

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JUDICIAL WATCH, INC.,

Plaintiff,

v.

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

Defendant.

CIVIL ACTION FILE NO. 2021CV347236

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant Brad Raffensperger, in his official capacity as the Secretary of State of Georgia, to compel compliance with the Georgia Open Records Act, § 50-18-70 *et seq.* As grounds therefor, Plaintiff alleges as follows:

JURISDICTION

1. This Court has jurisdiction over the person and subject matter of this action pursuant to O.C.G.A. § 50-18-73(a).

VENUE

2. Venue is proper in this Court pursuant to O.C.G.A. § 9-10-30 because Defendant Raffensperger's principal office is located at 214 State Capitol, Atlanta, Georgia 30334 in Fulton County.

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street

SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Judicial Watch regularly requests records under federal and state “open records” laws, analyzes the responses and any records it receives, and disseminates its findings and the records to the public to inform them about their government.

4. Defendant Brad Raffensperger is the Secretary of State of Georgia. Defendant Raffensperger has possession, custody, and control of records to which Plaintiff seeks access. He is sued in his official capacity.

STATEMENT OF FACTS

5. On November 17, 2020, Plaintiff submitted a Georgia Open Records Act request to Defendant seeking access to the following:

All records related to the March 6, 2020 Consent Agreement entered into by GA SOS Brad Raffensperger and others relating to the processing of absentee ballots by the GA SOS in the Nov. 3, 2020 general election, including but not limited to emails regarding the agreement sent to and from SOS Raffensperger, State Election Board Vice Chair Rebecca N. Sullivan, State Election Board Member David J. Worley, State Election Board Member Matthew Mashburn, and/or State Election Board Member Anh Le.

The request was submitted via the online Open Records Act portal that Defendant has designated for receiving Open Records Act requests, <https://sos.ga.gov/OpenRecords/>. The time frame of the request was identified as “Nov. 2019 to the present.”

6. On November 20, 2020, Defendant’s office sent Plaintiff an email acknowledging receipt of Plaintiff’s November 17, 2020 request and advising Plaintiff that the request had been assigned reference number 2020-1080. The email also stated that Defendant had invoked the Open Record Act’s extension of time provision, O.C.G.A. § 50-18-71(b)(1)(A), and estimated that a determination on the request would be issued within ten business days.

7. When Plaintiff received no determination or any further communication from Defendant about the request, Plaintiff submitted an inquiry to Defendant on February 24, 2021 asking about the status of the request. The inquiry was submitted via the online portal, <https://sos.ga.gov/cgi-bin/email.asp>, designated by Defendant for communicating with Defendant's office.

8. As of the date of this Complaint, Defendant has failed to make any determination on Plaintiff's November 17th request or otherwise communicate with Plaintiff about the request.

COUNT I

(Violation of the Georgia Open Records Act – O.C.G.A. § 50-18-70, et seq.)

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Defendant is in violation of the Georgia Open Records Act.

11. Defendant was required to make the requested records available to Plaintiff or notify Plaintiff of any determination not to make the records, or any part thereof, available to Plaintiff within three (3) business days of receipt of the request. O.C.G.A. § 50-18-71(b)(1)(a).

12. Plaintiff is being irreparably harmed by Defendant's violation of the Georgia Open Records Act, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant in violation of the Georgia Open Records Act; (2) order Defendant to conduct searches for all public records responsive to Plaintiff's Open Records Act request without further delay; (3) enjoin Defendant from continuing to withhold all non-exempt public records responsive to Plaintiff's Open Records Act request; (4) grant Plaintiff an award of attorney's fees and other

costs reasonably incurred in this action pursuant to O.C.G.A. § 50-18-73(b) and (5) grant Plaintiff any other relief as the Court deems just and proper.

Dated March 16, 2021

Respectfully submitted,

/s/John J. Park, Jr.
GA Bar No. 547812
616-B Green Street
Gainesville, GA 30501
(470) 892-6444
jackparklaw@gmail.com