

In the Superior Court of Fulton County

State of Georgia

Fulton County Republican Party,
Plaintiff

Case No 25CV008083

versus

Fulton County Board of Commissioners et al,

Defendants

ORDER DENYING STAY

The plaintiff seeks to hold the defendant Board of Commissioners in contempt for its failure to appoint the plaintiff's executive director to the county Board of Election.

The defendants contend they have not had time to hold a public meeting at which they could address this issue.

The court notes that the defendants have filed a motion for reconsideration of the court's first ruling as well as a notice of appeal from that ruling.

This case revolves around the interpretation of the word "shall." The court is satisfied that it has correctly applied the appointment statute in this mandamus case.

The court knows the rule in this type of case that the court can only compel the public body to act while it cannot dictate the decision that must be made.

That said, this is a situation in which the only authority of the county commission is to appoint the nominees submitted by the executive officer of the political party. The defendant board has been ordered to comply with that appointment. As the court has already found, the refusal to appoint the county executive's nominees does harm to the plaintiff by the denial of representation by the people chosen for the Board of Elections.

The court has already found that a clear legal right to relief exists, as required for the issuance of a writ of mandamus, when a claimant seeks to compel the performance of a public duty that an official or agency is required by law to perform, and the duty must be clear and well defined. *Love v. Fulton County Board of Tax Assessors*, 2018, 348 Ga.App. 309, 821 S.E.2d 575.

In this case, the court has found that the plaintiff has that clear legal right to have its nominees appointed to the county election board.

The court views the efforts of the defendants at this point as an effort to delay those appointments in bad faith.

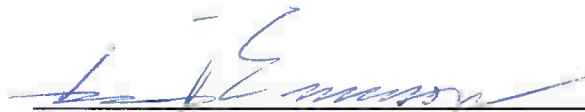
O.C.G.A. § 9-11-62(c) provides:

Injunction pending appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

The court declines to stay its order. The court directs the defendant board to comply with its order at its next regularly scheduled meeting.

The court reserves ruling on the plaintiff's contempt petition pending that meeting.

So ordered this August 15, 2025.



David Emerson
Senior Judge of Superior Courts
Presiding in Fulton Superior Court

Distribution List

Thomas L. Oliver, III, Counsel for the plaintiff

Justin P. Gunter, Counsel for the plaintiff
Don Samuel and Amanda Clark-Palmer, Counsel for the defendant
David Summerlin, Superior Court Administrator