of proof, may be remembered long after informal denials or objections... from its targets are forgotten.”*

Released Excerpts Despite Identifiable Witnesses

Excerpt: *“A majority of the Grand Jury believes that perjury may have been committed by one or more witnesses before it[,]”*

- ❖ Most alternate electors and several subpoenaed witnesses are identifiable citizens similarly situated to Favorito Petitioners, because they believe, fraud likely occurred in the 2020 election
- ❖ Subpoenaed witnesses including 16 alternate Presidential electors selected in case Donald Trump won his 12/4/2020 election challenge was published by WABE, GA recorder, AJC, ABC, CNN, etc.
- ❖ Witnesses include attorney for David Perdue and Caroline Jeffords, a similarly situated Petitioner
- ❖ Release leads public to falsely think that individuals like Favorito Petitioners are liars

Released Excerpts Pre-Judged Favorito Case

Excerpt: “...no widespread fraud took place in the Georgia 2020 Presidential election that could result in overturning that election [,]”

- ❖ Evidence collected by Perdue, Favorito & Jeffords Petitioners is not yet presented in court
- ❖ Leads members of the public to falsely think individuals like Favorito Petitioners have no such evidence and further right to gather and present evidence
- ❖ Improper public release of minimal grand jury excerpts that lack real substance and conflict with evidence not yet presented demonstrates political bias to manipulate public opinion



Tale of Two Judges

Judge Brian Amero

- ❖ Issued a false ruling that caused 2 year, 4 month delay
- ❖ Claimed he has no jurisdiction to preserve ballots during appeal
- ❖ Transfers the case to a judge with known bias against us



Judge Robert McBurney

- ❖ Appointed by Gov. Nathan Deal after closing criminal investigation of Deal
- ❖ Made extrajudicial biased remarks about Perdue case in dismissal order
- ❖ Released grand jury excerpts to influence public opinion about identifiable grand jury witnesses despite GA Supreme Court precedent protecting them



Greatest Voting Rights Violation in Georgia History

- ❖ Petitioners have prima facie evidence of election crimes
- ❖ Crimes impact all Georgia voters and all American voters in federal elections
- ❖ Two judges are attempting to block evidence of crimes from being exposed
- ❖ Does that make the judges accomplices to the crimes?
- ❖ We are victims of double standard of justice for election crimes





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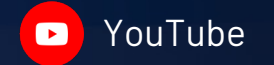


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