

IN THE SUPERIOR COURT OF TIFT COUNTY
 STATE OF GEORGIA


 Clay Pate, Clerk
 Tift County, Georgia

AMBROSE KING, JR.,)	
)	
Petitioner/Plaintiff,)	
)	CIVIL ACTION NO. 2024-CV-0203
vs.)	
)	
TIFT COUNTY BOARD OF ELECTIONS)	
AND REGISTRATION, and MARILYN R.)	
BURKS, Candidate for Tift County, Georgia)	
Board of Education, District 1)	
May 21, 2024)	
)	
Respondents/Defendants.)	

**CONSENT ORDER GRANTING PETITIONER AMBROSE KING, JR.'S PETITION TO
 CONTEST ELECTION RESULTS & REQUEST FOR NEW ELECTION**

Petitioner Ambrose King, Jr. (“King” or “Petitioner”) filed a Petition to Contest Election Results & Request for New Election for the May 21, 2024, Tift County, Georgia Board of Education District 1 election (“Petition”). Respondent incumbent Marilyn Burks (“Burks”) and the Tift County Board of Elections and Registration (“TCBOER”) filed timely Answers to same. Petitioner King and Respondent Burks were the only candidates in the election at issue. The TCBOER as election superintendent timely certified the results of the race, which results showed Respondent Burks winning the election by only two votes over Petitioner King. The Petition called into question the results of the May 21, 2024, Tift County, Georgia Board of Education District 1 election (the “Election”), alleging that irregularities, wrongly rejected votes, and illegal votes exceeded the margin of victory of two, and that as a result requested a new election to be held. With all parties having the goal of fair, safe, accurate elections and to ensure confidence in the integrity of the election process, the parties hereby stipulate as follows:

Stipulated Facts

1. The Court has proper venue and jurisdiction over this action.
2. The TCBOER as election superintendent for the Election timely certified the results of the race, which results showed Respondent Burks winning the election by only two votes over Petitioner King.
3. Petitioner filed a timely Petition to challenge the Election.
4. Respondents filed timely Answers to Petitioner's Petition.
5. In response to an Order from the Court for the exchange of discovery, on August 26, 2024, Petitioner provided Respondents with a list of the alleged wrongfully rejected, illegal, and irregular votes with an accompanying explanation of each.
6. After examining this list and fully researching each alleged wrongfully rejected, illegal, and irregular vote, TCBOER concluded that Casey's Court Apartments ("Complex") was inadvertently and incorrectly designated in District 6, when it should have properly been designated in District 1, which thereby resulted in at least six voters receiving an irregular ballot by not properly receiving a ballot containing the Election at issue.
7. Outside of the Complex, TCBOER denies any additional allegations contained in Petitioner's Petition regarding irregularities, wrongly rejected votes, or illegal votes.

Conclusions of Law

O.C.G.A. § 21-2-522(1) authorizes the result of an election to be contested if there is an irregularity sufficient to change or place in doubt the result. "The setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly." *Hunt v. Crawford*, 270 Ga. 7, 10 (1998). Generally it is presumed that election results are valid, and it is the contesting party's burden to show an irregularity or illegality exists that is sufficient to change or place in doubt the results of the election. *Meade v.*

Williamson, 293 Ga. 142, 143 (2013). To meet their burden, the contesting party must show “a specific number of . . . irregular ballots” *Middleton v. Smith*, 273 Ga. 202, 203 (2000). That number, then, must be “sufficient to place the result” of the contested election in doubt. *Taggart v. Phillips*, 242 Ga. 484, 487 (1978). It is, however, not required of the contesting party to demonstrate how the votes would have been cast if the voters had a regular ballot. *Meade*, 293 at 271.

There were an irregular number of ballots sufficient to change or place in doubt the result of the Election as set forth in O.C.G.A. § 21-2-522(1). The margin of victory in the Election was only 2 votes, and at least 6 voters were in the affected area that did or could have received an irregular ballot. With the goal of upholding the integrity of elections and confidence of the public in that integrity, the parties therefore consent that a sufficient number of irregular ballots could have changed the outcome of the vote and further consent to a new election be held so as to allow all qualified District 1 citizens to exercise their right to vote.

Order and Judgment

For the foregoing reasons, IT IS HEREBY ORDERED that Petitioner’s Petition to Contest the Election Results & Request for a New Election be **GRANTED**, and it is further **ORDERED** as follows:

1. The May 21, 2024 Election in which Marilyn R. Burks was certified the winner is hereby declared invalid and set aside.
2. A new election of the Tift County School Board District 1 seat shall take place on November 5, 2024, with the same candidates who qualified for the May 21, 2024 Election, with correct ballots for all District 1 voters, and all absentee ballots, early voting ballots, and other ballots to be administered in accordance with Georgia’s Election Code.

3. Pursuant to O.C.G.A. § 21-2-291, because there is no eligible Republican candidate or other eligible candidates of a party other than the Democratic party in the Election, the winner of the new District 1 Election on November 5, 2024 shall be declared the winner of the 2024 Tift County School Board Election for District 1.

SO ORDERED this 30th day of August, 2024.



THE HONORABLE SENIOR JUDGE HOWARDE. MCCLAIN,
Sitting for the Superior Court of Tift County

CONSENTED TO BY:

/s/ Jake Evans

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NOT OBJECTED TO BY:

/s/ John C. Spurlin

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