

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

Marjorie Taylor Greene,

Plaintiff,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia, *et*
al.,

Defendants,

and

David Rowan, *et al.*,

Intervenor Defendants.

Case No. 1:22-cv-1294-AT

**Rowan Intervenors’
Response in Opposition to
the Plaintiff’s Motion to
Stay**

Intervenor defendants David Rowan, Donald Guyatt, Robert Rasbury, Ruth Demeter, and Daniel Cooper (collectively, the “Rowan Intervenors”), respectfully submit this response in opposition to to plaintiff Marjorie Taylor Greene’s motion to stay all proceedings in this case until her appeal (and any petition for a writ of certiorari) is resolved. ([ECF 65](#)). The Court should deny Greene’s motion because she

cannot establish that moving forward with discovery would be a hardship or inequity.

Background

This is a constitutional challenge to an on-going state proceeding. Greene, who is the incumbent member of the United States House of Representatives from Georgia's Fourteenth Congressional District, seeks injunctive relief halting a challenge under state law to her qualifications to seek re-election to that office.

Greene brought this action on April 1, 2022, against Secretary of State Brad Raffensperger and other state officials. (ECF 3.) She filed a motion for a temporary restraining order and a motion for a preliminary injunction. (ECF 4, 5.) The Rowan intervenors—five voters who had challenged Greene's qualifications under state law—intervened as defendants. (ECF 33.)

This Court denied Greene's motions on April 18 (ECF 52), and Greene appealed (ECF 53). The Eleventh Circuit granted Greene's motion to expedite her appeal and set the case for oral argument during the week of August 8. (ECF 62.) The appellees' briefs are due June 14, and Greene's reply brief is due June 21.

Meanwhile, on April 20, this Court granted the State Defendants' motion for an extension of time to respond to Greene's complaint. (ECF 57). The State Defendants' responsive pleading is now due on June 9. (*Id.*) The Rowan Intervenors filed their answer on April 25. (ECF 59.)

On May 31, counsel for the Rowan intervenors emailed Greene's attorneys to schedule a Rule 26(f) conference. Greene's attorneys refused and filed this motion to stay on the next day.

The state-law challenge to Greene's qualifications remains ongoing. On May 6, the Secretary of State issued a final decision that Greene is qualified to be on the ballot. The Rowan Intervenors have appealed that decision to the Fulton County Superior Court. As of the date of this brief, that court has not yet taken any action on the appeal.

Legal Standard

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 880 n.6 (1998) (quoting

Landis v. North Am. Co., [299 U.S. 248, 254–55](#) (1936)). Moreover, a party requesting a stay of proceedings “must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to some one else.” *Landis*, [299 U.S. at 255](#). See, e.g., *Sturgis Motorcycle Rally, Inc. v. Mortimer*, 2:14-cv-175-WCO, [2015 WL 11439078](#), at *6 (N.D. Ga. June 11, 2015) (applying *Landis*).

Discussion

This Court has the duty to “secure the just, speedy, and inexpensive determination of every action and proceeding,” [Fed. R. Civ. P. 1](#), and Greene has not made the case that staying all proceedings for an indefinite period would serve that purpose. She cites the wrong legal standard and does not even attempt to make out a clear case of hardship or inequity.

The possibility of damage to the Rowan Intervenors from the requested stay is obvious. They will be unable to conduct the discovery necessary to support their defenses for an indefinite period while Greene pursues her appeals. As time passes, memories may fade; witnesses may

die or disappear; documents may be deleted or lost; and events may lose their perspective. Justice delayed is justice denied.

Greene argues that the defendants don't need any discovery because the case is purely legal. (ECF 65 at 3-4.) The intervenor defendants disagree. The Rowan Intervenors' answer disputes many of Greene's factual allegations. (See ECF 59 ¶¶ 1, 3, 4, 5, 7, 8, 13, 15, 16, 20, 22, 23, 30, 34, 35, 36, 37, 41, 46, 52, 53, 57, 59, 60, 61, 63, 65, 67, 69, 70, 71, 73, 75, 76, and 77.) Greene does not say how the Court will resolve those disputes except through discovery. She has not sought, for example, judgment on the pleadings. At this stage of the case, it is readily apparent that there are disputed issues of fact, and discovery is how courts and litigants resolve those issues.

Because there is a possibility of harm to the defendants from a stay, Greene has the burden of establishing "a clear case of hardship or inequity." *Landis*, 299 U.S. at 255. She argues that a stay would reduce the burden of litigation (ECF 65 at 4-5), but that argument falls short of establishing hardship or unfairness. Briefing in her appeal in the Eleventh Circuit is almost finished. The appeal in state court is moving slowly. There are no practical obstacles to discovery here that would

make it unduly burdensome or inequitable. She brought this case knowing full well that she could be subject to discovery, and it is not unfair to require her to follow the ordinary rules of civil procedure.

Greene asserts that a stay would simplify the issues and streamline the trial (ECF 65 at 4), but she does not explain how it would do that. Unless Greene prevails on appeal—which she is unlikely to do—her appeal is unlikely to affect this Court’s determination of the merits in any substantial way. Only discovery is likely to do that.

Greene also argues that the Court should stay all proceedings indefinitely because this case is in the early stages of litigation. (*Id.* at 6.) That is true, but it is no basis for granting a stay under *Landis*.

Conclusion

Having exercised her right to bring this litigation, Greene now seeks to avoid the responsibilities that come with that. One of those responsibilities is participating in discovery. Under the circumstances of this case, discovery would not impose any greater hardship or unfairness on her than it would on any other federal litigant. This Court should therefore deny Greene’s motion to stay.

Respectfully submitted this 2nd day of June, 2022.

/s/ Bryan L. Sells

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Certificate of Compliance

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing document has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan L. Sells

Bryan L. Sells