IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM T. QUINN and DAVID CROSS,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official capacity as Secretary of State of Georgia,

Defendant.

CIVIL ACTION FILE

No. 1:24-CV-04364-SCJ

ORDER

This action is before the Court on Defendant's Motion to Dismiss (Doc. No. [48]) and Motion to Stay Discovery (Doc. No. [50]).[1] Also pending is Plaintiffs' Motion for Oral Argument (Doc. No. [51]) and a Motion to Intervene by Black Voters Matter Fund (Doc. No. [54]).

---

[1] All citations are to the electronic docket unless otherwise noted, and all page numbers referenced are those imprinted by the Court's docketing software.

As an initial matter, the Court finds no need to hear argument from the Parties regarding the Motion to Dismiss. Therefore, Plaintiffs' motion requesting oral argument (Doc. No. [51]) is **DENIED**.

I. BACKGROUND

The operative pleading in this matter is Plaintiffs' Amended Complaint (Doc. No. [45]). Plaintiffs bring two causes of action under the National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. §20501 *et seq*. Specifically, Plaintiffs assert that (1) Defendant's ongoing failure to correct registrations of voters who have moved violates 52 U.S.C. § 20507(A)(4)(B) (Count I); and (2) O.C.G.A. § 21-2-233 (a Georgia statute that authorizes the Secretary of State to periodically compare the official list of electors with change of address information supplied by the Postal Service) does not satisfy Defendant's list maintenance obligations under 52 U.S.C. § 20507(A)(4)(B) (Count II).

According to the Amended Complaint, "[t]his is a lawsuit to enforce laws that, among other things, restore Plaintiffs' confidence in Georgia's elections and protect the right to vote from dilution." Doc. No. [45], 1. Plaintiffs allege that Georgia's current voter rolls include thousands of voters who have moved either out of the State of Georgia or to a Georgia county other than the one where they

are registered. Id. Thus, according to Plaintiffs, Defendant has failed in his duty to make a reasonable effort to maintain Georgia's voter rolls as required by the NVRA. Id. at 2.

With respect to injury, Plaintiffs assert that "Georgia voters" are being subjected to improper vote dilution. Id. at 11. Also, Plaintiffs contend that "former Georgia residents" are subject to having their identities stolen. Id. at 11. Additionally, Plaintiffs assert that an adjudication of this case would "help the legislature redraft O.C.G.A. § 21-2-233 to comply with requirements of the NVRA" and "help Defendant better understand his responsibilities and that he does not have absolute discretion under the NVRA." Id. at 20. The only injuries lleged to have been suffered by Plaintiffs themselves are that "Georgia's improperly maintained voter rolls have undermined (and will continue to undermine) Plaintiffs' confidence and trust in the electoral process and also burdened Plaintiffs' right to vote." Id. at 16.

Defendant has moved to dismiss the Amended Complaint, arguing that Plaintiffs (1) lack standing, and (2) fail to state a claim for relief. As explained below, the Court finds that Plaintiffs lack standing; therefore, Defendant's arguments regarding failure to state a claim for relief are not addressed. See

Sierra v. City of Hallandale Beach, Fla., 996 F.3d 1110, 1115 (11th Cir. 2021) ("Our precedent is clear that a court cannot rule on the merits of a case after finding that the plaintiff lacks standing.").

II. LEGAL STANDARD

Because standing is jurisdictional, a motion to dismiss for lack of standing is treated as a motion under Rule 12(b)(1) of the Federal Rules of Civil Procedure. Stalley ex rel. U.S. v. Orlando Reg'l Healthcare Svs., Inc., 524 F.3d 1229, 1232 (11th Cir. 2008). Standing "is the threshold question in every federal case, determining the power of the court to entertain the suit." Warth v. Seldin, 422 U.S. 490, 498 (1975). Article III of the United States Constitution expressly limits federal jurisdiction to "cases and controversies" and does not permit federal courts to issue advisory opinions. Miller v. F.C.C., 66 F.3d 1140, 1145 (11th Cir. 1995) (citing Flast v. Cohen, 392 U.S. 83, 94-96 (1968)). "To have a case or controversy, a litigant must establish that he has standing," United States v. Amodeo, 916 F.3d 967, 971 (11th Cir. 2019), which requires the litigant to show (1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992). An "injury in fact," for standing purposes, is "an invasion of a legally

protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." Id. at 560 (internal citations and quotations omitted).

"The plaintiff, as the party invoking federal jurisdiction, bears the burden of establishing these elements" and, where a case is in the pleading stage, "the plaintiff must clearly allege facts demonstrating each element." Spokeo, Inc. v. Robins, 578 U.S. 330, 338 (2016) (citations and internal punction omitted).

III. ANALYSIS

Defendant argues that Plaintiffs do not have standing because they cannot show they have an injury in fact. Specifically, Defendant contends that (1) Plaintiffs' efforts to satisfy the standing inquiry by alleging that they have suffered or will suffer vote dilution or a loss of confidence in the election process fails, and (2) the alleged injuries are entirely speculative. As discussed below, Defendant is correct with respect to both the absence of a particularized injury and the speculative nature of the injuries alleged by Plaintiffs.

A. Particularized Injury

Defendant's initial argument is that the injuries Plaintiffs assert they suffered are not particular to Plaintiffs. Rather, according to Defendant, these

asserted injuries could be raised by any member of the public. Defendant points out that the Eleventh Circuit has rejected such generalized grievance claims as a failure to allege a particularized injury. See Wood v. Raffensperger, 981 F.3d 1307, 1314 (11th Cir. 2020).

In response, Plaintiffs rely on district court cases from other circuits holding that erosion of a plaintiff's confidence in an electoral process is sufficient injury for purposes of Article III standing. Doc. No. [49], 14–15 (citing Wis. Voter All. v. Millis, 720 F. Supp. 3d 703, 709 (E.D. Wis. 2024); Green v. Bell, No. 3:21-CV-00493-RJC-DCK, 2023 WL 2572210, at *4 (W.D.N.C. Mar. 20, 2023); Judicial Watch, Inc. v. Griswold, 554 F. Supp. 3d 1091, 1103–04 (D. Colo. 2021); Nat'l Coal. on Black Civic Participation v. Wohl, 512 F. Supp. 3d 500, 515–16 (S.D.N.Y. 2021); Judicial Watch, Inc. v. King, 993 F. Supp. 2d 919, 924 (S.D. Ind. 2012)). Also, Plaintiffs assert that they know facts that other members of the public do not. Id. at 16. Finally, Plaintiffs argue that their alleged vote dilution injury is sufficient because voters in other Georgia counties serve as a point of comparison—an element the Eleventh Circuit requires for vote dilution to satisfy a standing inquiry. Id. at 17–20.

According to the Eleventh Circuit, a generalized grievance is "undifferentiated and common to all members of the public." Id. (citing Lujan, 504 U.S. at 575) (internal quotation marks omitted). In Wood, the Eleventh Circuit found no particularized injury because the plaintiff could not "explain how his interest in compliance with state election laws is different from that of any other person." Id.

Furthermore, Wood rejected a theory of vote dilution in support of standing when such dilution is in the context of a generalized grievance rather than with a point of comparison. The Eleventh Circuit explained that in the racial gerrymandering and malapportionment contexts, vote dilution occurs when voters are harmed compared to "irrationally favored" voters from other districts. Wood, 981 F.3d at 1314 (emphasis added) (citing Baker v. Carr, 369 U.S. 186, 207–08 (1962)). The Wood decision goes on to contrast that point of comparison with a situation where "no single voter is specifically disadvantaged" if a vote is counted improperly, even if the error might have a "mathematical impact on the final tally and thus on the proportional effect of every vote." Id. (quoting Bognet v. Sec'y Commonwealth of Pa., 980 F.3d 336, 356 (3d Cir. Nov. 13, 2020)). Thus, the Eleventh Circuit concluded that "vote dilution in this context [with no point

of comparison] is a paradigmatic generalized grievance that cannot support standing." Id. at 1314–15.

First, the Court declines Plaintiffs' invitation to ignore binding Eleventh Circuit authority in favor of district court cases from other circuits. Second, Plaintiffs' argument about their particularized knowledge, as opposed to particularized injury, does not satisfy the standing inquiry. Finally, the Court will not consider allegations made in response to a motion to dismiss that are not contained in the Amended Complaint. Cunningham v. RAS Crane, LLC, No. 1:19CV02853-TWT-LTW, 2020 WL 9810008, at *3 (N.D. Ga. Feb. 3, 2020) (holding that a litigant cannot amend a complaint by attempting to add claims in a response brief.) Therefore, Plaintiff's allegations in the response to the Motion to Dismiss related to the required "point of comparison" (i.e., Gwinnett County voters as compared to voters in other counties) will not be considered.

In sum, the Court finds that under Eleventh Circuit authority, Plaintiffs have failed allege facts that demonstrate any injury that is particular to Plaintiffs—as opposed to any Georgia voter. As such Plaintiffs cannot establish standing.

B. Speculative Injury

Defendant alternatively argues that even if Plaintiffs alleged a particularized injury, the Amended Complaint itself reveals the speculative nature of the injuries asserted. Doc. No. [48-1], 17–18. For example, Defendant points out that Plaintiffs have alleged that "thousands of voter registrations" are apparently incorrect. Doc. No. [48-1], 19. Defendant further argues that Plaintiffs' reliance on a data analysis of address changes conducted prior to the deadline for voter registration demonstrates that vagueness of what Plaintiffs assert went wrong with the 2024 election. In other words, Plaintiffs have alleged nothing more than the Georgia voter rolls may include voters who relocated elsewhere and this possibility creates a possibility of harm to Plaintiffs.

In response, Plaintiffs cite to research articles that find that occurrences of a voter voting multiple times do happen, if infrequently. Doc. No. [49], 21–22. Plaintiffs then point to their own county—Gwinnett—and describe it as "swing" county. Id. at 22. They contend that these facts show there is a "substantial risk" that Plaintiffs'' votes are being devalued as compared to those of other voters.

Plaintiffs' arguments are without merit. That voter fraud exists and that Gwinnett County is a "swing" county, even if properly pled and taken as true,

do nothing to shore up the Amended Complaint's speculation that the possibility of errors in the voter rolls put Plaintiffs at risk to lose confidence in election results or somehow dilute their votes regardless of what county they live in.[2] Therefore, even if Plaintiffs alleged injury that is particular to them, such injury is so speculative in nature that standing is not present.

IV. CONCLUSION

Based on the foregoing,

Plaintiffs' Motion for Oral Argument (Doc. No. [51]) is **DENIED**;

Defendant's Motion to Dismiss (Doc. No. [48] is **GRANTED**; and

The Motion to Stay (Doc. No. [50]) and the Motion to Intervene (Doc. No. [54]) are **DENIED AS MOOT.**

IT IS SO ORDERED this 30th day of April, 2025.

Steve C. Jones

HONORABLE STEVE C. JONES
United States District Judge

---

[2] As pointed out by Defendant, in a federal election, winners for U.S. President and U.S. Senator are determined by statewide popular vote. O.C.G.A. § 21-2-501(f). And election for U.S. House representatives is based on congressional districts, not counties. Doc. No. [53], 8. Since, Plaintiffs' Amended Complaint is targeting the 2024 federal election, the reference to Gwinnett County as a "swing" county is nonsensical.