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G. SCOTT RAFSHOON
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April 14, 2003

Federal Election Commission
Office of General Counsel
999 E Street NW
Washington, DC 20463

AOR 2003-15

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OFFICE OF GENERAL
COUNSEL

Re: **Advisory Opinion Request**

Dear Commissioners:

On behalf of Denise Majette, a Member of the United States House of Representatives, and the Committee to Re-Elect Congresswoman Denise Majette (the "Committee"), we respectfully request an advisory opinion from the Federal Election Commission pursuant to 2 U.S.C. § 437f of the Federal Election Campaign Act of 1971, as amended (the "Act").

A civil lawsuit was brought against Representative Majette by supporters of her opponent in Georgia's 2002 primary election. As a direct result of that lawsuit, Representative Majette has incurred significant legal expenses. To defray those legal expenses, Representative Majette wishes to establish a Legal Expense Fund, as more specifically detailed below. We respectfully ask that you confirm that funds raised and spent by Representative Majette under the circumstances described in this letter, for the purpose of defraying the costs associated with defending against the described litigation, are not "contributions" or "expenditures" as defined in the Act, and are thus not subject to the provisions of the Act.

Background

In the 2002 Democratic Primary in Georgia's 4th United States Congressional District, then-Judge Majette challenged then-incumbent Representative Cynthia McKinney. After an active campaign and a record primary turnout, Judge Majette won the Democratic Primary with fifty-eight percent (58%) of the vote on August 20, 2002. Shortly thereafter, five supporters of the defeated incumbent filed suit in United States District Court for the Northern District of Georgia challenging Georgia's "open primary" election system and asking the Court to block Judge Majette from taking office (the "Litigation"). Although the plaintiffs eventually amended their complaint to exclude Representative Majette as a defendant, she has incurred legal expenses in excess of \$90,000.00 and continues to incur modest legal fees related to monitoring the on-going litigation. It is also possible that the plaintiffs could amend the suit again because the

Mr. Lawrence Norton, Esq.

April 14, 2003

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statute of limitations has not run. Therefore, it may be necessary to retain money in the Fund for that contingency.

Representative Majette intends to establish a Legal Expense Fund (the "Fund") to raise money to defray these legal expenses. The Fund will be established in accordance with the Legal Expense Funds Regulations promulgated by the Committee on Standards of Official Conduct of the U.S. House of Representatives. Among other requirements, the Fund will be established as a Georgia trust (the "Trust"), administered by an independent trustee who will oversee fundraising. Trust funds will be used only for legal expenses, including expenses incurred in soliciting for and administering the Trust. Contributions will be limited to \$5,000 per year from any individual or organization.

The Trust will solicit funds from individuals, labor organizations and corporations, and all solicitations will be made in person or by mail and will be accompanied by a letter stating the purpose of the Fund. The Statement of Purpose made during any solicitation will be substantially as follows: "The purpose of this solicitation is to obtain personal funds to defray the cost of certain litigation against Representative Majette. Funds obtained by this solicitation will not be used for the purpose of influencing any election, and will not be used in any way to promote or maintain the official activities of any officeholder." In addition, contributors will be requested to sign a card to be returned with the donation affirming the purpose the gift. The card will state substantially as follows: "I, the undersigned, hereby confirm the donation of \$_____ to the Trust for purpose of funding certain litigation defense-related activity. This donation is not given for the purpose of influencing any election or as a campaign contribution or for the purpose of promoting or maintaining the official activities of any officeholder." Solicitations to the Fund will be conducted completely separate from any solicitations for or on behalf of the Committee.

Analysis

The Act, as amended by the Bipartisan Campaign Reform Act of 2002, provides that a "contribution" includes any gift, subscription, loan, advance, or deposit of money, or anything of value made by any person for the purpose of influencing the nomination or election of any person to federal office. 2 U.S.C. § 431(8). Similarly, the term "expenditure" is defined in an identical fashion as relating to payments made for the purpose of influencing a person's nomination or election to federal office. 2 U.S.C. § 431(9). The Commission has on several occasions considered the applicability of the Act to fundraising for purposes such as those anticipated here, including through establishment of Legal Expense Funds. See, e.g., *Advisory Opinion Nos. 1996-39, 1983-37, 1983-30, 1983-21, 1982-37A, 1982-35, 1981-13, 1980-4*. In those opinions and others, the Commission concluded that the money being raised and spent was not being raised and spent for the purpose of influencing a federal election.

Because donations to, and disbursements from, the Trust will be exclusively connected with, and strictly for the purpose of, paying the cost of Representative Majette's legal defense, such donations and disbursements would not be "contributions" or "expenditures" as those terms are defined in the Act. Accordingly, donations to and disbursements from the Fund would not be

subject to the restrictions and regulations of the Act, and nothing in the Act or Commission regulations would limit or prohibit the Trust from receiving donations from sources, such as corporations, that would be prohibited from contributing to the Committee. In addition, the Trust would not be required to file disclosure reports under the Act or Commission regulations. *See Advisory Opinion No. 1979-37.*

In Advisory Opinion No. 1996-39, the Commission approved a similar request brought by a Republican Congressional Candidate, Susan Heintz, to establish a separate account to pay certain legal expenses. Opponents of Ms. Heintz had challenged the sufficiency of her nominating petitions to qualify for the Republican Primary election ballot. The state agency reviewing the challenge could not resolve the issue, forcing Ms. Heintz to seek a writ of mandamus from the Michigan Court of Appeals. The Court of Appeals directed that Ms. Heintz's name be placed on the primary election ballot, and the Commission concluded that "funds received and spent to pay for the expenses of the litigation described in your request would not be treated as contributions or expenditures for purposes of the Act, provided that they are raised and spent by an entity other than a political committee." *Advisory Opinion No. 1996-39.*

In rendering its opinion in Advisory Opinion No. 1996-39, the Commission relied, in part, on Advisory Opinion No. 1982-35B, in which the Commission approved the request of a potential candidate for federal office who was forced to initiate a legal challenge to a party rule that required a party convention endorsement vote before the candidate could qualify for the party's primary election ballot. The Commission observed that filing the lawsuit to challenge the party rule was "a condition precedent to the candidate's participation in the primary election" and concluded that raising funds to defray the cost of such litigation was outside the purview of the Act. *Advisory Opinion No. 1982-35B.* In a related request, the Commission ruled that funds raised by the state party to defend against the same lawsuit were not covered by the Act. *Advisory Opinion No. 1983-37.*

Unlike Representative Gonzales whose legal expense fund was not approved in Advisory Opinion No. 1980-57, Representative Majette is not engaged in an "attempt to force an election opponent off the ballot." Instead, Representative Majette was forced to defend herself against a spurious legal challenge by supporters of her defeated primary opponent; therefore, her situation is more analogous to Ms. Heintz' request in Advisory Opinion No. 1996-39 than Representative Gonzales' situation. The Commission has previously distinguished between legal expenses incurred for defensive purposes and those incurred to initiate election challenges. In the former situation, a "Committee has no choice but to defend itself or admit the violations alleged by the plaintiff." *Advisory Opinion No. 1980-4. See also Advisory Opinion No. 1982-35A.* Although the specific issue addressed in Advisory Opinion No. 1980-4 involved donated legal services and not a legal expense fund, the rationale employed by the Commission in that situation should apply to Representative Majette's situation. The Commission reasoned, "to characterize the donated legal services as contributions in this case . . . could, in turn, lead to the situation where any committee similarly situated would have to use up its expenditure limit (and perhaps its funds as well . . .) in defending lawsuits." *Advisory Opinion No. 1980-4.*

Mr. Lawrence Norton, Esq.

April 14, 2003

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In conclusion, we respectfully submit that donations to the Fund (and expenditures from the Fund) defraying legal expenses in relation to the Litigation do not constitute "contributions" or "expenditures" as defined by the Act, and that such fundraising is therefore not subject to the prohibitions and restrictions contained in the Act.

We would be happy to provide any additional information you may request. We look forward to your response.

Very truly yours,



G. Scott Rafshoon

cc: Rep. Denise Majette



FEDERAL ELECTION COMMISSION

Washington, DC 20463

April 18, 2003

G. Scott Rafshoon
McKenna, Long & Aldrige LLP.
303 Peachtree, NE
Suite 5300
Atlanta, GA. 30308

Dear Mr. Rafshoon:

This refers to your letter dated April 14, 2003, on behalf Representative Denise Majette, and the Committee to Re-Elect Congresswomen Denise Majette (the "Committee") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the solicitation of donations to a Legal Expense Fund (the "Fund") established by Representative Majette.

You state that following Representative Majette's victory in the 2002 Democratic Primary in Georgia's 4th U.S. Congressional District, five supporters of the defeated incumbent filed suit in United States District Court for the Northern District of Georgia challenging Georgia's open primary election system and asking the Court to block then Judge Majette from taking office. You explain that the plaintiffs eventually amended their complaint to exclude Representative Majette as a defendant. However, she has incurred legal expenses of \$90,000 and continues to incur what you describe as modest legal fees related to monitoring the ongoing litigation. You also explain that it is possible that the plaintiffs could amend their suit again because the statute of limitations has not run. Therefore, the candidate believes it may be necessary to retain funds to meet this possibility.

For this reason, you explain that the candidate wishes to establish the Fund to raise money to defray these legal expenses. You state that the Fund will be established in accordance with the Legal Expense Fund Regulations promulgated by the Committee on Standards of Official Conduct of the U.S. House of Representatives. Among other requirements, the Fund will be established as a Georgia trust (the "Trust"), administered by an independent trustee who will oversee fundraising. Trust funds will be used only for legal expenses, including expenses incurred in soliciting for and administering the Trust. Contributions will be limited to \$5,000 per year from any individual or organization. You also state that the Trust will solicit funds from individuals, labor organizations and corporations, and all solicitations will be made in person or by mail and will be

accompanied by a letter stating the purpose of the Fund. You wish to know whether these funds can be solicited consistent with the Act and Commission regulations.

The Act authorizes the Commission to issue an advisory opinion request in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c). The regulations further explain that the Office of General Counsel shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. 11 CFR 112.1(d).

In view of the above requirements, please provide a copy of the original complaint and all subsequent amended complaints including the amended complaint that excluded Representative Majette as a defendant.

Upon receipt of your response, this office will give further consideration to your inquiry. If you have any questions about the advisory opinion process, or this letter, please contact Michael Marinelli, a staff attorney in this office, or Mai Dinh, Acting Assistant General Counsel, at 202-694-1650.

Sincerely,


for _____
Rosemary C. Smith
Acting Associate General Counsel

Atlanta
Denver
Los Angeles
Philadelphia

McKenna Long & Aldridge^{LLP}

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April 25, 2003

VIA FEDEX

Rosemary C. Smith
Acting Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Representative Denise Majette; Advisory Opinion Request

Dear Ms. Smith:

This responds to your letter dated April 18, 2003, with respect to the above-referenced matter. Enclosed please find the following documents:

1. Complaint for Equitable Relief under the Voting Rights Act and the United States Constitution filed October 4, 2002, in the United States District Court for the Northern District of Georgia, Atlanta Division (the "Court");
2. Notice of Voluntary Dismissal of Defendants Georgia Republican Party and Denise Majette filed with the Court on December 20, 2002; and
3. Amended Complaint for Equitable Relief under the Voting Rights Act and the United States Constitution filed with the Court on January 8, 2003.

To assist you in your review of this matter, I am also enclosing copies of the following:

1. Defendant Denise Majette's Motion to Dismiss filed with the Court on December 5, 2002; and
2. Defendant Denise Majette's Memorandum of Law in Support of her Motion to Dismiss filed with the Court on December 5, 2002.

Please note that the lawsuit referred to in our Advisory Opinion Request (dated April 14, 2003), is ongoing and that some 28 documents have been filed with the Court by the plaintiffs and various defendants. Although Representative Majette has been dismissed from the case, the plaintiffs' continue to demand a special primary and special election for the seat currently held

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Rosemary C. Smith

April 25, 2003

Page 2

by Representative Majette. Accordingly, although technically no longer a defendant, Representative Majette would be the most seriously affected if the Court were to grant the plaintiff's request.

If you have any additional questions or need more information, please do not hesitate to contact me.

Very truly yours,



G. Scott Ratshoon

GSR:gd

cc: Representative Denise Majette (w/o enclosures)

Enclosures

1983.

2.

Jurisdiction is invoked pursuant to 28 U.S.C. 1331, 1343 and 1367; Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. 2201 and 2202; and by Rules 57 and 65, F.R. Civ. P. Venue is proper pursuant to 28 U.S.C. 1391 (b).

3.

Malicious crossover voting occurs when one party invades another party's primary to sabotage that party's choice of its own nominee for political office. The Republican Party voters crossed over and affected the outcome of the 4th US Congressional District 8/20/2002 Democratic primary.

4.

Incumbent Congresswoman **CYNTHIA MCKINNEY** and **DENISE MAJETTE** were the only two Democratic candidates in the August 20, 2002 Democratic Primary.

5.

The date of the official counties' declaration or certification of the result in dispute is August 24, 2002; however, the Secretary of State consolidated the counties' vote totals and certified the results for the 4th District US Congressional District on or about August, 27, 2002.

6.

The Defendants are:

Cathy Cox, Secretary of State, who consolidated the returns and certified the final vote;

Denise Majette, the only other candidate in the Democratic Primary for August 20, 2002;

Linda Latimore, the DeKalb County Elections Supervisor who certified the DeKalb County Elections returns;

Lynn Ledford, the Gwinnett County Elections Supervisor who certified the 4th district returns in Gwinnett County;

The Georgia Democratic Party;

The Republican Party of DeKalb County;

The Georgia Republican Party.

7.

Plaintiffs are E. Randel T. Osburn, Linda Dubose, Brenda Lowe Clemons, Dorothy Perry, Wendell Muhammad, all black democratic voters of the 4th US Congressional District.

COUNT 1

CONSTITUTIONAL VIOLATIONS

8.

Georgia law provides that a political party may hold its own primary to nominate its own candidates for the general election. O.C.G.A. 21-2-150 et seq. (Ex. A) The State Democratic Party has

bylaws ensuring the loyalty of those participating in party affairs:
"All members, officers, and subdivisions of the State Party, and those seeking to participate in Party Affairs, are subject to this Charter and the State Party Bylaws." Art. I, Sec. I, By laws of the State Democratic Party approved on 8/13/1994. (Ex B)

9.

In the Democratic Primary on August 20, 2002 **CYNTHIA MCKINNEY** received the majority of democratic votes. (Ex R) Of the overall Democratic vote on 8/20/2002 McKinney won approximately 61% (49,058 and Majette won an estimated 39% (31,112). (Ex. R) In South DeKalb which is majority black and the most heavily democratic area of the district, McKinney won every precinct except one (North Hairston) winning 75% of the South DeKalb vote. The ONLY reason that Congresswoman McKinney lost the election was because of the Republican crossover vote which accounted for over 50% (over 37,500 of her 68,612 votes) of the votes cast for Defendant Majette. Majette had a total of 68,612 votes and McKinney 49,058 votes. (Ex S) Therefore, the result of the election was the selection of a nominee other than the one preferred by a majority of the Democratic voters in the 4th US Congressional District.

10.

Over 37,500 Republican voters were allowed to illegally and unconstitutionally crossover into the Democratic primary election and vote for Defendant Denise Majette. As evidence of the strength of the Republican crossover vote there were 117,670 democratic ballots

cast while there were only 5,594 Republican ballots cast in the August 20, 2002 primary. Thus, the Republican crossover votes constituted 32% of the total votes cast in the August 20, 2002 Democratic primary, completely distorting the purpose of the primary. In the 2000 primary in the 4th Congressional District there were 54,861 Democratic ballots cast and 8,689 Republican ballots cast. In 1998 there were 42,648 Democratic primary ballots and 21,636 Republican ballots. (Ex E) In the 1996 primary there were 62,997 democratic votes and 29,312 Republican votes. (Ex D)

11.

1996 marked the beginning of a trend of high black DeKalb County voter turnout, reflecting the County's demographic changes which also began to effect the County's power relationships. As a result, DeKalb County became the engine for Georgia's statewide democratic vote.

12.

The Georgia and DeKalb Republican Party members conceived a plan to run a candidate in the Democratic primary, funded that candidate, and then encouraged Republican voters to crossover and vote for that candidate.¹ (Ex. F)

13.

Denise Majette was that candidate. Denise Majette regularly met

¹In fact, Phil Kent, president of the Southeastern Legal Foundation and crossover proponent, bragged about the successful Republican plot on August 22, 2002 to the Washington Times: "It was the white Republicans who had the say so here - me included." (Ex. R)

with and sought counsel from Republican party operatives both before and during her candidacy: The Republican backed Majette voted for extreme right wing Republican Alan Keyes in the 2000 Republican presidential primary. (Ex. F) Denise Majette supported Michael Bowers in the 1998 Republican gubernatorial primary that selected the Republican candidate to run against Governor Roy Barnes. (Ex. G) Denise Majette accepted campaign contributions from known Republicans and those known to encourage Republican crossover voting. (Ex. H) Denise Majette maintains many Republican beliefs and positions.² (Ex. I)

14.

During the month of August, 2002 former Republican gubernatorial candidate Guy Milner convened at least one meeting of Republican leaders at his home to promote the Republican crossover for Denise Majette. The Republicans believed that they could force McKinney out with a crossover vote, leaving the Democratic party without the one candidate who inspired the party faithful to vote. Such a strategy would also have the effect of diluting black voting strength statewide as the Democratic Party has greatly benefitted from a heavy turnout in the 4th US Congressional District. (Ex. J)

²When Congresswoman McKinney pointed out Majette's Republican ties McKinney was accused of "outrageous rhetoric": "Now McKinney is aiming her outrageous rhetoric at her re-election opponent in the Democratic Primary - a Yale educated, African-American lawyer named Denise Majette. No doubt searching her thesaurus to find the most despicable epithet at Majette, McKinney settled on this: Majette, McKinney says, is a Republican. That's not true. Majette says she is a longtime, committed Democrat and there is no evidence to suggest otherwise." Editorial Page Editor Cynthia Tucker in the 6/8/2002 Atlanta Journal-Constitution.

15.

Republican commentators, i.e. Jim Wooten, of the Atlanta Journal-Constitution, openly promoted the crossover. (Ex. K) Majette's own campaign promoted the crossover vote and used it in their polling calculations. Phone banking and mailings targeted the white Republicans for crossover voting. (Ex. M) Mark Davis, a Republican Party operative, with operations based at the DeKalb Republican Party Headquarters, co-founded "goodbyecynthia.com", along with Bubba Head, which promoted the crossover vote. (Exs. N,L) Steve Schultz founded a federal PAC, New Leadership for DeKalb, which funded the website that advocated the Republican crossover vote. (Ex. O) Audrey Morgan, a Republican operative and Denise Majette contributor, circulated a letter promoting the crossover vote. (Ex. P)

16.

Numerous and prominent Republicans contributed to Denise Majette. Bernard Marcus, Bill Dahlberg and Robert Loudermilk contributed to Denise Majette. The Loose Group contributed large donations to the Majette campaign including \$5,000 but gave the rest of its \$55,000 in donations in Georgia to Republicans. (Ex. Q) The Business Industry Political Action Committee, BIPAC, gave 85% of its donations in the 2002 election cycle to Republican candidates, but managed to give Majette \$1,000. (Ex. Q) Audrey Morgan, who authored the pro crossover vote mailing, contributed to the Majette campaign.

The United States Supreme Court found in California Democratic Party v. Jones, 530 U.S. 567 (2000) this nation has a tradition of political associations in which citizens band together to promote candidates who espouse their political views. "(T)he First Amendment protects 'the freedom to join together in furtherance of common political beliefs," Tashjian v. Republican Party of Connecticut, 479 U.S. 208, 214 (1986), which 'necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only.'" Democratic Party of the United States v. Wisconsin ex rel. LaFollette, 450 U.S. 107, 122 (1981), quoted in California Democratic Party v. Jones, 530 U.S. 567, 574 (2000). "In no area is the political association's right to exclude more important than in the process of selecting its nominee." Id. "(W)hen a State prescribes an election process that gives a special role to political parties, it 'endorses, adopts and enforces the discrimination against Negroes' that the parties bring into the process - so that the parties' discriminatory action becomes state action under the Fifteenth Amendment.'" California Democratic Party v. Jones 530 U.S. at 573.

These Republican crossover votes in the Democratic primary race are unconstitutional and thus illegal: "permitting nonparty members to hijack the party" is unconstitutional. California Democratic Party v. Jones, 530 US 567, 584 (2000).

19.

The First and Fourteenth Amendments to the United States Constitution forbid state practices "forcing political parties to associate with those who do not share their beliefs." California Democratic Party v. Jones, 530 U.S. at 585. The scheme employed here unconstitutionally "force[s] political parties to associate with - to have their nominees, and hence their positions, determined by - those who, at best, have refused to affiliate with the party, and, at worst, have expressly affiliated with a rival." California Democratic Party v. Jones, 530 U.S. at 577.

20.

In this case there was an unconstitutional "malicious" crossover as the DeKalb County Republican Party promoted the crossover and expended funds in support thereof and Defendant Majette also openly promoted the Republican crossover into the Democratic Primary. The malicious crossover voting here is the extraordinary exception that the lower court in Democratic Party of California v. Jones, 530 U.S. at 579, indicated would make a difference in deciding whether crossover voting was illegal. California Democratic Party v. Jones, 169 F.3d 646, 656 (9th Cir. 1999).

21.

The malicious crossover vote orchestrated in this case by the Republican Party violates PetitionerS' right of association under the 1st and 14th Amendments to the United States Constitution. "But a single election in which the party nominee is selected by nonparty

members could be enough to destroy the party." California Democratic Party v. Jones, 530 U.S. at 579.

22.

The results in the 4th Congressional District are part and parcel of a continuing trend by the Republican Party to interfere with minority voting as further evidenced by the Florida presidential vote in 2000 and the Stoneview, DeKalb County, Georgia, vote in November, 2000.³

COUNT 2

VOTING RIGHTS ACT (Section 2)

23.

Because of Georgia's documented history of racial discrimination in general and denial of voting rights to black citizens in particular, Georgia is subject to the jurisdiction of the 1965 Voting Rights Act. Indeed, as with most of the other states of the Old Confederacy (Alabama, Missouri, South Carolina, Tennessee, Texas and Virginia) they retain the open primary, which can be used to replicate the infamous outlawed white primary.

³On the evening of election day 2000, Republican operatives were dispatched from Republican Headquarters to the Stoneview Precinct in South DeKalb County when they learned that hundreds of black voters were standing in line to vote at 7pm. Upon arrival they interfered with the black voters right to vote and ordered that the black voters be locked out.. Congresswoman McKinney came to the rescue of the voters and got the authorities to ensure that the blacks be allowed to vote. (Ex. V)

24.

Past elections and an analysis of the results in this election, as set out herein and incorporated herein by reference, show that Cynthia McKinney is the candidate favored by black and democratic voters in the 4th US Congressional District in Georgia. (Ex. R)

25.

Racially polarized bloc voting exists in Georgia today and was exhibited in Georgia's 4th US Congressional District Democratic Primary on August 20, 2002. Election results indicate that white voters voted in a bloc. (Exs. C,R)

26.

The result was that the white bloc vote, of both Republicans and Democrats, in the Democratic primary greatly diluted the black democratic vote, rendering it impotent.

27.

The Voting Rights Act has been violated where the "totality of circumstances" reveal that members of protected classes have less opportunity than other citizens to participate in the political process and elect representatives of their choice. Thornburg v. Gingles, 478 U.S. 43, 106 S.Ct. 2752, 2762 (1986).

28.

The malicious crossover has the effect of discriminatorily denying black voters the right to participate in the political process and to elect a democratic congressional candidate of their choice.

29.

Black voters in the 4th US Congressional District in Georgia are politically cohesive as evidenced by the fact that McKinney won all but one South DeKalb precinct with over 74% of the vote in those precincts.

30.

A Democratic primary candidate that is favored by the majority of black and democratic voters in the 4th US Congressional District can be defeated by white republican crossover bloc voting and white democratic bloc voting.

31.

The existing crossover results in the 4th US Congressional District in Georgia has the result of diluting the influence of black voters in electing a candidate of their choice on account of race in violation of Plaintiffs's rights guaranteed by Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973.

32.

The current Georgia statutory scheme, governing primaries, as applied, has the purpose and effect of denying or abridging the right to vote on account of race in violation of Section 2 of the 1965 and 1973 Voting Rights Act: "No ... standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color."

33.

Plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief. Plaintiffs are suffering irreparable injury as a result of the violations complained of herein and that injury will continue unless declared unlawful and enjoined by this Court.

COUNT 3

EQUAL PROTECTION

34.

On August 20, 2002 the State of Georgia conducted the Republican and Democratic Primaries for the 4th US Congressional District to nominate the respective parties' candidates for the November, 2002 General Election.

35.

There is no question that the Republicans held their primary and voted for their candidates without any interference.

36.

However, as set out above and incorporated herein by reference, the Republicans and their operatives, under color of law, conspired to deprive black democratic voters of their right to choose their candidate for the November, 2002 General Election.

37.

"The right to vote is protected in more than the initial

allocation of the franchise. Equal protection applies as well to the manner of its exercise." Bush v. Gore, 531 U.S. 98, 104 (2000)

38.

"It must be remembered that the 'right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." Gore v. Bush, 531 U.S. at 104, quoting Reynolds v. Sims, 377 U.S. 533, 555 (1964).

39.

Whatever procedures that are adopted by the States must be "consistent with its obligation to avoid arbitrary and disparate treatment of the members of its electorate." Bush v. Gore, 531 U.S. at 105.

40.

"The idea that one group can be granted greater voting strength than another is hostile to the one man, one vote basis of our representative government." Moore v. Ogilvie, 394 U.S. 814, 819 (1963) See also Gray v. Sanders, 372 U.S. 368 (1963), The landmark case that was supposed to have killed the Georgia White primary and the County Unit system that led to the undercounting of black votes.

COUNT IV

42 U.S.C. 1983

41.

Plaintiffs hereby incorporate by reference the preceding

paragraphs of this complaint.

42.

All Defendants, acting under color of state law, have deprived Plaintiffs of rights, privileges and immunities, secured to them under the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. 1983.

Wherefore, Plaintiffs request:

A. That this Court enter judgment declaring that malicious crossover voting is unconstitutional in violation of Section 5 of the Voting Rights Act;

B. That this Court enter a permanent injunction against the election results;

C. That this Court enter a permanent injunction against the certification of the vote in the 4th US Congressional District;

D. That the crossover votes be declared unconstitutional and invalid and McKinney declared the winner;

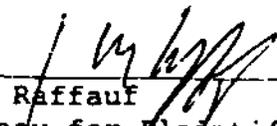
E. That this Court enjoin Defendants from conducting any elections where the use of malicious crossover voting is allowed.

F. To enjoin the November 5, 2002 General Election until this case is resolved;

G. That this Court retain jurisdiction of this case until a voting plan is in place that complies with the requirements of the Voting Rights Act, as amended.

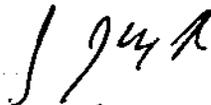
H. That this Court award Plaintiffs their costs and attorneys fees pursuant to U.S.C. 1988.

I. That this Court grant Plaintiffs any further relief which may be necessary and proper.



J. M. Raffauf
Attorney for Plaintiffs
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Suite 1064
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404-373-0112



Dwight Thomas
Attorney For Plaintiffs
Bar No. 
1745 Martin Luther King, Jr.
Atlanta GA 30315
404-522-1400

21-2-150

(GCA § 34-801) Time of holding primary

(a) Whenever any political party holds a primary to nominate candidates for public offices to be filled in the ensuing November election, such primary shall be held on the third Tuesday in July in each even-numbered year or, in the case of municipalities, on the third Tuesday in July in each odd-numbered year, except as provided in subsection (b) of this Code section.

(b)(1) Whenever the primary occurs during the same week of the national convention of either the political party whose candidates received the highest number of votes or the political party whose candidates received the next highest number of votes in the last presidential election, the general primary shall be conducted on the second Tuesday in July of such year. This paragraph shall not apply unless the date of the convention of the political party is announced by the political party prior to April 1 of the year in which the general primary is conducted.

(2) For general primaries held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, the general primary shall be conducted on the next-to-last Tuesday in August.

(Acts 1964, Extra. Sess., pp. 26, 79; 1971, p. 602; 1980, pp. 1256, 1258; 1983, pp. 1190, 1198; 1984, p. 133; 1989, p. 643; 1996, p. 101; 1997, p. 590; 1998, p. 295; 2001, p. 269, eff. July 1, 2001; 2001, Extra. Sess., Act No. 2EX10, H. B. No. 25EX2, eff. Sept. 26, 2001.)

Cited. Op. Atty. Gen. U86-2.

21-2-151

(GCA § 34-1004) Primaries to be conducted by political parties; nonpartisan primaries; conduct of primaries

(a) A political party may elect its officials and shall nominate its candidates for public office in a primary. Except for substitute nominations as provided in Code Section 21-2-134 and nomination of presidential electors, all nominees of a political party for public office shall be nominated in the primary preceding the general election in which the candidates' names will be listed on the ballot.

(b) The primary held for such purposes shall be conducted by the superintendent in the same manner as prescribed by law and by rules and regulations of the State Election Board and the superintendent for general elections. Primaries of all political parties and all nonpartisan elections for nonpartisan offices other than those offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be conducted jointly.

(Acts 1970, pp. 347, 358; 1983, pp. 1190, 1198; 1984, p. 133; 1998, p. 295; 2001, p. 269, eff. July 1, 2001.)

Supreme Court

When Governor appoints to fill vacancy on Supreme Court, appointee must stand for reelection in nonpartisan judicial primary and also during next general election in November, which is more than six months after their appointment. Op. Atty. Gen. U92-7 (April 10, 1992).

21-2-152

(GCA § 34-1008) Conduct of primary; polling places and poll officers to be used

(a) Primaries shall be held and conducted in all respects in accordance with this chapter relating to general elections and the provisions of this chapter relating to general elections shall apply thereto, insofar as practicable and not inconsistent with any other provisions of this chapter. All such primaries shall be conducted in each precinct by the poll officers, by the use of the same equipment and facilities, so far as practicable, as are used for such general elections.



(b) A political party, in nominating a candidate for public office in a municipal primary, may also nominate persons to serve as poll officers for such primaries, and the superintendent shall consider such nominations but shall have discretion to appoint poll officers for each polling place in each precinct.

(Acts 1970, pp. 347, 359; 1982, pp. 1512, 1520; 1998, p. 295, eff. Jan. 1, 1999.)

21-2-153

(GCA § 34-1005) Qualification of candidates in state or county primary

(a) A candidate for any party nomination in a state or county primary may qualify by either of the two following methods:

(1) Payment of a qualifying fee pursuant to Code Section 21-2-131; or

(2)(A) The submission of a pauper's affidavit by any candidate who has filed a qualifying petition as provided for in subsection (a.1) of this Code section, by which the candidate under oath affirms his or her poverty and his or her resulting inability to pay the qualifying fee otherwise required. The form of the affidavit shall be prescribed by the Secretary of State and shall include a financial statement which lists the total income, assets, liabilities, and other relevant financial information of the candidate and shall indicate on its face that the candidate has neither the assets nor the income to pay the qualifying fee otherwise required. The affidavit shall contain an oath that such candidate has neither the assets nor the income to pay the qualifying fee otherwise required. The following warning shall be printed on the affidavit form prepared by the Secretary of State, to wit: "WARNING: Any person knowingly making any false statement on this affidavit commits the offense of false swearing and shall be guilty of a felony." The name of any candidate who subscribes and swears to an oath that such candidate has neither the assets nor the income to pay the qualifying fee otherwise required shall be placed on the ballot by the Secretary of State or election superintendent, as the case may be.

(B) If a candidate seeks to qualify for a county or militia district office, the pauper's affidavit and financial statement shall be presented to the county political party; otherwise, the candidate shall file his or her pauper's affidavit and financial statement with the state political party.

(a.1) No candidate shall be authorized to file a pauper's affidavit in lieu of paying the qualifying fee otherwise required by this Code section and Code Section 21-2-131 unless such candidate has filed a qualifying petition which complies with the following requirements:

(1) A qualifying petition of a candidate seeking an office which is voted upon state wide shall be signed by a number of voters equal to one-fourth of 1 percent of the total number of registered voters eligible to vote in the last election for the filling of the office the candidate is seeking and the signers of such petition shall be registered and eligible to vote in the election at which such candidate seeks to be elected. A qualifying petition of a candidate for any other office shall be signed by a number of voters equal to 1 percent of the total number of registered voters eligible to vote in the last election for the filling of the office the candidate is seeking and the signers of such petition shall be registered and eligible to vote in the election at which such candidate seeks to be elected. However, in the case of a candidate seeking an office for which there has never been an election or seeking an office in a newly constituted constituency, the percentage figure shall be computed on the total number of registered voters in the constituency who would have been qualified to vote for such office had the election been held at the last general election and the signers of such petition shall be registered and eligible to vote in the election at which such candidate seeks to be elected;

(2) Each person signing a qualifying petition shall declare therein that he or she is a duly qualified and registered elector of the state entitled to vote in the next election for the filling of the office sought by the candidate supported by the petition and shall add to his or her signature his or her residence address, giving municipality, if any, and county, with street and number, if any. No person shall sign the same petition more than once. Each petition shall support the candidacy of only a single candidate. A signature shall be stricken from the petition when the signer so requests prior to the presentation of the petition to the appropriate officer for filing, but such a

request shall be disregarded if made after such presentation;

(3) A qualifying petition shall be on one or more sheets of uniform size and different sheets must be used by signers resident in different counties. The upper portion of each sheet, prior to being signed by any petitioner, shall bear the name and title of the officer with whom the petition will be filed, the name of the candidate to be supported by the petition, his or her profession, business, or occupation, if any, his or her place of residence with street and number, if any, the name of the office he or she is seeking, his or her political party or body affiliation, if any, and the name and date of the election in which the candidate is seeking election. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one qualifying petition, and each sheet shall be numbered consecutively, beginning with number one, at the foot of each page. Each sheet shall bear on the bottom or back thereof the affidavit of the circulator of such sheet, setting forth:

(A) His or her residence address, giving municipality with street and number, if any;

(B) That each signer manually signed his or her own name with full knowledge of the contents of the qualifying petition;

(C) That each signature on such sheet was signed within 180 days of the last day on which such petition may be filed; and

(D) That, to the best of the affiant's knowledge and belief, the signers are registered electors of the state qualified to sign the petition, that their respective residences are correctly stated in the petition, and that they all reside in the county named in the affidavit;

(4) No qualifying petition shall be circulated prior to 180 days before the last day on which such petition may be filed, and no signature shall be counted unless it was signed within 180 days of the last day for filing the same; and

(5) A qualifying petition shall not be amended or supplemented after its presentation to the appropriate officer for filing.

(b) Unless otherwise provided by law, all candidates for party nomination in a state or county primary shall qualify as such candidates in accordance with the procedural rules of their party; provided, however, that no person shall be prohibited from qualifying for such office if he or she:

(1) Meets the requirements of such procedural rules;

(2) Is eligible to hold the office which he or she seeks;

(3) Is not prohibited from being nominated or elected by provisions of Code Section 21-2-7 or 21-2-8; and

(4) If party rules so require, affirms his or her allegiance to his or her party by signing the following oath:

"I do hereby swear or affirm my allegiance to the (name of party) Party."

(c)(1) In the case of a general state or county primary, the candidates or their agents shall commence qualifying at 9:00 A.M. on the fourth Monday in April immediately prior to the state or county primary and shall cease qualifying at 12:00 Noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays; provided, however, that, in the case of a general primary held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, the candidates or their agents for political party nomination to county offices shall commence qualifying at 9:00 A.M. on the third Wednesday in June immediately prior to such primary and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and provided, further, that candidates for political party nomination to federal and state offices in a general primary shall commence qualifying at 9:00 A.M. on the third Wednesday in June immediately prior to such primary and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and shall qualify in person or, in the case of illness or other providential cause as may be defined and determined by rule or regulation by the Secretary of State, by their agents with their respective political party in

the state capitol under such rules and regulations as the Secretary of State may promulgate and provided, further, that all qualifying for federal and state offices on the last day of the qualifying period shall be conducted in the chamber of the House of Representatives in the state capitol. In the case of a special primary, the candidate shall qualify no earlier than the date of the call for the special primary and no later than 25 days prior to the date of such primary, and such qualifying period shall be open for a minimum of two and one-half days.

(2) If a political party has not designated at least 14 days prior to the beginning of qualifying a party official in a county with whom the candidates of such party for county elective offices shall qualify, the election superintendent of the county shall qualify candidates on behalf of such party. The election superintendent shall give notice in the legal organ of the county at least three days before the beginning of qualifying giving the dates, times, and location for qualifying candidates on behalf of such political party.

(d)(1) Within two hours after the qualifications have ceased, the county executive committee of each political party shall post at the county courthouse a list of all candidates who have qualified with such executive committee, and the state executive committee of each political party shall post a list of all candidates who have qualified with such committee at the courthouse of the county in which such executive committee's office is located. If the election superintendent qualifies the candidates for a political party in accordance with subsection (c) of this Code section, the election superintendent shall post at the county courthouse a list of all the candidates who have qualified with such superintendent for such political party.

(2) Except as otherwise provided in Code Section 21-2-154, it shall be unlawful for any person to add or remove any candidates from either of the lists provided for in paragraph (1) of this subsection following the posting of such lists unless such candidates have died, withdrawn, or been disqualified. Any person who violates this paragraph shall be guilty of a misdemeanor.

(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:

- (1) His or her residence, with street and number, if any, and his or her post office address;
- (2) His or her profession, business, or occupation, if any;
- (3) The name of his or her precinct;
- (4) That he or she is an elector of the county of his or her residence eligible to vote in the primary election in which he or she is a candidate for nomination;
- (5) The name of the office he or she is seeking;
- (6) That he or she is eligible to hold such office;
- (7) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude; and
- (8) That he or she will not knowingly violate this chapter or rules or regulations adopted under this chapter.

(f) Candidates for the office of presidential elector or their agents who have been nominated in accordance with the rules of a political party shall qualify beginning at 9:00 A.M. on the fourth Monday in April in the year in which a presidential election shall be held and shall cease qualifying at 12:00 Noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays; provided, however, that, for presidential elections held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, candidates for the office of presidential elector who have been nominated in accordance with the rules of a political party shall commence qualifying beginning at 9:00 A.M. on the third Wednesday in June immediately prior to such election and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June,

notwithstanding the fact that any such days may be legal holidays, and shall qualify in person or, in the case of illness or other providential cause as may be defined and determined by rule or regulation by the Secretary of State, by their agents with their respective political party in the state capitol under such rules and regulations as the Secretary of State may promulgate.

(Acts 1970, pp. 347, 358; 1974, pp. 4, 5; 1975, pp. 575, 576; 1976, p. 205; 1977, pp. 1053, 1057; 1978, pp. 1004, 1013; 1982, p. 3; 1982, pp. 1512, 1520; 1983, pp. 930, 931; 1984, pp. 1038, 1039; 1985, p. 206; 1985, pp. 496, 499; 1986, p. 32; 1987, p. 647; 1987, p. 1360; 1989, p. 643; 1989, p. 903; 1990, p. 243; 1992, p. 2510; 1993, p. 118; 1993, p. 617; 1994, p. 1406; 1996, p. 145; 1997, p. 590; 1998, p. 295; 2001, p. 240, eff. July 1, 2001; 2001, Extra. Sess., Act No. 2EX10, H. B. No. 25EX2, eff. Sept. 26, 2001.)

Cited. Op. Atty. Gen. 86-26; Op. Atty. Gen. U2001-3 (August 24, 2001).

Affidavit

While indictment did not expressly allege defendant had filed affidavit at time of his qualifying which stated his residence and eligibility to hold office, it did expressly allege that defendant knowingly and willfully made false statement about his being resident for one year in district and his eligibility to hold office in connection with qualifying as candidate for Republican Party to run for office of State Senator. Since one cannot qualify as candidate for party nomination other than by filing affidavit which states one's residence and eligibility to hold office, indictment in effect incorporated affidavit required of O.C.G.A. § 21-2-153(e) (GCA § 34-1005). Fact that indictment described offense as making false statement in connection with notice of candidacy rather than offense of false swearing in connection with candidacy for election is immaterial; description and not name given criminal act characterizes offense. *State v. Kindberg*, 211 Ga. App. 117, 438 S. E. 2d 116 (1993).

Registered voter

Appellant appeals trial court's ruling that because appellant was not eligible candidate for fifth district seat on Clayton County School Board, his name must be removed from November 2000 election ballot. Appellant's filing of driver's license change of address form did not cause him to be qualified to vote in fifth district. County boards of registrars are responsible for determining whether person meets all of requirements to be registered voter, and, if so, determines district in which that person will vote. Until this action is taken, person is not eligible to vote within particular district. Records of registrar show that appellant's voter registration was not changed as of April 24th, and thus he was not eligible to vote in fifth district when he declared his candidacy for fifth district seat. Appellant was ineligible to run for seat, and his declared candidacy was illegal. *Haynes v. Wells*, 273 Ga. 106, 538 S. E. 2d 430 (2000).

21-2-153.1

(GCA § 34-1005.1) Qualification of candidates in municipal primary

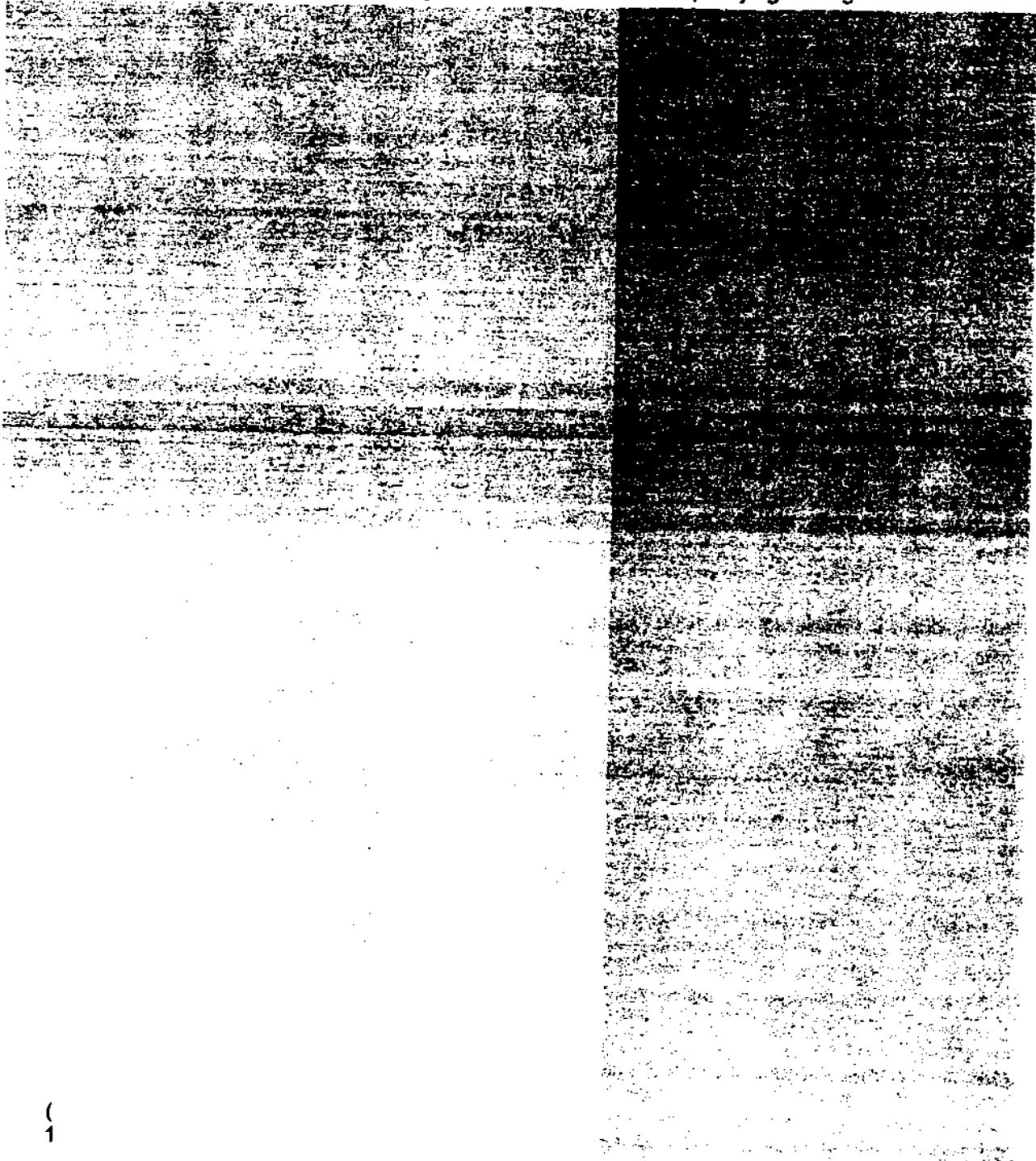
(a) Unless otherwise provided by law, all candidates for party nomination in a municipal primary shall qualify as such candidates in accordance with the rules of their party. In the case of a general municipal primary, the candidates, or their agents, shall qualify at least 15 but not more than 45 days prior to the date of such primary, and such qualifying period shall be open for a minimum of two and one-half days. In the case of a special municipal primary, the candidates, or their agents, shall qualify at least ten but not more than 30 days prior to the date of such primary, and such qualifying period shall be open for a minimum of two and one-half days. The executive committee or other rule-making body of the party shall fix the qualifying date within the limitations provided in this Code section.

(b) After the expiration of the applicable qualification deadline prescribed in subsection (a) of this Code section, each candidate for nomination to a municipal office, having no opposing candidates within his or her own political party, shall automatically become the nominee of his or her party for such office if the applicable city charter or ordinance does not provide to the contrary. The name of such an unopposed candidate and the title of the nomination he or she is seeking shall not be placed upon the primary ballots or ballot labels. The proper officials of his or her political party shall certify the candidate as the party nominee for the office involved for the purpose of having his or her name placed upon the election ballots or ballot labels. In applying Code Sections 21-2-131 through 21-2-134, such an unopposed municipal candidate shall be deemed to have been nominated in a primary held by his or her political party.

(c) No person shall qualify with any political party as a candidate for nomination to any municipal office when such person has qualified for the same primary with another political party

as a candidate for nomination by that party for any municipal office; nor shall a municipal or other appropriate executive committee of a political party certify any person as the candidate of said party when such person has previously qualified as a candidate for nomination for any public office for the same primary with another political party.

(d) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:



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A-6

State Executive Director

Procedure for Appeals from Disciplinary Actions

County Committees

- Procedure for Certification
- Procedure for Removal of Members
- Procedure for Challenge to the County Apportionment

STATEMENT OF GOALS: We, the members of the Democratic Party of Georgia are committed to the establishment of a Party open to all Georgia Democrats. We believe that a Party, which is to call forth best in our State, will have to embody the best of our State's traditions and heritage. We are committed to the wisdom and efficacy of the will of the majority; to belief in the merits of a two Party system of government which allows for diversity of groups and individuals and to the belief that our party will be strengthened by these differences. We believe in the value of the individual and believe that government, while protecting life, liberty, and property of individuals, must also be responsive to their collective needs and wills. To this end, we encourage full, timely, and equal opportunity for all segments of the Population to participate in party affairs.

While pledging ourselves to an honest and open conduct of public affairs befitting the traditions of a people dedicated to a free and just society, we seek to protect and enhance political freedom of all people and to encourage the meaningful participation of all citizens within the framework of the United States Constitution and the laws of the United States and the State of Georgia.

We believe that these Charter and Bylaws confirm a Party strengthened by its differences and armed by its devotion to the principles of a moral and ethical society.

CHARTER ARTICLE I

NAME, DUTIES, AND GENERAL PROVISIONS

SECTION 1. NAME

The name of this organization shall be the Democratic Party of Georgia, hereafter referred to as the "State Party." All members, officers, and subdivisions of the State Party, and those seeking to participate in Party affairs, are subject to this Charter and the State Party Bylaws.

SECTION 2. DUTIES

The State Party shall assist in the election of Democratic candidates, adopt and promote statements of policy, provide voter education, and raise and disburse moneys needed for State Party operation. The State Party shall also promote fair adjudication of disputes, fair campaign practices, encourage and support codes of political

http://www.georgiaparty.com/party_resources/party_bylaws.html



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	R V	T P	FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA		
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188 PRECINCTS					
VOTING PRECINCTS	257745	116544	45.22	66467	48798
TOTALS	257745	116544	45.22	66467	48798
CONGRESSIONAL 4	257745	116544	45.22	66467	48798
CONGRESSIONAL TOTAL	257745	116544	45.22	66467	48798
SENATE 5	2002	461	23.03	265	194
SENATE 10	30499	13401	43.94	2364	10814
SENATE 40	49360	24684	50.01	19983	4488
SENATE 41	42340	18772	44.34	12747	5828
SENATE 42	53496	23885	44.65	21020	2660
SENATE 43	39240	17627	44.92	4058	13302
SENATE 55	40808	17714	43.41	6030	11512
SENATE TOTAL	257745	116544	45.22	66467	48798
HOUSE 42	12085	5881	48.66	5340	506
HOUSE 52	26233	12715	48.47	12039	601
HOUSE 53	14603	4903	33.58	4117	741
HOUSE 54	11835	5174	43.72	4531	612
HOUSE 55	17149	7294	42.53	4002	3231
HOUSE 56	40741	21621	53.07	19153	2263
HOUSE 57	12607	4470	35.46	2416	2010
HOUSE 58	17669	7455	42.19	2568	4752
HOUSE 59	17271	7044	40.79	1103	5819
HOUSE 60	37552	18471	49.19	4394	13796
HOUSE 61	38565	16567	42.96	5283	11088
HOUSE TOTAL	246310	111595	45.31	64946	45419
COMMISSION 2	49143	23849	48.53	20783	2865
COMMISSION 3	47528	20910	44.00	4686	15868
TOTALS	96671	44759	46.30	25469	18733
COM SUPER DIST 7	142618	65191	45.71	28131	36253
COMMISSION TOTAL	142618	65191	45.71	28131	36253
BD OF EDUCATION 1	37788	17431	46.13	16171	1152
BD OF EDUCATION 3	30669	12775	41.65	4004	8555
BD OF EDUCATION 5	43019	19906	46.27	4634	14966
BD OF EDUCATION 6	35850	15301	42.68	5515	9623
BD OF EDUCATION 7	33260	14039	42.21	4342	9522
BD OF EDUCATION TOTAL	180586	79452	44.00	34666	43818

PLAINTIFF'S
EXHIBIT
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188 PRECINCTS	D	S	E	E	Y
BD SUPER DIST 9	113553	50860	44.79	21726	28434
BSD EDUCATION TOTAL	113553	50860	44.79	21726	28434
CITY OF CHAMBLEE	1604	596	37.16	548	40
CITY OF CHAMBLEE TOTAL	1604	596	37.16	548	40
CITY OF PINE LAKE	375	225	60.00	161	61
CITY OF PINE LAKE TOTAL	375	225	60.00	161	61

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188 PRECINCTS		D	S E	E	Y
0001 ALLGOOD AA274	1762	901	51.14	359	534
0002 ASHFORD PARK AB255	1316	530	40.27	491	33
0003 ATHERTON AC264	769	255	33.16	92	159
0004 AUSTIN AD211	2083	1157	55.54	1123	33
0005 AVONDALE AE224	29	16	55.17	14	2
0006 AVONDALE AE239	1807	1193	66.02	1071	115
0007 ASHFORD DUNWOODY AF	1638	831	50.73	738	88
0008 ASHFORD DUNWOODY RO	1719	618	35.95	546	63
0009 AVONDALE MIDDLE SCH	1175	319	27.15	187	131
0010 BOB MATHIS BA263	2096	1160	55.34	297	853
0013 BRIARLAKE BD237	1276	843	66.07	779	54
0014 BRIARWOOD BE251	449	172	38.31	151	19
0015 BRIARWOOD BE257	963	261	27.10	172	87
0016 BROCKETT BF235	2117	1109	52.39	999	96
0017 BRIARCLIFF BG251	494	189	38.26	165	22
0019 BROOKHAVEN BJ255	1709	503	29.43	464	35
0020 BROWNS HILL BJ265	1810	974	53.81	232	706
0021 COLUMBIA DRIVE CA2	1544	671	43.46	126	537
0022 CANBY CB208	1191	590	49.54	113	470
0023 CASA LINDA CC202	1019	394	38.67	75	311
0025 CHAMBLEE NORTH CE29	1064	441	41.45	400	25
0026 CHAMBLEE SOUTH CF2	291	56	19.24	48	7
0027 CHAMBLEE SOUTH CF29	249	99	39.76	91	8
0028 CHAPEL HILL CG265	2123	1115	52.52	235	866
0029 CHESNUT CH213	1835	655	35.69	569	84
0030 CLATREMONT WEST CI2	1103	566	51.31	497	65
0031 CLAIRMONT HILLS CJ2	2091	1052	50.31	966	71
0032 CLARKSTON CK297	1822	521	28.59	256	260
0033 CLIFTON CL207	969	460	47.47	84	366
0034 CORALWOOD CH210	1742	1124	64.52	1043	78
0035 COUNTY LINE CN209	1309	706	53.93	147	550
0036 CROSS KEYS CO251	1345	396	29.44	347	46
0037 CROSSROADS CP284	2418	1132	46.82	341	785
0038 CANDLER CQ227	1502	510	33.95	92	403
0039 CLIFTON ROAD CR207	1066	360	33.77	53	303
0041 COVINGTON HWY CT24	766	131	17.10	18	108
0042 COVINGTON CU267	1299	448	34.49	79	358
0043 CLAIREMONT EAST CV	1459	881	60.38	818	50
0044 DORAVILLE NORTH DA	1186	344	29.01	273	63
0045 DORAVILLE SOUTH DB	882	286	32.43	238	44
0046 DRESDEN DC258	1717	609	35.47	519	85
0047 DUNAIRE DE277	1281	637	49.73	266	366

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	V O T E S	B C A A L S L T O T A L S	T P U E R R N C O E U N T T A G E	D M E A N J I E S T E E	C M Y C N K T I H N I N A E Y
0048 DUNWOODY DF252	1849	502	27.15	471	29	
0049 DUNWOODY LIBRARY D	2182	1005	46.06	967	33	
0051 EASTLAND EB205	1907	646	33.88	135	497	
0052 EMBRY HILLS EC220	1865	877	47.02	778	89	
0053 EMORY NORTH ED260	1233	655	53.12	604	44	
0056 EVANSDALE EF220	1030	636	61.75	603	30	
0057 EMORY SOUTH EG260	2232	982	44.00	889	88	
0058 ELAM ROAD EH273	412	271	65.78	91	177	
0059 ELAM ROAD EH282	1396	529	37.89	232	292	
0060 EMORY ROAD ER260	668	221	33.08	185	31	
0062 FAIRINGTON FA267	2106	810	38.46	161	641	
0063 FERNBANK FB260	1769	1137	64.27	1020	110	
0064 FLAT SHOALS ELEM SC	1432	626	43.72	91	524	
0065 FORREST HILLS FD22	1193	590	49.46	439	148	
0066 FLAT SHOALS PARKWAY	1909	1055	55.26	252	792	
0067 FLAT SHOALS FJ205	1592	668	41.96	91	572	
0068 FLAKES MILL ROAD F	1011	463	45.80	86	361	
0069 FLAT SHOALS LIBRARY	1330	596	44.81	99	487	
0070 GLENWOOD GA259	2184	1173	53.71	1018	146	
0071 GLENHAVEN GB278	1039	479	46.10	178	292	
0072 GRESHAM PARK ELEM S	1783	716	40.16	103	598	
0073 GLENHAVEN ELEM SCH	809	377	46.60	90	273	
0074 HAMBRICK HA233	1939	849	43.79	376	461	
0075 HAWTHORNE HB216	1548	782	50.52	701	74	
0076 HENDERSON MILL HC2	1595	971	60.88	922	46	
0077 HENDERSON MILL HC2	444	114	25.68	98	16	
0078 HERITAGE HD217	1195	584	48.87	509	70	
0079 HOOPER ALEXANDER H	1202	541	45.01	228	299	
0080 HUNTLEY HILLS HF25	1694	718	42.38	633	83	
0081 HUGH HOWELL HG231	1396	890	63.75	777	111	
0082 IDLEWOOD IA232	1194	530	44.39	381	146	
0083 INDIAN CREEK IB276	1288	448	34.78	213	233	
0084 IDLEWOOD ROAD IC23	1560	426	27.31	166	254	
0086 JOLLY JB243	1884	490	26.01	186	297	
0087 KELLEY LAKE KA205	2139	895	41.84	120	761	
0088 KINGSLEY KB211	1935	1048	54.16	1012	30	
0089 KELLEY CHAPEL ROAD	958	489	51.04	91	390	
0090 KNOLLWOOD KE227	1230	535	43.50	109	413	
0092 LAKESIDE LA223	1704	1115	65.43	1038	66	
0094 LAUREL RIDGE LC210	1217	531	43.63	466	64	
0095 LITHONIA LD300	783	286	36.53	91	189	
0096 LIVSEY LE220	1951	1167	59.82	1116	42	

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	V O T E S	B C A A L L O T S	T P U E R R N C O E U N T T A G E	D M E A N J I E S T E E	C M Y C N K T I H N I N A E Y
0097 LESLIE J STEELE LJ2	1085	541	49.86	83	450	
0098 MAINSTREET MA282	2085	918	44.03	247	657	
0100 MARBUT MC266	2124	798	37.57	160	623	
0102 MCLENDON ME238	1403	547	38.99	448	91	
0103 MCLENDON ME241	504	201	39.88	157	42	
0104 MCWILLIAMS MF265	1127	580	51.46	126	450	
0105 MEDLOCK MG210	1582	857	54.17	762	92	
0106 MIDVALE MH220	1465	917	62.59	866	42	
0107 MILLER GROVE MI267	1800	697	38.72	126	555	
0108 MONTCLAIR MJ257	1002	181	18.06	119	61	
0109 MONTREAL MK240	921	457	49.62	415	40	
0110 MEADOWVIEW ELEM SCH	2122	924	43.54	149	758	
0111 MEMORIAL NORTH MM2	1722	653	37.92	321	324	
0112 MEMORIAL SOUTH MN2	1412	525	37.18	213	308	
0113 MIDWAY MO245	1581	549	34.72	219	316	
0114 MOUNT VERNON EAST	2024	1160	57.31	1123	32	
0115 MEMORIAL-STONE MTN	154	79	51.30	70	8	
0116 MEMORIAL-STONE MTN	974	414	42.51	194	215	
0117 MOUNT VERNON WEST	983	594	60.43	573	20	
0119 MONTGOMERY MJ252	1251	631	50.44	605	24	
0120 MILLER GROVE ROAD M	1521	790	51.94	170	607	
0121 MIDVALE ROAD MA220	970	538	55.46	488	47	
0122 NANCY CREEK NA252	1384	714	51.59	666	23	
0123 NORTH DECATUR NB22	631	198	31.38	174	20	
0124 NORTH DECATUR NB22	356	105	29.49	73	30	
0125 NORTH HAIRSTON NC2	1294	600	46.37	310	286	
0126 NORTHLAKE ND236	1058	656	62.00	616	33	
0127 NORTH PEACHTREE NF	1730	579	33.47	462	114	
0128 MARVIE J HARRIS ELE	1237	545	44.06	103	434	
0129 OAK GROVE OA218	1637	978	59.74	897	79	
0130 OAKCLIFF OB214	936	287	30.66	222	58	
0131 PEACHCREST PA246	1747	667	38.18	224	434	
0132 PEACHTREE PB252	1049	347	33.08	320	24	
0134 PHILLIPS PD270	2378	1136	47.77	416	712	
0135 PINE LAKE PE294	375	225	60.00	161	61	
0136 PLEASANTDALE PF220	1173	576	49.10	524	49	
0137 PONCE DE LEON PG25	1226	654	53.34	542	106	
0138 PANOLA PH284	1687	736	43.63	229	497	
0139 PANOLA WAY PI269	2290	974	42.53	237	727	
0140 PINE RIDGE PJ282	1176	587	49.91	183	400	
0141 PLEASANTDALE ROAD	2002	461	23.03	265	194	
0142 PINEY GROVE PN205	1256	409	32.56	73	324	

NONPARTISAN ELECTIONS
DEMOCRATIC

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	V O T E S	T P U E R R N C O E U N T Y E	D M E A N J I E S T E E	C H Y C N K T I H W I N A E Y
0143 PANOLA ROAD PR266	1017	376	36.97	75	299
0144 PANOLA ROAD PR267	874	312	35.70	69	236
0146 RAINBOW RA208	2214	1154	52.12	243	898
0147 RAINBOW DRIVE RB20	964	376	39.00	67	306
0148 REDAN ELEM SCH RC28	1296	579	44.68	133	441
0149 REDAN ELEM SCH RC2	785	349	44.46	93	255
0150 REHOBOTH RD237	1476	719	48.71	655	60
0151 ROCKBRIDGE RE234	1601	627	39.16	263	358
0152 ROCK CHAPEL ELEM SC	2487	960	38.60	265	684
0153 ROWLAND RG280	1861	718	38.58	225	481
0154 REDAN-TROTTI RH268	1147	496	43.24	102	390
0155 REDAN-TROTTI RH271	876	424	48.40	91	325
0156 ROCKBRIDGE ROAD RI	2026	905	44.67	272	630
0157 ROWLAND ROAD RJ279	1129	565	50.04	257	306
0158 REDAN ROAD RK269	1608	674	41.92	170	494
0159 ROCK CHAPEL ROAD R	1296	651	50.23	221	424
0160 SAGAMORE SA210	1562	958	61.33	914	39
0162 SCOTT SB260	1637	827	50.52	712	109
0163 SCOTTDAL SC242	1654	639	38.63	342	287
0164 SHALLOWFORD SD252	1927	914	47.43	873	31
0165 SILVER LAKE SE253	2470	1014	41.05	906	97
0166 SKYLAND SF257	1013	513	50.64	442	60
0167 SNAPPFINGER SG230	1284	673	52.41	162	499
0168 SMOKE RISE ELEM SCH	565	354	62.65	328	23
0169 SMOKE RISE ELEM SCH	1533	906	59.10	818	85
0170 SOUTH DECATUR S1301	2258	996	44.11	509	466
0171 SOUTH DECATUR S126	67	18	26.87	12	6
0172 STONE HILL SJ234	1767	418	23.66	152	262
0173 SHADOW ROCK SK282	2841	1318	46.39	461	842
0174 STONEVIEW SL270	683	169	24.74	44	121
0175 SALEM SM265	1685	801	47.54	193	602
0176 SHAMROCK MIDDLE SCH	488	269	55.12	235	34
0177 SHAMROCK MIDDLE SCH	563	292	51.87	271	19
0178 STONE MOUNTAIN WEST	1352	562	41.57	244	311
0179 STONE MOUNTAIN EAST	1342	491	36.59	280	209
0180 SNAPPFINGER ROAD NOR	697	331	47.49	60	263
0181 SNAPPFINGER ROAD NOR	853	336	39.39	72	259
0182 SNAPPFINGER ROAD SOU	1298	729	56.16	170	547
0183 STEPHENSON ROAD ST	1611	759	47.11	258	494
0184 SOUTH HAIRSTON SJ28	2095	886	42.29	275	600
0185 TERRY HILL TA205	912	373	40.90	57	313
0186 TILSON TB202	297	103	34.68	10	92

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	R V	T P	FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA	
	E O	U E		C M
	G T	R R		
	I E	N C	D M	Y C
	S R	O E	E A	N K
	T S	U N	N J	T I
	E	T T	I E	H N
	R	A	S T	I N
	E	G	E T	A E
	D	E	E	Y
188 PRECINCTS				
0187 TILSON TB206	941	408	43.36	52 347
0188 TONEY TC204	1202	603	50.17	101 487
0189 TUCKER TF235	1868	1054	56.42	1002 47
0190 TILLY MILL ROAD TG	1143	641	56.08	608 29
0191 TUCKER LIBRARY TH23	376	108	28.72	75 33
0192 TUCKER LIBRARY TH2	1189	516	43.40	427 81
0193 VANDERLYN VA252	1495	922	61.67	896 23
0194 WADSWORTH WA228	1898	871	45.89	170 684
0195 WESLEY CHAPEL SOUTH	1914	1028	53.71	187 828
0196 WOODROW ROAD WD267	610	204	33.44	30 171
0197 WOODROW ROAD WD270	121	69	57.02	28 39
0199 WINNONA WF261	1738	989	56.90	717 264
0200 WOODRIDGE WG281	2338	1061	45.38	299 750
0201 WESLEY CHAPEL NORTH	1826	826	45.24	188 618
0203 WARREN WI215	554	239	43.14	202 35
0204 WARREN WI219	953	446	46.80	392 49
0205 WOODWARD WJ251	1115	333	29.87	291 41
0206 WHITE OAK WK284	1543	626	40.57	142 480
0207 WINTERS CHAPEL WL2	1101	617	56.04	592 22
0208 WYNBROOKE ELEM SCH	1683	826	49.08	317 495
GRAND TOTALS	257745	116544	45.22	66467 48793

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

	R E G I S T E R E D	V O T E R S B A L L O T S S	T O T A L V O T E R S E	P R E S E N T A B S E N T E E	C O N D I T I O N A L A B S E N T E E	D I S T R I C T A B S E N T E E	A B S E N T E E
188 PRECINCTS							
VOTING PRECINCTS	257745	6041	2.34	1787	1434	2067	
TOTALS	257745	6041	2.34	1787	1434	2067	
CONGRESSIONAL 4	257745	6041	2.34	1787	1434	2067	
CONGRESSIONAL TOTAL	257745	6041	2.34	1787	1434	2067	
SENATE 5	2002	42	2.10	16	13	10	
SENATE 10	30499	121	.40	55	31	17	
SENATE 40	49360	1975	4.00	466	454	825	
SENATE 41	42340	940	2.22	327	244	256	
SENATE 42	53496	2290	4.28	616	518	839	
SENATE 43	39240	267	.68	121	64	47	
SENATE 55	40808	406	.99	186	110	73	
SENATE TOTAL	257745	6041	2.34	1787	1434	2067	
HOUSE 42	12085	346	2.86	132	64	99	
HOUSE 52	26233	2084	7.94	381	548	905	
HOUSE 53	14603	585	4.01	169	109	239	
HOUSE 54	11835	368	3.11	116	82	120	
HOUSE 55	17149	267	1.67	107	79	77	
HOUSE 56	40741	1271	3.12	408	273	420	
HOUSE 57	12607	205	1.63	79	58	42	
HOUSE 58	17669	134	.76	54	32	35	
HOUSE 59	17271	67	.39	30	17	9	
HOUSE 60	37552	253	.67	118	58	46	
HOUSE 61	38565	304	.79	124	77	62	
HOUSE TOTAL	246310	5904	2.40	1718	1397	2047	
COMMISSION 2	49143	1262	2.57	463	244	368	
COMMISSION 3	47528	280	.59	117	72	57	
TOTALS	96671	1542	1.60	580	316	425	
COM SUPER DIST 7	142618	2145	1.50	780	517	595	
COMMISSION TOTAL	142618	2145	1.50	780	517	595	
BD OF EDUCATION 1	37788	2592	6.86	509	644	1138	
BD OF EDUCATION 3	30669	221	.72	90	43	55	
BD OF EDUCATION 5	43019	281	.65	128	70	47	
BD OF EDUCATION 6	35850	372	1.04	160	95	70	
BD OF EDUCATION 7	33260	304	.91	132	83	60	
BD OF EDUCATION TOTAL	180586	3770	2.09	1019	935	1370	

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	R E G I S T E R E D	B C A A L S L T O T A L S	T P U E R R N C O D E U N I T A G E S	FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA		
				C D A A T V H I E S R I N E	B B P A R E R U R B N E R E R A A	C V A Y A U N K E H N I A
188 PRECINCTS						
BD SUPER DIST 9	113553	1384	1.22	536	300	359
BSD EDUCATION TOTAL	113553	1384	1.22	536	300	359
CITY OF CHAMBLEE	1604	75	4.68	22	15	20
CITY OF CHAMBLEE TOTAL	1604	75	4.68	22	15	20
CITY OF PINE LAKE	375	12	3.20	4	0	6
CITY OF PINE LAKE TOTAL	375	12	3.20	4	0	6

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	V O T E S	B C A A L S L T O T A L S	T P U E R R N C O E U N T T A G E	C D A A T V H I E S R I N E	B B P A R E R U R B N E A N I R E R A A	C V A Y A U N K E H I A
0001 ALLGOOD AA274	1762	27	1.53	14	6	6	
0002 ASHFORD PARK AB255	1316	50	3.80	19	12	15	
0003 ATHERTON AC264	769	13	1.69	8	2	2	
0004 AUSTIN AD211	2083	201	9.65	30	58	93	
0005 AVONDALE AE224	29	0		0	0	0	
0006 AVONDALE AE239	1807	35	1.94	8	8	16	
0007 ASHFORD DUNWOODY AF	1638	115	7.02	35	21	44	
0008 ASHFORD DUNWOODY RO	1719	97	5.64	25	22	38	
0009 AVONDALE MIDDLE SCH	1175	8	.68	3	4	0	
0010 BOB MATHIS BA263	2096	22	1.05	7	7	6	
0013 BRIARLAKE BD237	1276	39	3.06	19	4	10	
0014 BRIARWOOD BE251	449	18	4.01	9	2	6	
0015 BRIARWOOD BE257	963	19	1.97	4	7	2	
0016 BROCKETT BF235	2117	105	4.96	37	24	30	
0017 BRIARCLIFF BG251	494	16	3.24	7	3	1	
0019 BROOKHAVEN BI255	1709	50	2.93	20	6	14	
0020 BROWNS MILL BJ265	1810	8	.44	7	0	0	
0021 COLUMBIA DRIVE CA2	1544	6	.39	3	1	1	
0022 CANBY CB208	1191	3	.25	1	1	1	
0023 CASA LINDA CC200	1719	3	.29	1	0	2	
0025 CHAMBLEE NORTH CE29	1064	52	4.89	17	9	15	
0026 CHAMBLEE SOUTH CF2	291	12	4.12	3	5	3	
0027 CHAMBLEE SOUTH CF29	249	11	4.42	2	1	2	
0028 CHAPEL HILL CG265	2123	5	.24	2	0	0	
0029 CHESNUT CH213	1835	85	4.63	14	16	46	
0030 CLAIREMONT WEST CI2	1103	30	2.72	15	4	6	
0031 CLAIRMONT HILLS CJ2	2091	84	4.02	29	19	23	
0032 CLARKSTON CK297	1822	30	1.65	8	12	7	
0033 CLIFTON CL207	969	6	.62	3	1	2	
0034 CORALWOOD CM210	1742	69	3.96	20	8	24	
0035 COUNTY LINE CN209	1309	12	.92	5	5	2	
0036 CROSS KEYS CO251	1345	22	1.64	15	4	1	
0037 CROSSROADS CP284	2418	13	.54	4	2	1	
0038 CANDLER CQ227	1502	4	.27	2	0	2	
0039 CLIFTON ROAD CR207	1066	3	.28	1	2	0	
0041 COVINGTON HWY CT24	766	5	.65	3	2	0	
0042 COVINGTON CU267	1299	3	.23	2	0	1	
0043 CLAIREMONT EAST CV	1459	23	1.58	7	6	6	
0044 DORAVILLE NORTH DA	1186	52	4.38	18	6	21	
0045 DORAVILLE SOUTH DB	882	42	4.76	11	11	15	
0046 DRESDEN DC258	1717	51	2.97	21	7	18	

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	B C A A L S L T O T S	T P U E R R N C O E U N T T A G E	C D A A T V H I E S R I N E	B B P A R E R U R B N E A N I R E R A R A	C V A Y A U N K E N H I A
0047 DUNAIRE DE277	1281	27	2.11	14	7	4
0048 DUNWOODY DF252	1849	78	4.22	15	16	35
0049 DUNWOODY LIBRARY D	2182	196	8.98	38	65	67
0051 EASTLAND EB205	1907	20	1.05	11	5	1
0052 EMBRY HILLS EC220	1865	82	4.40	16	10	46
0053 EMORY NORTH ED260	1233	25	2.03	10	1	11
0056 EVANSDALE EF220	1030	53	5.15	13	10	24
0057 EMORY SOUTH EG260	2232	38	1.70	15	3	10
0058 ELAM ROAD EH273	412	1	.24	0	0	1
0059 ELAM ROAD EH282	1396	22	1.58	9	10	2
0060 EMORY ROAD ER260	668	21	3.14	8	4	5
0062 FAIRINGTON FA267	2106	9	.43	1	3	3
0063 FERNBANK FB260	1769	30	1.70	8	12	7
0064 FLAT SHOALS ELEM SC	1432	4	.28	2	1	1
0065 FORREST HILLS FD22	1193	20	1.68	7	3	7
0066 FLAT SHOALS PARKWAY	1909	6	.31	2	1	0
0067 FLAT SHOALS FJ205	1592	1	.06	0	1	0
0068 FLAKES MILL ROAD F	1011	4	.40	3	0	1
0069 FLAT SHOALS LIBRARY	1330	1	.08	0	1	0
0070 GLENHWOOD GA210	2124	27	1.24	11	7	4
0071 GLENHAVEN GB278	1039	9	.87	3	2	4
0072 GRESHAM PARK ELEM S	1783	7	.39	3	1	0
0073 GLENHAVEN ELEM SCH	809	1	.12	1	0	0
0074 HAMBRICK HA233	1939	35	1.81	17	6	9
0075 HAWTHORNE HB216	1548	67	4.33	25	12	21
0076 HENDERSON MILL HC2	1595	51	3.20	12	11	19
0077 HENDERSON MILL HC2	444	14	3.15	3	3	7
0078 HERITAGE HD217	1195	27	2.26	8	4	10
0079 HOOPER ALEXANDER H	1202	9	.75	4	1	4
0080 HUNTLEY HILLS HF25	1694	100	5.90	29	20	46
0081 HUGH HOWELL HG231	1396	35	2.51	10	15	5
0082 IDLEWOOD IA232	1194	41	3.43	17	11	10
0083 INDIAN CREEK IB276	1288	7	.54	2	5	0
0084 IDLEWOOD ROAD IC23	1560	13	.83	5	4	4
0086 JOLLY JB243	1884	14	.74	7	2	3
0087 KELLEY LAKE KA205	2139	4	.19	0	3	1
0088 KINGSLEY KB211	1935	258	13.33	26	67	143
0089 KELLEY CHAPEL ROAD	958	10	1.04	2	6	2
0090 KNOLLWOOD KE227	1230	18	1.46	10	5	3
0092 LAKESIDE LA223	1704	57	3.35	20	12	16
0094 LAUREL RIDGE LC210	1217	25	2.05	9	5	7

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

	R E G I S T E R E D	V O T E S	T O T A L	P E R C E N T	C O N D I T I O N A L	A B S E N T	C O N D I T I O N A L	A B S E N T
188 PRECINCTS								
0095 LITHONIA LD300	783	8	1.02	5	1	2		
0096 LIVSEY LE220	1951	77	3.95	13	23	30		
0097 LESLIE J STEELE LJ2	1085	1	.09	0	0	0		
0098 MAINSTREET MA282	2085	19	.91	6	9	3		
0100 MARBUT MC266	2124	6	.28	4	1	1		
0102 MCLENDON ME238	1403	48	3.42	18	13	13		
0103 MCLENDON ME241	504	14	2.78	4	5	4		
0104 MCWILLIAMS MF265	1127	13	1.15	7	2	3		
0105 MEDLOCK MG210	1582	29	1.83	15	3	8		
0106 MIDVALE MH220	1465	66	4.51	23	13	20		
0107 MILLER GROVE MI267	1800	6	.33	1	2	0		
0108 MONTCLAIR MJ257	1002	15	1.50	4	7	4		
0109 MONTREAL MK240	921	40	4.34	12	12	14		
0110 MEADOWVIEW ELEM SCH	2122	11	.52	4	1	2		
0111 MEMORIAL NORTH MM2	1722	39	2.26	17	9	6		
0112 MEMORIAL SOUTH MN2	1412	13	.92	6	2	2		
0113 MIDWAY MO245	1581	7	.44	4	1	1		
0114 MOUNT VERNON EAST	2024	152	7.51	15	75	49		
0115 MEMORIAL-STONE MTN	154	7	4.55	1	3	3		
0116 MEMORIAL-STONE MTN	904	12	1.33	6	2	1		
0117 MOUNT VERNON WEST	983	91	9.26	11	23	52		
0119 MONTGOMERY MU252	1251	115	9.19	30	23	31		
0120 MILLER GROVE ROAD M	1521	7	.46	3	1	2		
0121 MIDVALE ROAD MW220	970	40	4.12	8	12	15		
0122 NANCY CREEK NA252	1384	109	7.88	27	21	44		
0123 NORTH DECATUR NB22	631	29	4.60	10	6	7		
0124 NORTH DECATUR NB22	356	10	2.81	6	0	2		
0125 NORTH HAIRSTON NC2	1294	10	.77	7	0	3		
0126 NORTHLAKE ND236	1058	26	2.46	8	6	10		
0127 NORTH PEACHTREE NF	1730	54	3.12	3	5	43		
0128 NARVIE J HARRIS ELE	1237	4	.32	3	0	1		
0129 OAK GROVE OA218	1637	48	2.93	18	8	13		
0130 OAKCLIFF OB214	936	47	5.02	20	10	12		
0131 PEACHCREST PA246	1747	33	1.89	12	12	5		
0132 PEACHTREE PB252	1049	63	6.01	11	15	31		
0134 PHILLIPS PD270	2378	30	1.26	10	9	9		
0135 PINE LAKE PE294	375	12	3.20	4	0	6		
0136 PLEASANTDALE PF220	1173	67	5.71	26	13	21		
0137 PONCE DE LEON PG25	1226	25	2.04	11	3	8		
0138 PANOLA PH284	1687	8	.47	4	1	2		
0139 PANOLA WAY PI269	2290	11	.48	6	4	0		

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

188 PRECINCTS	R E G I S T E R E D	V O T E S	T P U E R R N C D E U N T Y G E	C D A A T V H I E S R J N E	B B P A R E R U R A R A	C V A Y A U N K E H N I A
0140 PINE RIDGE PJ282	1176	12	1.02	5	4	3
0141 PLEASANTDALE ROAD	2002	42	2.10	16	13	10
0142 PINEY GROVE PN205	1256	3	.24	2	1	0
0143 PANOLA ROAD PR266	1017	3	.29	1	1	0
0144 PANOLA ROAD PR267	874	6	.69	6	0	0
0146 RAINBOW RA208	2214	11	.50	6	4	0
0147 RAINBOW DRIVE RB20	964	4	.41	3	0	0
0148 REDAN ELEM SCH RC28	1296	2	.15	1	0	0
0149 REDAN ELEM SCH RC2	785	12	1.53	7	2	1
0150 REHOBOTH RD237	1476	49	3.32	16	12	15
0151 ROCKBRIDGE RE234	1601	12	.75	6	2	4
0152 ROCK CHAPEL ELEM SC	2487	18	.72	8	7	3
0153 ROWLAND RG280	1861	11	.59	3	2	5
0154 REDAN-TROTTI RH268	1147	6	.52	3	0	1
0155 REDAN-TROTTI RH271	876	3	.34	0	1	1
0156 ROCKBRIDGE ROAD RI	2026	7	.35	3	2	1
0157 ROWLAND ROAD RJ279	1129	21	1.86	11	7	3
0158 REDAN ROAD RK269	1608	14	.87	3	6	5
0159 ROCK CHAPEL ROAD R	1256	33	2.70	19	11	3
0160 SAGAMORE SA210	1562	46	2.94	12	11	20
0162 SCOTT SB260	1637	57	3.48	20	14	17
0163 SCOTTDALE SC242	1654	16	.97	6	2	2
0164 SHALLOWFORD SD252	1927	205	10.64	38	54	86
0165 SILVER LAKE SE253	2470	91	3.68	31	15	23
0166 SKYLAND SF257	1333	55	4.13	13	13	23
0167 SNAPFINGER SG230	1284	6	.47	1	1	2
0168 SMOKE RISE ELEM SCH	565	33	5.84	6	14	8
0169 SMOKE RISE ELEM SCH	1533	67	4.37	24	16	19
0170 SOUTH DECATUR SI301	2258	21	.93	10	4	2
0171 SOUTH DECATUR SI26	67	1	1.49	1	0	0
0172 STONE HILL SJ234	1767	16	.91	8	4	0
0173 SHADOW ROCK SK282	2841	12	.42	8	4	0
0174 STONEVIEW SL270	683	18	2.64	12	3	0
0175 SALEM SM265	1685	16	.95	6	1	5
0176 SHAMROCK MIDDLE SCH	488	14	2.87	7	2	4
0177 SHAMROCK MIDDLE SCH	563	12	2.13	1	2	8
0178 STONE MOUNTAIN WEST	1352	20	1.48	6	6	4
0179 STONE MOUNTAIN EAST	1342	18	1.34	4	7	4
0180 SNAPFINGER ROAD NOR	697	3	.43	1	1	0
0181 SNAPFINGER ROAD NOR	853	8	.94	3	3	1
0182 SNAPFINGER ROAD SOU	1298	8	.62	2	4	0

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FOR U. S. REPRESENTATIVE IN 4TH DISTRICT OF GEORGIA

	R E G I S T E R E D	V O T E S	T P U E R R A N C E O E U N I T E D	C D A A T Y H I E S R I N E	B B P A R E R U R B N E A N I R E R A A	C V A Y A U N N K T E H N I A
188 PRECINCTS						
0183 STEPHENSON ROAD ST	1611	7	.43	3	0	3
0184 SOUTH HAIRSTON SU28	2095	16	.76	7	2	6
0185 TERRY MILL TA205	912	1	.11	0	0	1
0186 TILSON TB202	297	0		0	0	0
0187 TILSON TB206	941	5	.53	3	1	1
0188 TONEY TC204	1202	5	.42	1	1	1
0189 TUCKER TF235	1868	84	4.50	20	25	31
0190 TILLY MILL ROAD TG	1143	124	10.85	16	30	70
0191 TUCKER LIBRARY TH23	376	14	3.72	2	5	5
0192 TUCKER LIBRARY TH2	1189	55	4.63	20	15	14
0193 VANDERLYN VA252	1495	116	7.76	19	29	59
0194 WADSWORTH WA228	1898	11	.58	4	2	5
0195 WESLEY CHAPEL SOUTH	1914	5	.26	2	3	0
0196 WOODROW ROAD WD267	610	6	.98	4	1	1
0197 WOODROW ROAD WD270	121	6	4.96	5	1	0
0199 WINNONA WF261	1738	14	.81	3	4	5
0200 WOODRIDGE WG281	2338	30	1.28	20	3	4
0201 WESLEY CHAPEL NORTH	1826	11	.60	6	1	1
0203 WARREN WI215	554	23	4.15	8	3	7
0204 WARREN WI219	953	36	3.78	14	4	11
0205 WOODWARD WJ251	1115	23	2.06	9	7	5
0206 WHITE OAK WK284	1543	8	.52	4	1	3
0207 WINTERS CHAPEL WL2	1101	73	6.63	14	14	40
0208 WYNBROOKE ELEM SCH	1683	16	.95	6	2	3
GRAND TOTALS	257745	6041	2.34	1787	1434	2067

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FOR U. S. REP IN 4TH DISTRICT OF GEORGIA

192 PRECINCTS	R	V	T	P		
	E	O	U	E	C	M
	G	T	R	R	Y	C
	I	E	B	C	N	K
	S	R	A	A	O	E
	T	S	L	S	U	N
	E	L	T	T	I	N
	R	O	A	A	E	Y
	E	T	G	Y	N	
	D	S	E	(DEM)	(REP)	
0001 ALLGOOD AA49	1910	1481	77.54	1038	393	
0002 ASHFORD PARK AB26	1468	1128	76.84	390	674	
0003 ATHERTON AC44	231	145	62.77	101	35	
0004 ATHERTON AC70	659	443	67.22	309	76	
0005 AUSTIN AD23	2186	1896	86.73	281	1552	
0006 AVONDALE AE102	218	182	83.49	109	64	
0007 AVONDALE AE17	1723	1464	84.97	553	848	
0008 ASHFORD DUNWOODY AF	1977	1426	72.13	502	823	
0009 ASHFORD DUNWOODY RO	1763	1416	80.32	432	927	
0010 BOB MATHIS BA75	2228	1713	76.89	1396	281	
0012 BRIAR VISTA BC26	1444	1135	78.60	557	505	
0013 BRIARLAKE BD06	1297	1085	83.65	265	750	
0014 BRIARWOOD BE26	1773	1132	63.85	653	442	
0015 BROCKETT BF08	1994	1529	76.68	409	1051	
0016 BRIARCLIFF BG26	1559	1185	76.01	466	612	
0017 BROOKHAVEN BI26	1901	1388	73.01	527	770	
0018 BROWNS HILL BJ75	1696	1403	82.72	1105	229	
0019 COLUMBIA DRIVE CA70	1727	1169	67.69	1006	115	
0020 CANBY CB71	2969	2099	70.70	1778	256	
0021 CASA LINDA CC57	1150	795	69.13	633	55	
0022 CEDAR GROVE NORTH	1438	1084	75.38	917	130	
0023 CEDAR GROVE NORTH	1112	808	72.66	675	102	
0024 CHAMBLEE NORTH CE2	1047	793	75.74	274	491	
0025 CHAMBLEE SOUTH CF2	707	407	57.57	185	204	
0026 CHAPEL HILL CG75	2295	1788	77.91	1467	266	
0027 CHESNUT CH23	2290	1634	71.35	593	955	
0028 CLAIREMONT WEST CI4	1215	945	77.78	466	418	
0029 CLAIRMONT HILLS CJ3	2281	1709	74.92	619	952	
0030 CLARKSTON CK82	1636	939	57.40	755	146	
0031 CLARKSTON CK85	495	392	79.19	231	148	
0032 CLIFTON CL64	2266	1560	68.84	1345	157	
0033 CORALWOOD CM32	1854	1581	85.28	453	1055	
0034 COUNTY LINE CN75	3248	2295	70.66	1912	309	
0035 CROSS KEYS CO26	1473	1045	70.94	424	555	
0036 CROSSROADS CP73	2594	1996	76.95	1600	349	
0037 CANDLER CQ93	1691	1009	59.67	905	78	
0038 CEDAR GROVE SOUTH C	3456	2387	69.07	2048	277	
0039 COVINGTON HWY CTB4	2315	1285	55.51	1037	198	
0040 CLAIREMONT EAST CV	1593	1314	82.49	578	656	
0041 DORAVILLE NORTH DA	451	292	64.75	119	139	
0042 DORAVILLE NORTH DA	953	607	63.69	254	315	
0043 DORAVILLE SOUTH DB	997	669	67.10	335	304	

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FOR U. S. REP IN 4TH DISTRICT OF GEORGIA

192 PRECINCTS	R E G I S T E R E D	V O T E S	B C A A L S L T O T A L S	T P U E R R N C O E U N T Y A G E	C M Y C N K T I H N I N A E Y (DEM)	S W U A N R N R Y E N (REP)
0044 DRESDEN DC28	129	93	72.09	33	51	
0045 DRESDEN DC31	2005	1364	68.03	738	560	
0046 DUNAJRE DE50	1412	1053	74.58	725	283	
0047 DUNWOODY DF23	1968	1288	65.45	364	813	
0048 DUNWOODY DF58	821	639	77.83	119	497	
0049 DUNWOODY LIBRARY DI	2341	1916	81.85	397	1416	
0052 EASTLAND EB62	2149	1343	62.49	1167	130	
0053 EMBRY HILLS EC01	2085	1583	75.92	503	1019	
0054 EMORY NORTH ED42	1557	1048	67.31	484	501	
0056 EVANSDALE EF01	1109	937	84.49	183	712	
0057 EMORY SOUTH EG42	2524	1821	72.15	934	767	
0058 ELAM ROAD EH43	468	340	72.65	262	74	
0059 ELAM ROAD EH46	1547	1139	73.63	759	349	
0060 EMORY ROAD ER42	1174	792	67.46	308	408	
0061 FAIRINGTON FA74	2106	1533	72.79	1267	223	
0062 FAIRINGTON FA77	1017	663	65.19	519	121	
0063 FERNBANK FB42	1905	1591	83.52	694	802	
0064 FLAT SHOALS ELEM SC	1545	1103	71.39	975	95	
0065 FORREST HILLS FD22	1333	1027	77.04	681	316	
0066 FLAT SHOALS PARKWAY	2004	1591	79.39	1347	152	
0067 FLAT SHOALS FJ62	1796	1232	68.60	1106	91	
0068 FLAT SHOALS LIBRARY	1420	1038	73.10	882	127	
0069 GLENWOOD GA20	153	79	51.63	62	12	
0070 GLENWOOD GA41	2044	1652	80.82	895	654	
0071 GLENHAVEN GB44	1124	811	72.15	593	191	
0072 GRESHAM PARK ELEM S	1957	1265	64.64	1107	93	
0073 GLENHAVEN ELEM SCH	937	674	71.93	564	89	
0074 HAMBRICK HAL1	2224	1590	71.49	1064	464	
0075 HAWTHORNE HB03	1521	1208	79.42	450	715	
0076 HAWTHORNE HB28	230	157	68.26	65	87	
0077 HENDERSON HILL HCO	2303	1842	79.98	598	1146	
0078 HERITAGE HDO4	1410	990	70.21	446	493	
0079 HOOPER ALEXANDER H	1348	976	72.40	753	185	
0080 HUNTLEY HILLS HF23	1894	1461	77.14	530	875	
0081 HUGH HOWELL HG09	1433	1213	84.65	293	879	
0082 IDLEWOOD IA10	1808	1363	75.39	698	614	
0083 INDIAN CREEK IB50	1480	926	62.57	658	216	
0084 INDIAN CREEK IB81	85	62	72.94	35	25	
0085 IDLEWOOD ROAD IC10	1903	1259	66.16	993	241	
0087 JOLLY JB47	663	471	71.04	321	140	
0088 JOLLY JBS0	819	477	58.24	405	52	
0089 JOLLY JB81	837	506	60.45	432	54	

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		R V		T P		FOR U. S. REP IN 4TH DISTRICT OF GEORGIA	
		E O		U E		C M	
		G T		R R		Y C	
		I E	B C	N C		N K	S W
		S R	A A	O E		T I	U A
		T S	L S	U N		H N	N R
		E	L T	T T		I N	N R
		R	O	A		A E	Y E
		E	T	G		Y	N
		D	S	E		(DEM)	(REP)
192 PRECINCTS							
0090 KELLEY LAKE	KA	2394	1577	65.87		1380	113
0091 KINGSLEY KB58		1998	1707	85.44		277	1353
0092 KNOLLWOOD KE86		1373	931	67.81		791	111
0093 KITTREDGE KF26		2304	1684	73.09		832	750
0094 LAKESIDE LA06		1842	1563	84.85		382	1102
0095 LAVISTA ROAD LB27		1734	1342	77.39		595	644
0096 LAUREL RIDGE LC33		2500	1895	75.80		812	975
0097 LITHONIA LD 79		863	528	61.18		387	102
0098 LIYSEY LE05		2084	1725	82.77		370	1286
0099 LESLIE J STEELE LJ6		1126	781	69.36		701	49
0100 MAINSTREET MA96		2265	1708	75.41		1350	306
0101 MARGARET HARRIS MB		1712	1266	73.95		566	621
0102 MARBUT MC72		1671	1088	65.11		926	130
0103 MARBUT MC74		1077	738	68.52		627	84
0105 MCLENDON ME14		2223	1558	70.09		842	641
0106 MCWILLIAMS MF75		2613	1977	75.66		1572	330
0107 MEDLOCK MG33		1558	1289	82.73		551	655
08 MIDVALE MH07		1578	1370	86.82		295	999
09 MILLER GROVE MI74		1949	1462	75.01		1203	193
0110 MONTCLAIR MJ26		1788	713	51.37		472	204
0111 MONTREAL MK35		201	147	73.13		67	78
0112 MONTREAL MK36		823	653	79.34		217	407
0113 MEADOWVIEW ELEM SCH		2331	1636	70.18		1402	144
0114 MEMORIAL NORTH MM4		1483	930	62.71		649	256
0115 MEMORIAL NORTH MM50		416	272	65.38		170	93
0116 MEMORIAL SOUTH MM4		1786	1163	65.12		865	243
0117 MIDWAY MO87		1737	1119	64.42		850	198
0118 MOUNT VERNON EAST		2129	1814	85.20		241	1492
0119 MEMORIAL STONE MTN		2771	1995	72.00		1346	567
0120 MOUNT VERNON WEST		1067	924	86.60		155	735
0122 MONTGOMERY MU23		1353	1123	83.00		262	821
0123 MIDVALE ROAD MW07		1086	906	83.43		299	557
0124 NANCY CREEK NA23		1497	1299	86.77		323	930
0125 NORTH DECATUR NB16		1128	758	67.20		407	292
0126 NORTH HAIRSTON NC1		1471	1122	76.27		721	365
0127 NORTHLAKE ND94		1109	960	86.56		299	618
0128 NORTH PEACHTREE NF		2301	1507	65.49		803	639
0129 OAK GROVE OA31		1686	1416	83.99		473	876
0130 OAKCLIFF OB28		1205	758	62.90		385	320
0131 PEACHCREST PA89		2010	1352	67.26		1042	262
0132 PEACHTREE PB23		1256	932	74.20		347	522
0134 PHILLIPS PO77		1918	1505	78.47		1000	461

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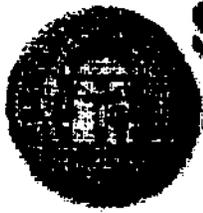
192 PRECINCTS	R V		T P		FOR U. S. REP IN 4TH DISTRICT OF GEORGIA	
	E O	G T	U E	R R	C M	Y C
	I E	B C	N C	N K	S W	U A
	S R	A A	O E	T I	N R	N R
	T S	L S	U N	H N	N R	N R
	E	L T	T T	I N	N R	N R
	R	O	A	A E	Y E	Y E
	E	T	G	Y	N	N
	D	S	E	(DEM)	(REP)	(REP)
0135 PINE LAKE PE48	392	280	71.43	158	109	
0136 PLEASANTDALE PF01	1328	1043	78.54	347	647	
0137 PONCE DE LEON PG41	480	401	83.54	168	214	
0138 PONCE DE LEON PG98	859	672	78.23	449	190	
0139 PANOLA PH66	231	170	73.59	109	53	
0140 PANOLA PH74	1564	1170	74.81	901	235	
0141 PANOLA WAY P174	2588	1769	68.35	1423	287	
0142 PINE RIDGE PJ80	2855	2103	73.66	1592	415	
0143 PLEASANTDALE ROAD	2581	1528	59.20	1117	369	
0144 RAINBOW RA71	1086	773	71.18	638	98	
0145 RAINBOW RA75	1317	1026	77.90	841	164	
0146 RAINBOW DRIVE RB68	457	290	63.46	246	30	
0147 RAINBOW DRIVE RB75	643	461	71.70	391	48	
0148 REDAN ELEM SCH RC45	804	612	76.12	455	143	
0149 REDAN ELEM SCH RC80	1348	1017	75.45	863	124	
0150 REHOBOTH RD13	684	564	82.46	200	344	
0151 REHOBOTH RD34	1017	750	73.75	277	436	
0152 ROCKBRIDGE RE46	1842	1257	68.24	911	290	
0153 ROCK CHAPEL ELEM SC	3274	2466	75.32	1920	479	
0154 ROWLAND RGR4	397	222	55.92	157	45	
0155 ROWLAND RGR9	1672	1199	71.71	921	241	
0156 REDAN-TROTTI RH72	2414	1781	73.78	1507	229	
0157 ROWLAND ROAD RJ43	1160	890	76.72	563	296	
0158 REDAN ROAD RK72	1427	1052	73.72	820	193	
0159 REDAN ROAD RK74	339	233	68.73	172	32	
0160 ROCK CHAPEL ROAD R	2606	1849	70.95	1382	393	
0161 SAGAMORE SA26	1709	1487	87.01	476	942	
0162 SCOTT SB42	2108	1637	77.66	803	719	
0163 SCOTTDALE SC50	1200	777	64.75	622	132	
0164 SCOTTDALE SC81	647	466	72.02	264	185	
0165 SHALLOWFORD SD23	1122	915	81.55	202	678	
0166 SILVER LAKE SE23	2776	2002	72.12	700	1190	
0167 SKYLAND SF26	1533	1108	72.28	512	531	
0168 SHAPFINGER SG70	1397	1092	78.17	923	132	
0169 SMOKE RISE ELEM SCH	2216	1876	84.66	430	1392	
0170 SOUTH DECATUR SI15	58	28	48.28	22	2	
0171 SOUTH DECATUR SI19	2626	1738	66.18	1374	284	
0172 STONE HILL SJ11	2242	1120	49.96	858	214	
0173 SHADOW ROCK SK80	2666	1934	72.54	1448	410	
0174 STONEVIEW SL72	2107	1352	64.17	1132	167	
0175 STONEVIEW SL76	819	415	50.67	287	96	
0176 SALEM SM74	3151	2322	73.69	1920	321	

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FOR U. S. REP IN 4TH DISTRICT OF GEORGIA

	R E G I S T E R E D	V O T E S	T P U E R R N C D E U N T T A G E	C M Y C N K T I H N J N A E Y (DEM)	S W U A N R R N R Y E N (REP)
192 PRECINCTS					
0177 STONE MOUNTAIN WEST	1565	1080	69.01	728	329
0178 STONE MOUNTAIN EAST	1555	979	62.96	636	300
0179 SOUTH HAIRSTON SU46	2310	1716	74.29	1321	322
0180 TERRY MILL TA60	2531	1510	59.66	1325	105
0181 TILSON TB62	1086	756	69.61	667	48
0182 TILSON TB93	363	228	62.81	203	15
0183 TONEY TC67	1291	963	74.59	833	84
0184 TUCKER TF05	1446	1185	81.95	306	829
0185 TUCKER TF09	620	501	80.81	117	361
0186 TILLY MILL ROAD TG	1228	1030	83.88	200	797
0187 TUCKER LIBRARY TH05	1082	702	64.88	303	369
0188 TUCKER LIBRARY TH09	755	551	72.98	221	300
0189 VANDERLYN VA58	1556	1353	86.95	198	1119
0190 WADSWORTH WA88	2118	1463	69.07	1233	132
0191 WESLEY CHAPEL SOUTH	3105	2280	73.43	1920	289
0193 WINNONA WF21	1874	1533	81.80	971	465
0194 WOODRIDGE WG44	2514	1810	72.00	1378	371
0195 WESLEY CHAPEL NORTH	1891	1399	73.98	1147	204
0196 WARREN WI01	1178	805	68.34	331	432
0197 WARREN WI28	630	468	74.29	191	257
0198 WOODWARD WJ26	1303	974	74.62	438	481
0199 WHITE OAK WK44	1276	1000	78.37	845	128
0200 WHITE OAK WK73	595	449	75.46	346	89
0201 WINTERS CHAPEL WL5	1166	996	85.42	221	735
GRAND TOTALS	297764	217641	73.09	129005	79022



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Georgia Election Results
Official Results of the July 21, 1998 Primary Election

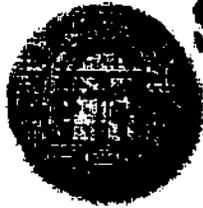
Last Updated 2:02:08 p.m. 07-29-1998

UNITED STATES REPRESENTATIVE - 4TH DISTRICT
Democrat

100 % of precincts reporting
 PR=Precincts Reporting
 TP=Total Precincts

			MCKINNEY
			42,648
			100.0%
County	PR	TP	
DEKALB	167	167	40,978
GWINNETT	129	129	1,670





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Georgia Election Results
Official Results of the July 21, 1998 Primary Election

Last Updated 2:02:08 p.m. 07-29-1998

UNITED STATES REPRESENTATIVE - 4TH DISTRICT
Republican

100 % of precincts reporting
 PR=Precincts Reporting
 TP=Total Precincts

	WARREN		
	21,636		
	100.0%		
County	PR	TP	
DEKALB	167	167	18,936
GWINNETT	129	129	2,700

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Nick Penniman says corporate reformers need to target the radically possible.

- **Tropical Terrorist**

Tourist Trap: As Fidel creaks toward irrelevance, U.S.-Cuban relations creak toward normalcy — even as Bush stands in the way. Dusko Doder reports.

- **Flying Solo:** America needs allies in a post-9-11 world. So why is Bush driving them away? Stanley Hoffmann asks.

- **Mute Witnesses:** Demonstrators and dignitaries at the World Summit for Sustainable Development. Henk Rossouw reports from Johannesburg.

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- **On Prospect.org:** Where's the Movement?

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- **The Mismeasure of Darwin:** Stephen Jay Gould fought the Darwinian fundamentalists with elegance. But since his death, no one else has stepped to the plate.

The Crossover Candidate

Did the GOP take down Cynthia McKinney?

By Eli Kintisch

Issue Date: 9.23.02

[Print Friendly](#) | [Email Article](#)

Minutes before the candidates' forum began on a sweltering day at the South DeKalb Mall, incumbent U.S. Rep. Cynthia McKinney (D-Ga.) was just "Cynthia" to her beloved DeKalb County voters, kissing elderly ladies and hamming it up for the cameras. "Ding a ling! Ding a ling!" she shouted, announcing the free ice cream for kids. Then her challenger, Denise Majette, arrived, and the pair faced the audience, McKinney alongside Augusta's own Vernon Forrest, the World Boxing Council welterweight champion. McKinney seemed to own the crowd, but three days later Majette, a relatively unknown black judge, beat the five-term incumbent by 16 points -- with help from tens of thousands of Republicans.

One of the most outspoken black left-liberals in the U.S. House of Representatives, McKinney had dominated in five straight elections, surviving a redistricting that had put her in a seat with only a slim black majority. Nevertheless, she had gone on to win the seat handily. Now, however, her strident views on Iraq and on Palestine had made her a lightning rod, and McKinney was fighting for her political life. "I am a strong Democrat, I am a proud Democrat," McKinney told the forum on that sweltering day. "My opponent is a Republican who has given money to Republicans." Later, after delivering scathing condemnations of the Bush administration's "war drums," McKinney thundered of her opponent, "She's against the minimum wage. She's against affirmative action. She would condone racial profiling at large."

Speaking in front of voters she desperately needed to convince, Majette was unimpressive. "I'm proud of the way I have represented this community," she replied. On Iraq, she said that freedom demanded "sacrifice." Her volunteers gave that line a confused, half-hearted cheer.

With the candidates running even in the polls, McKinney's supporters relentlessly attacked Majette as a stooge for outside interests (Jews), a supporter of evil development plans (landfills) and, most importantly, one of

<http://www.prospect.org/print/V13/17/kintisch-e.html>

PLAINTIFF'S
EXHIBIT

Harvey Blume reports.

- Novel Approach: Two evangelical writers have taken their far-right message to the realm of fiction and found an audience. Gershon Gorenberg reports.

- It's a Mad, Mad, Mad Madchester World: James Parker reviews 24 Hour Party People.

- Out of Town: Michael Tomasky on the new academic – and political – thinking about suburbs.

- She's No Martha: Noy Thrupkaew sings a song of love for Julia Child.

- On Prospect.org: Where's the Movement?

- Send a letter to the editor.

them (Republicans). McKinney enjoyed the support of most local black ministers, as well as endorsements from Jesse Jackson, Al Sharpton and Louis Farrakhan. But none of it saved McKinney. In the end, 45 percent of registered voters in DeKalb – a huge turnout for a primary – came out to give Majette the nomination, whether she was a Republican or not.

But could McKinney have been right about Majette? *The American Prospect* has learned that Majette actually considered running as a Republican for the 4th District. She also got a good deal of Republican help. Roughly a month before Majette resigned her seat in February as a state court judge in DeKalb County, she met with Eric Tanenblatt, a powerful Atlanta Republican who served as George W. Bush's state chairman in 2000. Tanenblatt refuses to say whether Majette asked for his blessing to run as a Republican in the 4th District. "I told her she needed to run where she was the most comfortable," he told the *Prospect*. "I think it would be impossible for a Republican to win in DeKalb." Tanenblatt confirmed that he met with Majette "several times" after she announced her primary challenge. (Majette, who provided plenty of access to the *Prospect* before her victory, wouldn't return calls about the meeting afterward.)

In a mid-July interview with liberal Frank Redding on radio station WABR, Majette acknowledged that she'd voted for black Republican archconservative Alan Keyes. "She said she voted for him because she wanted to vote for a black man," said Redding, a family friend of the McKinneys.

It's a surprising vote from a Democrat. But then, Teresa Jeter Chappell, who says she was an informal adviser to Majette's campaign, was appointed by Bush to serve as regional liaison for community and faith-based initiatives in the U.S. Department of Housing and Urban Development. Chappell became a Georgia elector after Bush won the state in 2000. Her husband, Bill, who says he also advised Majette, is a former state chairman of the Georgia Black Republican Council. "Teresa, do you think I could win as a Republican?" Chappell recalls Majette asking her last winter. Chappell urged her instead to campaign hard in the white areas of north DeKalb. And that's just what Majette succeeded in doing.

In past elections, white liberals supported McKinney while many white conservatives did not bother to vote. This time, as many as 35,000 voters who'd cast ballots for Bush turned out to support Majette, according to county GOP Chairman Dale Renta. This made much of the difference in a campaign whose winning margin was about 20,000 votes. Whites had largely stayed out of previous Democratic House primaries altogether. "Their feeling in previous elections was that we don't have a whole lot at stake," said DeKalb County Commissioner Burrell Ellis.

But if moderate white voters in past primaries had been vaguely embarrassed by McKinney, the last two years had infuriated them. McKinney's April 2002 statement about the need for an "investigation" into whether President Bush might have looked to profit from September 11, along with consistent comments against Israel, seemed to play poorly to the whites – Republicans and Democrats alike – in north DeKalb. Farrakhan's last-minute appearance

likely didn't push undecided whites to rally around McKinney, and neither did the discovery that her campaign had recycled old radio endorsements from Andrew Young, Bill Clinton and Robert Redford without permission.

Did blacks desert McKinney? William Boone, a political scientist at Clark Atlanta University, says the results revealed a new DeKalb middle class that is "much, much different from the black middle class of the civil-rights era." In the *Atlanta Journal-Constitution*, Ben Smith described the phenomenon as the "emergence of affluent African-Americans as an independent political base." But this is not quite right. A careful look at the precinct vote counts shows that even some of the most affluent black precincts -- think mansions, golf courses and Lexus suvs -- actually backed McKinney by a two-to-one margin. Her overall support in black precincts in south DeKalb was about seven-to-three, and she garnered more actual votes than she had in previous elections.

In fact, distrust for Majette ran deep in DeKalb's middle-class neighborhoods. "Which people is she working for?" Beverly Anderson, a black hospital worker, asked rhetorically as her manicure dried at a nail salon outside Redan, a black upper-middle-class area on the east side of south DeKalb. Majette was tepidly received at the three black churches she visited the Sunday before the election; only small fractions of the congregations even stood.

To much of black DeKalb, rich or middle class, Majette was a Republican, a trick played on the black Democrats of DeKalb County. "It's the 'okeydoke,'" said Lennie Ware, the black owner of a DeKalb limousine service, sitting in his shirt-sleeves at a Blimpie after church. (The expression "okeydoke" kept coming up, denoting a scam that one should have been able to avoid.) At a meeting of McKinney volunteers, U.S. Rep. Sheila Jackson Lee (D-Texas), railing against a repeat "of what happened in Florida," told a cheering room, "That's the 'okeydoke.'" The white kids from the Green Party looked confused.

In the end, however, white voters turned out at rates as high as 65 percent of registered voters, and in many areas they went eight- or nine-to-one for Majette. McKinney still might have won if she had hung on to nearly all of the black vote, but she didn't. Still, it would be a mistake to attribute McKinney's defeat either to a new politics of racial polarization or to the influence of outsiders. In the past, before expressing highly controversial views on volatile topics, McKinney had won enough white support to give her comfortable margins. In the end, McKinney lost because she gave her opponents plenty of grist. And though she was new and inexperienced, Majette won because she presented a competent alternative to McKinney, and because she benefited from a stealth Republican campaign. (McKinney got that part right.)

While diehard McKinney supporters may blame her defeat on the influence of outsiders, the lesson of all this seems to be a much simpler one: Regardless of race, candidates in closely divided seats would be wise to try to represent their entire districts.

Eli Kintisch

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18 1998

ETHICS IN GOVERNMENT ACT

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CAMPAIGN CONTRIBUTION DISCLOSURE REPORT

RECEIVED

Please type or print

- Original report
- Report amendment

1. Date of this report 98 JUN 17 PM 2:00
2. Check only one box SECRETARY OF STATE ELECTIONS DIVISION

A a.

REPORT OF CANDIDATE OR CAMPAIGN COMMITTEE

Full name of Public Officer or candidate: Michael Joseph Bowers

Mailing address: 817 Allgood Road, Atlanta, DeKalb, Georgia 30083

Telephone number: Office 770-645-1426 Home 404-292-4375

Check one and name the office sought/or held:

State (include district, post, or judicial circuit) Governor

County _____

Municipal _____

Does the candidate or public officer have a campaign committee (one or more persons) to make campaign transactions, keep the financial records of the campaign, or file the reports?

Yes No

If yes, complete the following: Date Registered 5/7/97 (Required by Law)

Name of Committee: Mike Bowers for Governor

Full name of Chairperson or Treasurer: Courtney Neely

Mailing address: 8975 Roswell Road, Suite 200, Atlanta, Fulton, GA 30350

Telephone number: Office 770-645-1426 Home 404-239-0805

b. REPORT OF ORGANIZATION OR PERSON OTHER THAN CANDIDATE'S CAMPAIGN COMMITTEE.

Name of organization: _____

Full name of Committee Chairperson or Treasurer: _____

Mailing address: _____

Telephone number: Office _____ Home _____

3. Type of report you are filing (Check only one box)
- Report due 45th day before primary election.
 - Report due 15th day before primary election.
 - Report due 10th day after primary election.
 - Report due 6th day before primary runoff election.
 - Report due 15th day before general or special election.
 - Report due 6th day before general runoff or special runoff election.
 - Final report due no later than December 31 of election year.
 - Supplemental report to be filed no later than December 31 by:
 - a. Person elected to office in each year following the year in which the election occurs.
 - b. Person leaving office with excess contributions until such contributions are expended as provided in the Act.
 - c. Unsuccessful candidate having excess contributions until such contributions are expended as provided in the Act.
 - d. Unsuccessful candidate, who receives contributions to retire debts incurred, until such unpaid debts are satisfied.

VERIFICATION BY OATH OR AFFIRMATION

State of Georgia

County of Fulton

I, Michael J. Bowers, being duly sworn (affirm),
depose and say that the information in this report form is complete, true and correct.

Sworn to and subscribed before me on _____ 1998.

Michael J. Bowers
Signature of Candidate

My Commission Expires: January 16, 2000

My Commission Expires: _____

PENALTY: Any person who knowingly fails to comply with or who knowingly violates any of the provisions of the Ethics in Government Act shall be guilty of a misdemeanor.

PLAINTIFF'S EXHIBIT

2

CONTRIBUTIONS

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1. Full name of (Check only one box and complete):

- Public officer or candidate: _____
- Other person or organization required to file report: _____

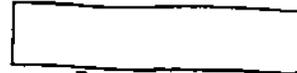
2. I have:

- a. No contributions to report.
- b. The following contributions, including Common Source, to report:

	Cash Amount	In-Kind Contributions (Itemize)	
		General Description	Estimated Value
3. Total contributions for this election reporting cycle which have been received and reported prior to this reporting period.			
4. CONTRIBUTIONS OF \$101.00 OR MORE List contributor's name (alphabetical order), occupation, and mailing address along with the date the contribution is received, and the amount of the contribution. List corporate, labor union, or other affiliation of political action committee.			
Stephanie Maloy Rt. 1, Box 89-B Milledgeville, GA 31060	02/10/98 \$100.00	Individual	
Mann's Pharmacy 238 Elbert Street Elberton, GA 30635	04/03/98 \$100.00	Corporation	
Mr. Joe D. Manous, Insurance Agent 2091 Marietta Highway Suite 201 Canton, GA 30114-4048	02/06/98 \$100.00	Individual	
Mr. John E. Mansfield, Jr., Oil Executive 441 E. E. Butler Parkway Gainesville, GA 30501	01/27/98 \$2000.00	Individual	
Mr. John P. Mansfield, Retired 4243 West Club Lane Atlanta, GA 30319	04/01/98 \$1000.00	Individual	
Mr. Michael F. Mansfield, Petroleum Sales 320 Red Oak Trail Athens, GA 30607	01/27/98 \$2000.00	Individual	
Mark A. Johnson, P.C., Attorney 49 Green Street Marietta, GA 30060	02/06/98 \$500.00	Corporation	
Mr. William B. Marks 5622 Wildwood Trail Lithonia, GA 30038	03/05/98 \$25.00	Individual	
Marlec Inc. 950 East Paces Ferry Road Suite 2150 Atlanta, GA 30326	01/27/98 \$5000.00	Corporation	
Mr. Del Martin 2000 Peachtree Road, NW No. 16A Atlanta, GA 30305	03/05/98 \$25.00	Individual	
5. Total amount of all individual contributions of less than \$101.00 received in this reporting period, if not shown above in section 4. "Common Source" contributions must be aggregated!			
6. Total contributions reported this period (sum of all entries in Sections 4 and 5).			
7. Total contributions to date (lines 3 + 6). Totals to be carried forward to next due report. (Use continuation sheet if needed)			

2-2

CONTRIBUTIONS



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1. Full name of (Check only one box and complete):

Public officer or candidate: _____

Other person or organization required to file report: _____

2. I have:

a. No contributions to report.

b. The following contributions, including Common Source, to report:

	Cash Amount	In-Kind Contributions (Netize)	
		General Description	Estimated Value
3. Total contributions for this election reporting cycle which have been received and reported prior to this reporting period.			
4. CONTRIBUTIONS OF \$101.00 OR MORE List contributor's name (alphabetical order), occupation, and mailing address along with the date the contribution is received, and the amount of the contribution. List corporate, labor union, or other affiliation of political action committee.			
Mr. John H. Mack, Businessman 8306 Alexander Circle, NE Atlanta, GA 30326	01/20/98 Individual \$150.00		
Mr. Richard A. Mackel, Retired 4969 Dewberry Circle Acworth, GA 30101	01/13/98 Individual \$100.00		
Mr. Danny Maddox 647 Kentland Drive Waycross, GA 31501	03/26/98 Individual \$25.00		
The Honorable Leland Maddox, Business 15 Wynfield Drive Stockbridge, GA 30281-2112	02/27/98 Individual \$100.00		
Ms. Lisa Maddox, Sales 2840 Dominion Lane Snellville, GA 30078	03/05/98 Individual \$25.00		
Maison Enterprises, Inc., real estate 3556 Knottsberry Lane Duluth, GA 30136	04/27/98 Corporation \$250.00		
Ms. Denise L. Majette 5226 Fieldgreen Crossing Stone Mountain, GA 30088	06/06/98 Individual \$30.00		
Mr. John G. Malcolm, Attorney 1985 West Wesley Road, NW Atlanta, GA 30327	02/04/98 Individual \$1000.00		
Mr. Marc A. Mallon, Attorney 5180 Narda Grace Cove Acworth, GA 30102-6382	01/13/98 Individual \$600.00		
Mrs. Patricia Malone 2195 Tyrone Court Marietta, GA 30006-8079	02/11/98 Individual \$100.00		
5. Total amount of all individual contributions of less than \$101.00 received in this reporting period, if not shown above in section 4. "Common Source" contributions must be aggregated!			
6. Total contributions reported this period (sum of all entries in Sections 4 and 5).			
7. Total contributions to date (lines 3 + 6). Totals to be carried forward to next due report. (use continuation sheet if needed)			

CONTRIBUTIONS

For Office Use Only

1. Full name of (Check only one box and complete):

- Public officer or candidate: _____
 Other person or organization required to file report: _____

2. I have:

- a. No contributions to report.
b. The following contributions, including Common Source, to report:

	Cash Amount	In-Kind Contributions (Itemize)	
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4. CONTRIBUTIONS OF \$101.00 OR MORE List contributor's name (alphabetical order), occupation, and mailing address along with the date the contribution is received, and the amount of the contribution. List corporate, labor union, or other affiliation of political action committee.			
Mr. Joe Lupton, Retired 4106 Lenora Church Rd. Snellville, GA 30039-5303	08/02/98 Individual	Broadcast Fax Service	\$1500.00
Mr. Joe Lupton, Retired 4106 Lenora Church Rd. Snellville, GA 30039-5303	02/06/98 Individual	Broadcast Fax Service	\$1000.00
Mr. Ralph L. Lurker, Retired 2275 Holly Run Drive Jonesboro, GA 30236	01/27/98 Individual		\$100.00
Mr. Larry Lusk, real estate Post Office Box 1403 Canton, GA 30114	06/06/98 Individual		\$100.00
Mr. Robert A. Luster, Consultant 179 Homestead Blvd Mill Valley, CA 94941	02/25/98 Individual		\$100.00
Mrs. Shiree Lynch 3625 Springhill Road Smyrna, GA 30080	06/08/98 Individual		\$25.00
Ms. Terri M. Lyndall, Attorney 3736 Pin Oak Circle Atlanta, GA 30340	03/05/98 Individual		\$50.00
Ms. Sybil D. Lynn, Restaurant owner Post Office Box 772 Jesup, GA 31545	02/11/98 Individual		\$4910.00
M & A Acres 3163 Sugar Pike Road Canton, GA 30115	05/08/98 Corporation		\$100.00
Brig. Gen. Bruce W. MacLane, Military 519 Carriage Drive, NE Atlanta, GA 30328	01/27/98 Individual		\$50.00
5. Total amount of all individual contributions of less than \$101.00 received in this reporting period, if not shown above in section 4. "Common Source" contributions must be aggregated!			
6. Total contributions reported this period (sum of all entries in Sections 4 and 5).			
7. Total contributions to date (lines 3 + 6). Totals to be carried forward to next due report. (Use continuation sheet if needed)			

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Summary Data
Total Raised
Quality of Disclosure

Geographic Data
In- vs. Out-of-State
Top Metro Areas
Top Zip Codes

Interest Groups
Business / Labor / Ideological
Split In PAC Contributions
Sector Totals
Top Industries
Top Contributors
Percent Coded

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OK

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THE CENTER FOR RESPONSIVE POLITICS

Top Contributors

2002 RACE: Georgia DISTRICT 4

Denise L. Majette (D)

Loose Group	\$5,000
Home Depot	\$4,000
American Dental Assn	\$3,000
Drew, Eckl & Famham	\$2,000
Freed & Berman	\$2,000
Head, Thomas et al	\$2,000
Our-Way Inc	\$2,000
Amall, Golden & Gregory	\$1,650
IBM Corp	\$1,599
State of Georgia	\$1,200
Americans for Good Government	\$1,000
Antioch Ame Church	\$1,000
BASF Corp	\$1,000
Em Medical	\$1,000
Emory University	\$1,000
Equifax Inc	\$1,000
Fein, Majors et al	\$1,000
Fidelity National Title Insurance	\$1,000
Finley & Buckley	\$1,000
Grecian Foods	\$1,000
Hatfield Philips Inc	\$1,000
Higgins & Dubner	\$1,000
Independent Insurance Agents of America	\$1,000
Keegan Federal & Assoc	\$1,000
King & Spalding	\$1,000
Mauldin & Jenkins	\$1,000
Nelson, Mullins et al	\$1,000
Orlando & Kopelman	\$1,000
Orthopaedic Surgeon	\$1,000
Robert Pattillo Properties	\$1,000
Seyfarth, Shaw et al	\$1,000
Simmons, Bennett & McE...	\$1,000

HOW TO CHART: donors to far in the cycle. Th themselves rather the the organ individual employee those indi families. (include st affiliates.

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CONTRIBUTOR, ORGANIZATION OR ENTITY	\$
SunTrust Banks	\$1,000
Thompson Reporting Service	\$1,000
Weeks & Candler	\$1,000
Wilson, Morton & Downs	\$1,000

Cynthia L. Van Auken (R)

No contributions of \$1,000 on record for this candidate.

Summary Data
 Total Raised
 Quality of Disclosure

Geographic Data
 In- vs. Out-of-State
 Top Metro Areas
 Top Zip Codes

Interest Groups
 Business / Labor / Ideological
 Split In PAC Contributions
 Sector Totals
 Top Industries
 Top Contributors
 Percent Coded

GO TO POLITICIAN
 (USE LAST NAME)

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THE CENTER FOR RESPONSIVE POLITICS

Top Contributors

2002 RACE: Georgia DISTRICT 4

Denise L. Majette (D)

Alston & Bird	\$9,750
Home Depot	\$5,000
Hudson Valley PAC	\$5,000
Loose Group	\$5,000
Citizens Organized PAC	\$4,750
Emory University	\$3,500
King & Spalding	\$3,150
American Dental Assn	\$3,000
Citigroup Inc	\$3,000
Resources Realty	\$3,000
Sutherland, Asbill & Brennan	\$2,750
Apollo Management	\$2,500
National Assn of Home Builders	\$2,500
Alfred Weissman Real Estate	\$2,000
American Hospital Assn	\$2,000
Basswood Partners	\$2,000
Bear Stearns	\$2,000
Braver Stern Securities	\$2,000
City of Ny	\$2,000
Drew, Eckl & Farnham	\$2,000
Freed & Berman	\$2,000
Goldman Sachs	\$2,000
Head, Thomas et al	\$2,000
Mack-Cali Realty	\$2,000
MOPAC	\$2,000
Neuberger & Berman	\$2,000
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Refion Inc	\$2,000
Robert Fattillo Properties	\$2,000

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[Congressional Races](#)

Summary Data

Total Raised

Quality of Disclosure

Geographic Data

In- vs. Out-of-State

Top Metro Areas

Top Zip Codes

Interest Groups

Business / Labor / Ideological

Split In PAC Contributions

Sector Totals

Top Industries

Top Contributors

Percent Coded

GO TO POLITICIAN
(USE LAST NAME):

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THE CENTER
FOR RESPONSIVE
POLITICS

Top Industries

2002 RACE: Georgia DISTRICT 4

Denise L. Majette (D)

Lawyers/Law Firms	\$58,500
Real Estate	\$34,870
Retired	\$22,500
Securities & Investment	\$19,000
Health Professionals	\$15,100
Pro-Israel	\$14,250
Misc Business	\$7,500
Education	\$6,500
Retail Sales	\$6,000
Republican/Conservative	\$6,000
Civil Servants/Public Officials	\$4,900
Home Builders	\$4,500
Electric Utilities	\$4,000
Printing & Publishing	\$3,850
Hospitals/Nursing Homes	\$3,750
Misc Finance	\$3,750
Food Processing & Sales	\$3,250
Misc Manufacturing & Distributing	\$3,000
Business Services	\$2,950
Computer Equipment & Services	\$2,599

Cynthia L. Van Auken (R)

No single industry contributed \$1,000 to this candidate.

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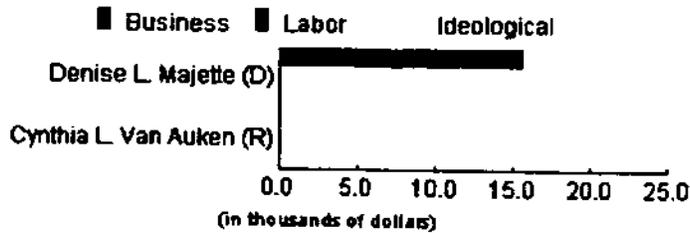
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Business / Labor / Ideological Split In PAC Contributions

2002 RACE: Georgia DISTRICT 4



Denise L. Majette (D)

Business	\$15,700
Ideological	\$20,250

Cynthia L. Van Auken (R)

No single metro area contributed \$1,000 to this candidate.

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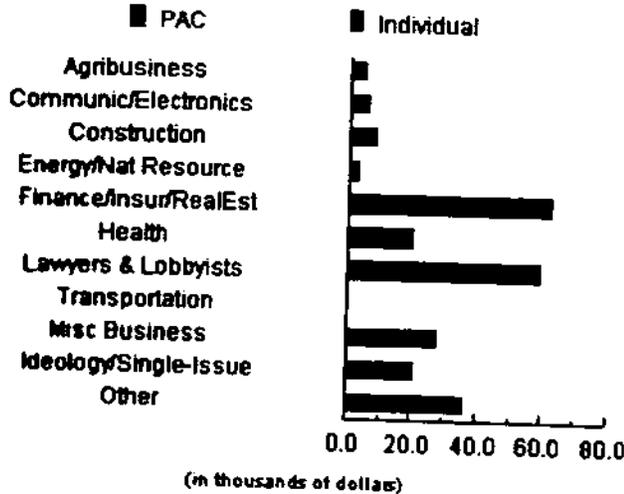


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POLITICS

Top Sectors

2002 RACE: Georgia DISTRICT 4

Denise L. Majette (D)



Sector	Amount
Agribusiness	\$5,250
Communic/Electronics	\$6,849
Construction	\$9,050
Energy/Nat Resource	\$4,000
Finance/Insur/RealEst	\$63,520
Health	\$21,100
Lawyers & Lobbyists	\$59,500
Transportation	\$1,000
Misc Business	\$28,600
Ideology/Single-Issue	\$21,750
Other	\$36,900

Cynthia L. Van Auken (R)

No single sector contributed more than \$1,000 to this candidate.

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Sector Totals
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Top Zip Codes

2002 RACE: Georgia DISTRICT 4

Denise L. Majette (D)

30327 (Atlanta, GA)	\$34,100
30030 (Decatur, GA)	\$22,449
30087 (Stone Mountain, GA)	\$20,500
30305 (Atlanta, GA)	\$20,200
30328 (Atlanta, GA)	\$15,600
10021 (New York, NY)	\$15,150
30345 (Atlanta, GA)	\$14,200
30084 (Tucker, GA)	\$11,750
30309 (Atlanta, GA)	\$11,100
30319 (Atlanta, GA)	\$10,050

Cynthia L. Van Auken (R)

No single zip code contributed \$1,000 to this candidate.

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4TH CONGRESSIONAL DISTRICT

MAJETTE: THE BETTER OF TWO LESSERS

YOU'RE OUT THERE somewhere — a tough, principled candidate with the statesmanship Cynthia McKinney lacks and the vision her challenger, Denise Majette, can't conjure.

You're out there, but you're not running this time. In your place, we have something of a non-choice in the Democratic primary: a challenger not ready for prime time versus an incumbent with a spotty record for constituent service and a reputation for divisiveness that approaches demagoguery.

First off, we like iconoclasts. McKinney was right to insist that the government investigate what George W. Bush knew about a terrorist strike before Sept. 11 (even if she overstepped by implying there was a tie to Bush family business dealings). Moreover, McKinney has value as one of about 10 people in Congress who argues a contrarian viewpoint on the Middle East; with due respect to her critics, democracy isn't served by eliminating every voice on the other side.

The problem with McKinney is that her comments always come in reaction to an event. And she does it so often and so brazenly that it amounts to grandstanding. The effect is that it has burned her political capital, so that now when she speaks, her voice doesn't have the resonance of someone who is respected — John Lewis, for example. Oftentimes, what she says actually seems to rally people to her target — the prime case being Bush.

The district deserves someone who can effectively advocate solutions. One measure of a congressman is whether she's done right by the people of her district. After 10 years in the House, McKinney has, at best, a mixed report card. She says she's brought \$350 million in federal grants to her district, but that contention largely depends on who's doing the counting.

How do you count the grants that didn't arrive in DeKalb because McKinney lacked the clout or competence to secure the money? Take a \$1 million education grant available to the district that would have helped track DeKalb students as they made their way to school on county buses. DeKalb schools tried to interest McKinney, but she didn't respond. So education officials had to appeal to senators Max Cleland and Zell Miller.

Where is the outspoken McKinney when it comes to defending her record? She has yet to face her opponent in a debate. Local media have had a hard time corraling her for a simple sit-down. Maybe she's doing the smart thing politically; an appearance elevates the challenger to the incumbent's level. Such calculation is contemptuous of democracy, however.

In lieu of debate, McKinney deploys red herrings she's used

in every other race: calling her challenger a Republican, suggesting Majette isn't black enough. Why not attack something of substance? There are plenty of targets.

Majette, a former judge, shows potential, but her only theme is that she's the un-McKinney. She acts like the kind of person who will be embraced in Congress. And that would likely mean more money for her district.

The most disturbing thing about Majette is, by contrast, McKinney's strength: You know how the congresswoman is going to vote. During her decade in office, McKinney compiled a near flawless record on labor and environmental issues.

Majette appears ready to float in any direction, and in Congress, timid interests stand ready to help undecideds on nearly every vote. Moreover, she's exhibited a poor command of national issues. Where she states opinions, they often are to the right of her constituents.

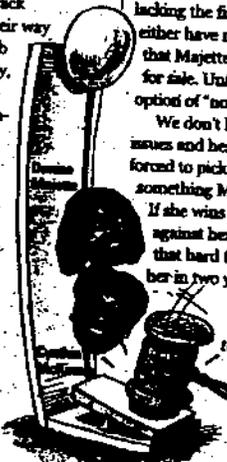
Look at Congress' repeal of the estate tax as an example. Very few people in the 4th would be helped by eliminating a tax that endeavors to keep America's wealth from accumulating in fewer and fewer hands. Majette, though, wants to make last year's repeal of this very fair tax permanent, jeopardizing Medicare and Social Security in the process. It seems like a decision she made after listening to wealthy contributors, not her potential constituents.

Majette also stands ready to work for a prescription benefit that would largely be decided by drug companies, an industry whose track record is to work only for their own profit. And she dismisses entirely the idea that reparations are due blacks for past discrimination and slavery, even though many people in the district believe the concept worthy of discussion.

Thus, people of the 4th have a true dilemma: Return McKinney with her abrasive style but solid record on environmental and economic issues, or send Majette, more personable but lacking the fire of conviction. The voters can either have more of the same or can gamble that Majette won't turn out to be another seat for sale. Unfortunately, they don't have the option of "none of the above."

We don't like Majette's pandering on some issues and her lack of knowledge on others. But, forced to pick, we believe she could grow — something McKinney is determined not to do. If she wins and advocates positions that work against her district's interests, it won't be that hard for another candidate to unseat her in two years.

Majette or McKinney will face token opposition in November in the heavily Democratic district, which includes most of DeKalb and the western corner of Guinnett.



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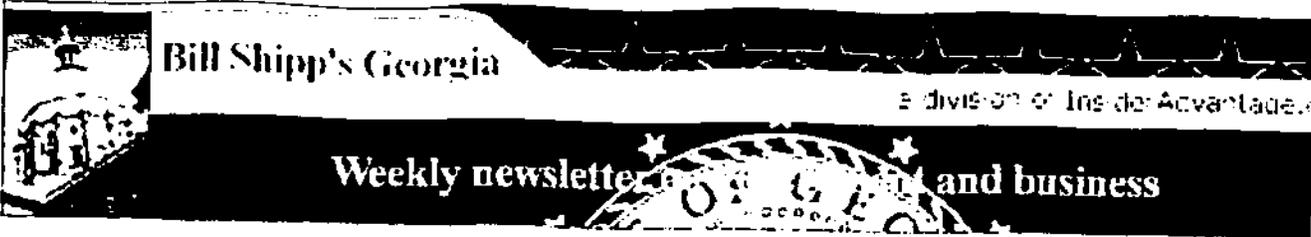
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Unintended consequence: Did Majette win chill Democratic vote?

Tim Darnell
Special to Bill Shipp's Georgia

Denise Majette's primary victory over 4th District Congresswoman **Cynthia McKinney** could result in a loss of votes for the Democratic Party ticket in November.

"The Democratic Party may have lost 100,000 votes the day after the primary," says **Steve Anthony**, a Democratic Party consultant and teacher of political science at Georgia State University. "There is a rift in the African-American voting bloc that must be healed before November. All sides have got to be able to come together and vote Democratic in the fall."



Denise Majette

After the 1998 primary, black supporters of McKinney and other African-American candidates were used by the state organization to coordinate the party's overall ticket of candidates. These trench-workers did everything from coordinating soft-money contributions to manning phone banks and undertaking other get-out-the-vote initiatives.

Now, with McKinney no longer on the November ticket, the Democratic Party may have lost some of its most enthusiastic and willing workers -- her supporters.

"This is an interesting situation, because it was those types of folks who got out the vote for Barnes and the state ticket in '98," says **William Boone**, a Clark Atlanta University political scientist. "Majette doesn't have the kind of organizational strength to get out the vote for other Democrats in November. She got a strong anti-McKinney vote, but those voters aren't dyed-in-the-wool Democrats like McKinney supporters."

McKinney herself has blamed crossover Republican voters for her defeat. "We saw massive Republican crossover into the Democratic primary, and it looks like the Republicans wanted to beat me more than the Democrats wanted to keep me," she said in her concession speech.

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DeKalb County Republican officials confirm that 4th District Republicans swarmed the polls to cross over and oust McKinney in favor of a more centrist Democrat. Majette won 58 percent to 42 percent.

Majette had not counted on Republican votes, says campaign manager **Roland Washington**. "It was just an anti-McKinney sentiment that transcended party lines," he says. "It was never our strategy to get that Republican vote."



'A rift in the African-American bloc must be healed'

Political scientist **Charles Bullock III** of the University of Georgia says that the McKinney machine may have been overrated, "but nonetheless there might be some weakening of the Democratic voting bloc.

"I also wonder if the fact that [state Attorney General] **Thurbert Baker** and [state Commissioner of Labor] **Michael Thurmond** are both black incumbents without strong opposition will depress Democratic African-American turnout in November," Bullock says.

While Boone concurs that the possibility exists that hardcore Democrats will stay at home in November, he denies there is a rift in the black voting community, "just a difference in priorities.

"It's hard to draw a conclusion after one or two elections, but what we have to look at is the change in priorities as to how politics ought to serve, and whom it ought to serve," Boone says. "We have had the politics of symbolism — that is, candidates who run for or against symbols, and issues that have happened in the past. Now, we're seeing a different kind of politics evolving in the black community, based on substantive kinds of outcomes. We saw some of this in the **Shirley Franklin** campaign, and we've seen it again in this most recent primary."

Regardless of the impact on state Democrats in November, Bullock doesn't see any partisan ramifications. "I don't see Republicans as being poised to make any inroads to African-American voting blocs. We could be seeing, however, divisions developing within the black community that result in opportunities for the white minority. And the most recent round of redistricting certainly shaved black majorities in some areas, which means we could see sitting black legislators attracting black challengers."



Anthony says the Majette victory is a classic example of the power of "the monopolistic media in Atlanta if it gets behind a cause. The media helped Majette get elected by focusing in on her race. They gave her \$1 million in free publicity. She received credibility the same way that 20 years ago, **Mack Mattingly** was given credibility against **Herman Talmadge**."

If the Democratic Party has indeed lost 100,000 votes, as Anthony says, where will the party make up the difference?

"Most likely from women," Anthony says. "I think you'll see more messages tailored toward them. Those votes have to be made up somewhere."

OUR OPINION: Republicans can help boot McKinney

BYLINE: JIM WOOTEN, STAFF

DATE: 08-04-2002

PUBLICATION: The Atlanta Journal and Constitution

EDITION: Home

SECTION: Editorial

PAGE: H.4

Republicans in DeKalb County's 4th Congressional District do not matter. They don't count. They're there, but as filler.

In congressional races, their perdition for the next 10 years is to be represented by a liberal Democrat. They can vent, write letters, pout or drop out, but in redistricting Democrats guaranteed that the 4th District of Georgia will send a Democrat, certainly a liberal and most likely a black, to Congress. Get used to marginalization.

That said, they don't really have to put up with a liberal Democrat who's also contemptuous of them, who concocts fantasies about the president starting wars to enrich his friends.

While they don't matter in November, they can matter in August.

The 4th District has a population of 629,690, of whom 472,785 are of voting age. Blacks are 56.14 percent of the population and 51.39 percent of the voting-age population. Latinos are 8.55 percent of the total population and 8.47 percent of the voting-age, but probably only 2 or 3 percent of those are eligible to vote. About 65-70 percent of the district's voters are Democrats.

Republicans in the 4th District, like Republicans in the one-party Statehouse, are there to keep up appearances. Being immaterial doesn't, however, mean being useless.

In the old days when Democrats did to blacks what they have now done to Republicans, blacks often voted in blocs to keep the worst of the segregationists out of office. It's a strategy Republicans should embrace.

They could matter in the 4th Congressional District race in the Democratic primary, where incumbent U.S. Rep. Cynthia McKinney is being challenged by Judge Denise Majette. A poll last week by an Internet political news service, Marketing Workshop, reveals a race far closer than pundits suspected. The two are neck-and-neck — a sure indication that serious race-baiting is in the cards, irrespective of the fact that both are black and philosophically compatible. McKinney will go incendiary, a tactic that usually works.

That was a factor in keeping the more moderate former DeKalb CEO Liane Levetan from challenging, fearing that a race would deteriorate into anti-Semitism and harm black-Jewish relations, as in the 1996 campaign against John Mitnick, whom McKinney's father called a "racist Jew."

<http://stacks.ajc.com/cgi-bin/display.cgi?id=3d9b26b374a216Mpqaweb1P11010&doc=>



Too, a large Jewish community in the Briarcliff-LaVista area, about 10,000 people, were moved into U.S. Rep. John Lewis' 5th District when districts were redrawn. "I heard loud and clear those people wanted out," said state Rep. Doug Teper, who represents the area in the Georgia House.

DeKalb, like most of metro Atlanta, has attracted upwardly mobile and politically sophisticated newcomers. In south DeKalb and in the Lithonia and Stone Mountain areas, especially, those newcomers are black and Democratic. To newcomers, the peculiar style of local politicians can be off-putting.

In this race, the Cynthia rant and ramble may, curiously enough, strike newcomers the same way local politicians' rhetoric on the flag strikes white newcomers in Gwinnett, Cherokee and Cobb counties. That is, entertaining — but off-putting. Majette's low-key professionalism seems more attuned to voters in the new upscale neighborhoods popping up in the district.

Georgia does not have party registration. Voters decide when they walk in the door whether they want to vote in the Republican or the Democratic primary. You can be a Republican one primary and a Democrat the next and split the ticket in November.

Republicans in November have no chance of electing a conservative in the 4th District race. Democrats in the General Assembly have stacked the deck. But they can choose the more moderate of the liberal Democrats.

Jim Wooten is associate editorial page editor. His column appears Sundays, Tuesdays and Fridays.

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'Crossover' voting push on to oust McKinney

BYLINE: RHONDA COOK, STAFF

DATE: 08-09-2002

PUBLICATION: The Atlanta Journal and Constitution

EDITION: Home

SECTION: News

PAGE: A.16

Some Republican voters have a strategy for defeating U.S. Rep. Cynthia McKinney that may feel like political treason: voting in the Democratic primary.

Georgia politics, from talk radio to cyberspace, is buzzing with talk of GOP-leaning 4th District voters "crossing over" in the Aug. 20 primary to vote for McKinney's Democratic challenger, Denise Majette. With polls showing a close race, an e-mail being circulated by a group called New Leadership for DeKalb estimates Republican voters can swing the vote to Majette if 3,000 to 5,000 vote a Democratic ballot.

It's going to feel odd for a staunch Republican like Phil Kent to vote for a Democrat, but Kent is planning to cast a ballot for Majette. Kent, president of the Southeastern Legal Foundation, a conservative advocacy group, said it will be the first time he has voted in the Democratic primary. Though there are three candidates running in the GOP's 4th District primary, Kent realizes a Republican is unlikely to win the heavily Democratic district. He says McKinney must go, no matter what.

"I was horrified when I landed in Cynthia McKinney's district," said Kent, who lives in north DeKalb. "I just made the decision [that] if I feel strongly about it, I'm going to make a change. She's probably one of the worst, out-of-control, left-wing people in Congress."

Kent can cross over because of Georgia's open-primary system. Voters do not register with a political party here, as they do in 29 states. So Georgians can choose to vote in either the Republican or Democratic primary on Aug. 20 -- though not both. When a voter who typically votes in one primary strategically chooses to vote in the other, they are said to have "crossed over." Crossover voting is mostly seen in presidential primaries, experts say, and rarely is widely practiced or well-organized.

New Leadership for DeKalb is trying to make the 4th District an exception to that rule.

Mark Davis, a Gwinnett County Republican voter and one of the effort's leaders, said the organization has raised about \$15,000 through www.goodbyecynthia.com.

It plans to set up a phone bank that will put out calls to about 15,000 Republican primary and other voters encouraging them to vote for Majette in the Democratic primary. The group also plans to send out 30,000 to 40,000 flyers in the district next week.

The numbers may make their task difficult. In the 2000 primary, just 8,689 votes were cast for the two Republicans running in the 4th District, though the DeKalb-centered district has been reconfigured slightly. McKinney, running unopposed, drew

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40,629 votes in the Democratic primary.

McKinney, at a campaign stop Thursday, dismissed the crossover campaign, saying that Majette appeals to Republican voters because she is, in essence, a Republican. "She votes Republican. She gives her money to Republicans. Republicans are giving her money," McKinney said.

McKinney and Majette have been invited to debate, but McKinney has not decided if she will participate in a 4th District debate scheduled for 7:30 p.m. today on Georgia Public Television.

Voting a Democratic ballot has a downside for dedicated Republican voters — they won't be able to choose among GOP candidates for governor, U.S. Senate or in other races. That's why some — including McKinney's campaign manager — dispute the notion of a large crossover vote.

"I don't believe that primary voters in either the Republican or Democratic Party will cross over," Bill Banks said. "The reason is you have two major [statewide] races in terms of the primary . . . The primary voter . . . is mainly concerned with winning that part of the primary."

But Norman Ornstein, congressional scholar at the American Enterprise Institute in Washington, said opposition to McKinney has created an ideal climate for crossover voting. "It's a reflection of the degree that Cynthia McKinney has become a lightning rod," he said. Still, he suggested McKinney could overcome a strong crossover vote if she is able to energize her Democratic base — as she has done in the past.

Crossover proponents explain their actions by noting, among other things, McKinney's statements suggesting the Bush administration might have known the Sept. 11 attacks were coming yet did nothing to stop them.

Also, last October, McKinney penned an apology to Saudi Prince Alwaleed bin Talal after then-New York Mayor Rudolph Giuliani turned down the prince's offer of \$10 million to help the families of Sept. 11 victims. Giuliani was offended by the prince's suggestion that the United States' pro-Israel policy helped cause the attacks.

Davis, a businessman whose father once ran for governor as a Republican, does not live in the 4th District but says he has clients there. He doesn't know if the crossover campaign will work but says it's worth the effort.

"I view [McKinney] as a traitor, and I'm ashamed to have her representing our state in Congress, whether it's my district or not," he said.

Photo

Some DeKalb County Republicans say they will vote in the Democratic primary against U.S. Rep. Cynthia McKinney.

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DEKALBACTIVISTS@AOL.COM

COMMITTEE'S WEB PAGE ADDRESS (URL)

2. DATE 08 02 2002

3. FEC IDENTIFICATION NUMBER C

4. IS THIS STATEMENT NEW (N) OR AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Steven Schultz
Signature of Treasurer *Steven Schultz* 08 02 2002

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 9437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office					For further information contact Federal Election Commission Local 202-694-1100	FEC FORM 1 (Revised 1/01)
City						

Write or Type Committee Name

7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records.

Full Name Steven Schultz

Mailing Address PO Box 128
3577-A Chamblee Tucker Rd
ATLANTA GA 30341

Title or Position CITY STATE ZIP CODE

Treasurer Telephone number 404 876 9797

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer Steven Schultz

Mailing Address PO Box 128
3577-A Chamblee Tucker Rd
ATLANTA GA 30341

Title or Position CITY STATE ZIP CODE

Treasurer Telephone number 404 876 9797

Full Name of Designated Agent

Mailing Address

Title or Position CITY STATE ZIP CODE

Telephone number

TELETYPE

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

TUCKER FEDERAL

Mailing Address

HENDERSON HILL RD

ATLANTA

GA

30341

CITY ▲

STATE ▲

ZIP CODE ▲

Name of Bank, Depository, etc.

Mailing Address

CITY ▲

STATE ▲

ZIP CODE ▲

20020307 1489 0004

5. TYPE OF COMMITTEE (Check One)

- (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate

Candidate Party Affiliation	Office Sought	House	Senate	President	State District
-----------------------------	---------------	-------	--------	-----------	----------------

- (c) This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate

- (d) This committee is a ^{National, State} or subordinate committee of the ^(Democratic, Republican, etc.) Party.

- (e) This committee is a separate segregated fund.

- (f) This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee.

6. Name of Any Connected Organization or Affiliated Committee

Name of Connected Organization or Affiliated Committee

Mailing Address

CITY ▲

STATE ▲

ZIP CODE ▲

Relationship

Type of Connected Organization:

- | | | |
|-------------------------|-------------------------------|--------------------|
| Corporation | Corporation w/o Capital Stock | Labor Organization |
| Membership Organization | Trade Association | Cooperative |

REGISTRATION

August 9, 2002

Dear Friends,

Re: Fourth District Congressional Race

I hope you have been following the "Good News" in the Majette/McKinney race. A recent poll puts Denise Majette at 43% and Cynthia McKinney at 39% of the votes with 6% undecided. The political pundits call this a "dead heat" and, in fact, in Majette's favor as an incumbent should not be in this trailing position.

McKinney is on the defensive and pulling all of her usual "incendiary tactics that usually work" of race-baiting, name-calling and misrepresentations.

If you feel as I do that we need a responsible and respected person representing us in Congress, this is our best opportunity to make a change. Jim Hooten's editorial of August 4th in the AJC, copy enclosed, tells us what we need to do.

MAJETTE NEEDS OUR HELP TO WIN!

- VOTE IN THE DEMOCRATIC PRIMARY (at least this one time)
- ENCOURAGE EVERYONE YOU KNOW TO VOTE FOR DENISE MAJETTE

I believe Majette is our best opportunity to get responsible representation for our district. *Think about the alternative...* If we don't do everything we can in the next two weeks to help Majette win then Cynthia McKinney will have a lifetime hold on this job.

Best Regards,

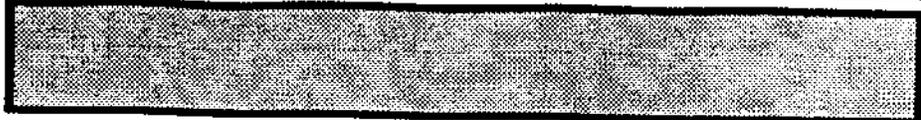
Audrey Morgan

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SIC Classification:	Single-Issue Groups	political organizations - conservative
2001-2002 LOOSE GROUP; THE		
FEC ID#: C00010793		
Sponsor: NONE		The Wakefield N 2724 Peachtree Road Atlanta, GA
Treasurer: FRANK G STEVENSON JR (Non-Candidate Committee) [QUALIFIED NON-PARTY]		
Kind of Committee: NON-CONNECTED PAC		
CONTRIBUTION DETAILS (HARD DOLLARS)		
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<input checked="" type="radio"/> Received From Committees	<input type="radio"/> Made To Other PAC's	
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Q

Contributions To Candidates By
LOOSE GROUP; THE

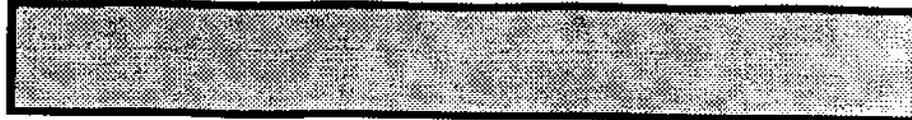
GA	CHAMBLISS, SAXBY - Senate	REP	\$35,000
	CLAY, CALDER BENJAMIN III - Dist 03	REP	\$5,000
	MAJETTE, DENISE L - Dist 04	DEM	\$5,000
	LINDER, JOHN - Dist 07	REP	\$5,000
	NORWOOD, CHARLES WHITLOW - Dist 09	REP	-\$5,000
	DOOLEY, BARBARA M - Dist 12	REP	\$5,000
	COX, JOHN CLAYTON - Dist 13	REP	\$5,000

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FEC Filing Status: QUARTERLY
Contributes to DEM Candidates: \$5,000
Contributes to REP Candidates: \$50,000
Contributes to OTHER Candidates: \$0

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527s

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Profiles

Industry Total \$

PAC \$ Leaders

NEW

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PACs To Cands

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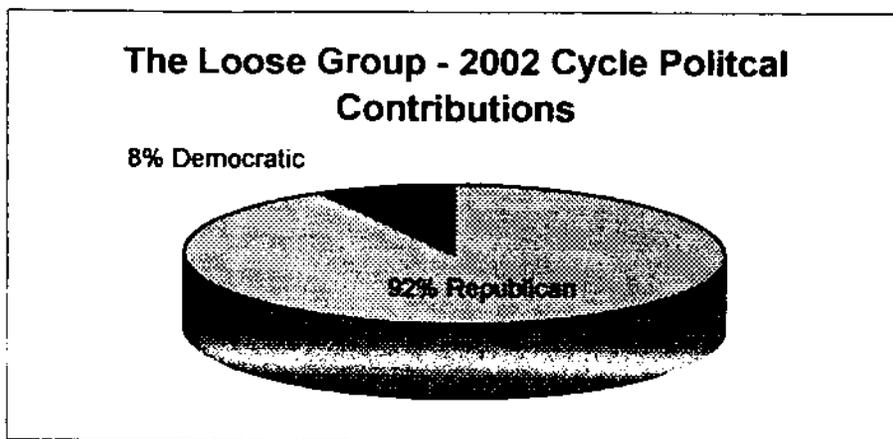
106th Congress

Soft Money

2001-2002

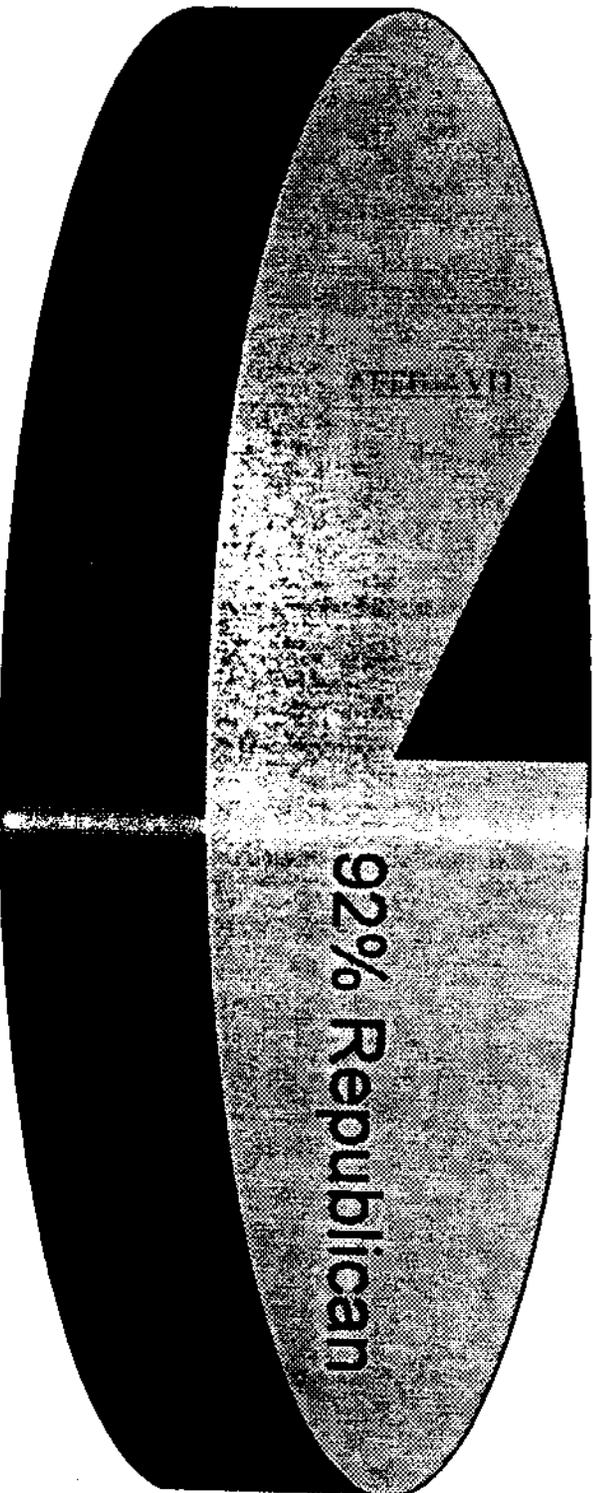
2002 Political Contributions - The Loose Group (PAC)

<u>Recipient</u>	<u>REP - Amt</u>	<u>DEM - Amt</u>	<u>Total Amt.</u>
Saxby Chambliss	35000		
Calder Clay	5000		
Denise Majette		5000	
John Linder	5000		
Barbara Dooley	5000		
John C. Cox	5000		
TOTAL	55000	5000	60000



The Loose Group - 2002 Cycle Political Contributions

8% Democratic



Contributions from individuals whose name begins with [Towery, Matt]
4 records found in the 02 database.

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5/10/01 \$1,000.00
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INSIDER ADVANTAGE -[Contribution]
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Towery, Matt Mr.
1/3/01 \$1,800.00
Atlanta, GA 30327
Towery Communications/President/CEO -[Contribution]
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Towery, Matt Mr.
1/9/02 \$1,725.00
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Towery, Matt Mr.
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AL	ROGERS, MICHAEL DENNIS - Dist 03	REP	\$1,235	AR	HUTCHINSON, TIM - Senate	REP	\$1,141
	DAVIS, ARTUR GENESTRE - Dist 07	DEM	\$1,235		BOOZMAN, JOHN NICHOLS - Dist 03	REP	\$1,066
AZ	HAY, SYDNEY - Dist 01	REP	\$1,056	CO	ALLARD, A WAYNE - Senate	REP	\$1,000
CT	JOHNSON, NANCY L - Dist 05	REP	\$1,216	GA	MAJETTE, DENISE L - Dist 04	DEM	\$1,056
					DARDEN, GEORGE W (BUDDY) - Dist 11	DEM	\$1,000
					HECHT, GREGORY KEITH - Dist 13	DEM	\$1,141
IA	GANSKE, GREG - Senate	REP	\$1,141	IL	SHIMKUS, JOHN M - Dist 19	REP	\$1,216
	JIM NUSSLE - Dist 01	REP	\$1,141				
	THOMPSON, STANLEY J - Dist 03	REP	\$1,141				
	LATHAM, TOM - Dist 04	REP	\$1,216				
	SIEGRIST, JOHN B - Dist 05	REP	\$1,141				
IN	CHOCOLA, JOSEPH CHRISTOPHER - Dist 02	REP	\$1,141	KY	NORTHUP, ANNE MEAGHER - Dist 03	REP	\$1,216
ME	COLLINS, SUSAN M - Senate	REP	\$1,056	MI	MILLER, CANDICE S - Dist 10	REP	\$1,000
					DINGELL, JOHN D - Dist 15	DEM	\$1,056
MN	COLEMAN, NORM - Senate	REP	\$1,000	MO	TALENT, JAMES MATTHES - Senate	REP	\$1,216
	KLINE, JOHN PAUL JR - Dist 02	REP	\$1,235				
MS	PICKERING, CHARLES W "CHIP" JR - Dist 03	REP	\$1,141	NC	DAVIS, EGBERT LAWRENCE III - Dist 13	DEM	\$1,141
NH	SUNUNU, JOHN E - Senate	REP	\$4,000	NM	WILSON, HEATHER ANN - Dist 01	REP	\$1,216
					PEARCE, STEVE - Dist 02	REP	\$1,235
NV	MCDONALD, LYNETTE BOGGS - Dist 01	REP	\$1,000	OH	TURNER, MICHAEL R - Dist 03	REP	\$1,235
	PORTER, JON SR - Dist 03	REP	\$1,000				
OK	KEATING, CATHERINE HELLER - Dist 01	REP	\$1,000	OR	SMITH, GORDON HAROLD - Senate	REP	\$1,000
	CARSON, BRAD - Dist 02	DEM	\$1,056				
	LUCAS, FRANK D - Dist 03	REP	\$1,216				
PA	GERLACH, JIM - Dist 06	REP	\$1,056	SD	THUNE, JOHN R - Senate	REP	\$1,000
	SHUSTER, WILLIAM FRANKLIN - Dist 09	REP	\$1,122				
	TOOMEY, PATRICK J - Dist 15	REP	\$1,141				
	GEKAS, GEORGE W - Dist 17	REP	\$1,056				
	MURPHY, TIM - Dist 18	REP	\$1,056				
TN	COOPER, JAMES - Dist 05	DEM	\$1,056	TX	CORNYN, JOHN - Senate	REP	\$1,216
					HENSARLING, THOMAS JEB - Dist 05	REP	\$1,235
					BONILLA, HENRY - Dist 23	REP	\$1,235
					CARTER, JOHN RICE - Dist 31	REP	\$1,235
WV	CAPITO, SHELLEY MOORE - Dist 02	REP	\$1,216				

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9-7

**An Analysis of the Outcome of Georgia's Fourth Congressional District
Election in the Context of Republican Crossover Voting**

**By
Dan P. Young**

This analysis is written to determine the impact of Republican crossover voting in the Democratic General Primary Election, held on August 20, 2002. A number of paid and ad hoc political commentators, local newspaper reporters, and pollsters have made a number of statements suggesting that Cynthia McKinney lost the election because of statements about the September 11, 2001 terrorist attacks, that black voters in DeKalb County were tired of her "confrontational" style of politics, and that she has not paid attention to the needs of her congressional district. The only objective method to determine if any of these allegations had an impact to the extent of her losing the August 20, 2002 re-election is to analyze the impact of the Republican crossover vote on the outcome of the Democratic General Primary Election. This analysis must take into account the fact that a significant number of Republicans acted in concert and voted in the Democratic Primary Election held on August 20, 2002. Data presented here in precinct tabulations will provide facts to support allegations that Republican voters crossed over and voted in the Democratic General Primary, and as a direct result of the crossover voting by Republicans, Denise Majette won the contest.

This analysis will also control for white Democrats who voted for Denise Majette, newly-registered and previously-registered blacks who voted for Denise Majette. There are three additional categories of voters who appear on the DeKalb voter files in addition to categories of black and white voters. One group of voters in these categories are identified as "other" which simply means that they did not fit into one of the racial groups used by DeKalb as part of the documentation process of registering voters; the second group are Hispanic; and the third group are Asian. The analysis outlined above will also identify the impact, which these groups may have had on the outcome of the August 20, 2002 Democratic General Primary Election.

Method of Analysis

The most accurate method to identify "hardcore" Republican voters in DeKalb County, and the number of these hardcore voters who may have voted in the Democratic General Primary is to review the turnout of Republicans who voted in the March 2000 Republican Presidential Primary Election. The Republican Presidential Primary Election was chosen as a measure to identify the number of Republican voters in DeKalb County for two very important reasons: First, Republicans had an opportunity to influence the selection of their candidate who would face a Democratic opponent in November of 2000, and the outcome of which party would control the White House and attendant government machinery. The second reason for using this particular election is that Republicans would also have an opportunity to choose a Republican candidate for president who would have significant political "coattails" to help other Republicans who were seeking election to the Congress and even governorships. In other words, there were excellent incentives for Republicans to vote in the Republican Presidential Primary Election held on March 2000.



There were 271,339 registered voters in DeKalb County in March 2000. Republicans cast 37,397 ballots in the Republican Presidential Primary Election for 13.78 percent of the total number of registered voters. There were 257,745 active registered voters in DeKalb County who were eligible to vote in the August 20, 2002 General Primary Elections (Democrat or Republican). Included in this total number of registered voters are the so-called "sub-groups" of registered voters. The number of registered voters in the "other" category is 6,572, Asians 1,929, and 1,318 Hispanics.

Identification of hardcore Republican voters who voted in the August 20, 2002 General Primary is accomplished by adding the total number of Republicans who voted in the March 2000 Republican Presidential Preference Primary. There were 37,397 Republicans who voted in this election. The number of Republicans who voted in the Republican fourth congressional primary election held on August 20, 2002 was 6,041. The question must be asked as to where did Republican voters vote, if they did not vote in their own primary for the fourth congressional district? We know that 6,041 Republicans actually voted in the Republican fourth congressional election, so what happened to the remaining hardcore Republicans whose numbers would be 31,350? There are several plausible answers to this question. One possible answer is that Republicans voters simply stayed home and did not vote. Another possible reason is that Republicans voted, but voted in other statewide Republican races such as Governor, Attorney General, Superintendent of Schools, etc. and decided not to vote in the fourth congressional district primary. Another possible answer is that Republicans voted in the Democratic General Primary election for Denise Majette.

A summary of published data shows that a minimum of 37,500 Republicans "crossed over" and voted for Denise Majette in the Democratic Primary Election held on August 20, 2002. The cross-over vote by Republicans was of such significance, that not only did it give Denise Majette a majority of the votes and the Democratic nomination, but that without the Republican cross-over vote, Denise Majette would have lost the Democratic General Primary Election to Cynthia McKinney by 19,831 votes. If the 37,500 Republican votes are subtracted from Denise Majette's total vote of 66,467, that would leave her with a total of 28,967 to a final vote for Cynthia McKinney of 48,798.

The 28,967 votes which Denise Majette would have received without benefit of the Republican cross-over vote, includes the following groups of voters: newly-registered black voters, previously-registered black voters, white Democrats, and voters in the sub-groups described above.

A note about the author: Dan P. Young has been a consultant to politicians and manager of political campaigns in Atlanta, Fulton and DeKalb Counties since 1973. He was consultant/manager for Sheriff Jackie Barrett's campaigns and the recent campaign of Sheriff Thomas Brown of DeKalb County.

AFFIDAVIT

State of Georgia

DeKalb County

I, Dan P. Young, being duly sworn depose and say as follows:

1.

I have compiled the accompanying statistics from certified copies of the Fourth Congressional District in Georgia obtained from the Secretary of State of Georgia.

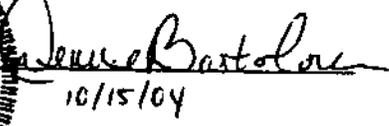
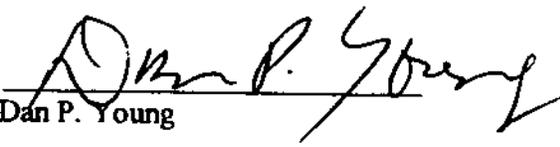
2.

That all compilations are true and correct and are attached as Exhibit AA hereto.

3.

I knowingly give this affidavit for use in any federal or state court proceeding.

Subscribed and sworn to and subscribed before me
this 15th day of September, 2002 Dan P. Young


10/15/04

**Precinct Analysis of the Impact of Republican Crossover Votes in Georgia's
Fourth Congressional Democratic General Primary on August 20, 2002
(188 Precincts)**

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Allgood 51.14%	2,240	1,762	1,478	644	27	273	534	359
Ashford Park 40.27%	1,749	1,316	35	1,634	50	317	33	491
Atherton 33.16%	1,102	769	884	195	13	54	159	92
Austin 55.54%	2,485	2,083	41	2,392	201	775	33	1,123
Ashford-Dumwoody 50.73%	2,442	1,638	334	1,957	115	831	88	738
Ashford Road 35.95%	2,131	1,719	300	1,783	97	455	63	546
Avondale 55.17%	2,068	1,836	143	1,874	35	504	117	1,085
Avondale Middle School 27.15%	1,852	1,175	1,301	497	8	N/A	131	187
Bob Mathis 55.34%	2,544	2,096	2,244	252	22	105	853	297
Briarcliff 38.26%	1,870	1,420	129	1,668	16	328	22	165
Briarlake 66.07%	1,458	1,276	36	2,145	39	412	54	779
Briarwood (A) 38.31%	681	449	128	522	18	171	19	151
Briarwood (B) 27.10%	1,644	963	754	760	19	N/A	87	172
Brockett 52.39%	2,645	2,117	308	2,218	105	591	96	999
Brookhaven 29.43%	2,540	1,709	142	2,303	50	285	35	464
Browns Mill 53.81%	2,106	1,810	1,933	134	58	55	706	232
Columbia Drive 43.46%	2,061	1,544	1,943	88	6	32	537	126
Canby 49.54%	1,517	1,191	1,405	82	3	81	470	113

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Casa Linda 38.67%	1,479	1,019	1,418	39	3	15	311	75
Chamblee North 41.45%	1,323	1,064	84	1,174	52	258	25	409
Chamblee South (A) 19.24%	325	249	13	295	12	108	7	48
Chamblee South (B) 39.76%	492	291	107	250	11	N/A	8	91
Chapel Hill 52.52%	2,593	2,123	2,481	76	5	44	866	235
Chestnut 35.69%	2,959	1,835	468	2,857	85	436	84	569
Clairemont West 51.31%	1,479	1,103	73	1,357	30	191	65	497
Clairemont Hills 50.31%	2,585	2,091	129	2,353	84	612	71	966
Clarkston 28.59%	2,929	1,822	2,107	694	30	132	260	262
Clifton 47.47%	1,191	969	1,114	53	6	44	84	366
Coralwood 64.52%	2,001	1,742	82	1,866	69	599	78	1,043
Countyline 53.93%	1,483	1,309	1,341	113	12	75	550	147
Cross Keys 29.44%	2,055	2,418	344	1,558	22	204	46	347
Candler 33.95%	2,163	1,502	1,996	126	4	18	403	92
Clifton Road 33.77%	1,558	1,066	652	41	3	N/A	53	303
Doraville North 29.01%	1,693	1,186	282	1,156	52	216	63	273
Doraville South 32.43%	1,208	882	246	829	42	161	44	238
Dresden 35.47%	2,660	1,717	813	1,627	51	297	85	519
Dunaire 49.73%	1,643	1,281	1,079	482	27	155	366	266
Dunwoody 27.15%	2,475	1,849	202	2,092	78	589	29	471
Dunwoody Library 46.06%	2,875	2,182	123	2,664	196	601	33	967

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Eastland 33.88%	2,652	1,907	2,218	388	20	29	497	135
Embry Hills 47.02%	2,410	1,865	314	1,876	82	577	89	778
Emory North 53.12%	2,310	1,233	188	1,953	25	217	44	604
Evansdale 61.75%	1,208	1,030	46	1,093	53	388	30	603
Emory South 44%	3,153	2,232	92	2,941	38	337	88	889
Elam Road (A) 65.78%	579	412	240	114	1	197	177	91
Elam Road (B) 37.89%	1,799	1,396	1,187	532	22	N/A	232	292
Emory Road 33.08%	1,607	668	106	1,414	21	201	31	185
Fairington 38.46%	2,819	2,106	2,586	170	9	72	641	161
Fernbank 64.27%	2,122	1,769	37	2,007	30	456	110	1,020
Flat Shoals School 43.72%	1,811	1,432	1,735	50	4	5	524	91
Forrest Hills 49.46%	1,651	1,193	388	1,175	20	143	143	439
Flat Shoals Pkwy. 55.26%	2,264	1,909	2,134	93	6	47	792	252
Flat Shoals 41.96%	2,158	1,592	2,053	49	1	17	572	91
Flakes Mill 45.80%	1,257	1,011	1,217	26	4	N/A	361	86
Flat Shoals Library 44.81%	1,761	1,330	1,667	69	1	25	487	99
Glenwood 53.71%	2,827	2,184	244	2,470	27	326	146	1,018
Glenhaven 46.10%	1,369	1,039	999	320	9	87	292	178
Gresham Park Elem. School 40.16%	2,383	1,783	2,283	64	7	24	598	103
Glenhaven Elem. School 46.60%	1,101	809	957	113	1	29	90	278

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Henderson Mill(A) 60.88%	1,913	1,595	108	1,694	51	600	46	922
Henderson Mill(B) 25.68%	769	444	103	597	14	N/A	16	98
Harnbrick 43.79%	2,643	1,939	1,713	805	35	221	461	376
Hawthorne 50.52%	1,996	1,548	259	1,614	67	422	74	701
Heritage 48.87%	1,709	1,195	428	1,182	27	277	70	509
Hooper Alexander 45.01%	1,601	1,202	1,026	535	9	60	277	228
Huntley Hills 42.38%	2,273	1,694	283	1,881	100	409	83	633
Hugh Howell 63.75%	1,620	1,396	221	1,312	35	474	111	777
Idlewood 44.39%	1,609	1,194	575	942	13	306	146	381
Indian Creek 34.28%		1,288	1,402	494	7	106	233	213
Idlewood Road 27.31%	2,630	1,560	2,035	516	13	90	254	160
Jolly 26.01%	3,070	1,884	2,463	494	14	76	297	186
Kelley Lake 41.84%	2,924	2,139	2,791	104	4	26	761	120
Knollwood 43.50%	1,666	1,230	1,493	146	18	51	413	109
Lakcside 65.53%	1,940	1,704	21	1,852	57	617	66	1,038
Laurel Ridge 43.63%	1,688	1,217	119	1,481	25	516	64	466
Lithonia 36.53%	1,093	783	836	236	8	34	189	91
Livsey 59.82%	2,274	1,951	46	2,136	77	703	42	1,116
Leslie Steele 49.86%	1,417	1,085	1,257	132	1	14	450	83
Mainstreet 44.03%	2,705	2,085	2,264	363	19	94	657	247

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Marbut 37.57%	2,787	2,124	2,564	143	6	43	623	160
McLendon (A) 38.99%	1,981	1,403	569	1,483	48	261	91	448
McLendon (B) 39.88%	804	504	354	548	14	N/A	42	157
McWilliams 51.46%	1,330	1,127	1,203	101	13	102	450	126
Medlock 54.17%	2,040	1,582	71	1,880	29	332	92	762
Midvale 62.59%	1,690	1,465	21	1,599	66	609	42	866
Miller Grove 38.72%	2,473	1,800	2,352	58	6	22	555	126
Montclair 18.06%	1,908	1,002	880	877	15	79	61	119
Montreal 49.62%	1,182	921	85	1,019	40	218	40	415
Meadowview School 43.54%	2,752	2,122	2,547	175	11	40	758	149
Memorial North 37.92%	2,518	1,722	1,679	683	39	159	324	321
Memorial South 37.18%	2,077	1,412	1,596	361	13	111	308	213
Midway 34.72%	2,244	1,581	1,732	446	7	87	316	219
Mt. Vernon East 57.31%	2,404	2,024	43	2,287	152	757	32	1,123
Memorial (A) Stone Mountain 51.30%	187	154	21	165	7	N/A	8	70
Memorial (B) Stone Mountain 42.51%	1,246	974	825	388	12	221	215	194
Mt. Vernon West 60.43%	1,186	983	19	1,124	91	411	20	573
Montgomery 50.44%	1,528	1,251	48	1,442	115	429	24	605
Miller Grove Rd. 51.94%	1,847	1,521	1,735	87	6	22	555	126
Midvale Road 55.46%	1,178	970	134	963	40	319	47	488

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Nancy Creek 51.59%	1,654	1,384	31	1,583	109	450	23	686
North Decatur (A) 31.38%	919	631	127	749	29	116	20	174
North Decatur (B) 29.49%	553	356	180	329	10	N/A	30	73
North Hairston 46.37%	1,701	1,294	1,027	607	10	154	286	310
Northlake 62 %	1,249	1,058	34	1,154	26	339	33	616
North Peachtree 33.47%	2,861	1,730	702	1,452	54	268	114	462
Narvie L. Harris School 44.06%	1,436	1,237	1,254	59	4	N/A	434	103
Oak Grove 59.74%	1,914	1,637	104	1,718	48	461	79	897
Oakcliff 30.66%	1,454	936	399	774	47	176	58	222
Peachcrest 38.18%	2,370	1,747	1,814	487	33	101	434	224
Peachtree 33.08%	1,523	1,049	229	1,213	63	204	24	320
Phillips 47.77%	2,713	2,378	1,977	686	30	200	712	416
Pine Lake 60%	497	375	67	420	12	51	61	161
Pleasantdale 49.10%	1,486	1,173	104	1,308	67	339	49	524
Ponce De Leon 53.34%	1,590	1,226	246	1,300	25	236	106	542
Panola 43.63%	2,141	1,687	1,737	345	8	95	497	229
Panola Way 42.53%	3,110	2,290	2,771	257	11	66	727	237
Pine Ridge 49.91%	1,335	1,176	1,152	146	12	149	400	183
Pleasantdale Rd. 23.03%	3,402	2,002	1,843	1,293	42	155	194	265
Piney Grove 32.56%	1,749	1,256	1,631	81	3	N/A	324	73
Panola Road (A) 36.97%	1,215	1,017	1,144	40	3	95	299	75

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Panola Road (B) 35.70%	1,043	874	986	33	6	N/A	236	69
Rainbow 52.12%	2,754	2,214	2,530	174	11	81	898	243
Rainbow Drive 39%	1,351	964	1,277	49	4	12	306	67
Redan Elem (A) School 44.68%	1,496	1,296	1,391	69	2	62	441	133
Redan Elem (B) School 44.46%	969	785	820	117	12	N/A	255	93
Rehoboth 48.71%	1,918	1,476	179	1,652	49	371	60	655
Rockbridge 39.16%	2,335	1,601	991	554	12	103	358	263
Rock Chapel Elem. School 38.60%	3,005	2,487	2,590	316	18	112	684	265
Rowland 38.58%	2,606	1,861	2,109	403	11	91	481	225
Redan-Trotti(A) 43.24%	1,396	1,147	1,269	96	6	77	390	102
Redan-Trotti(B) 48.40%	1,143	876	1,066	52	3	N/A	325	91
Rockbridge Road 44.67%	2,359	2,026	2,033	262	7	N/A	630	272
Rowland Road 50.04%	1,407	1,129	949	409	21	121	306	257
Redan Road 41.92%	2,063	1,608	1,766	248	14	57	494	170
Rock Chapel Road 50.23%	1,564	1,296	1,011	520	35	121	424	221
Sagamore 61.33%	1,835	1,611	23	1,763	46	582	39	914
Scott 50.52%	2,223	1,637	113	2,038	57	381	109	712
Scottdale 38.63%	2,378	1,654	1,340	950	16	109	287	342
Shallowford 47.43%	2,422	1,927	83	2,258	205	372	31	873
Silver Lake 41.05%	3,375	2,470	473	2,769	91	492	97	906

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Skyland 38.48%	1,878	1,333	318	1,444	55	278	68	442
Snapfinger 52.41%	1,565	1,284	1,435	106	6	40	499	162
Smokerise (A) Elem. School 62.65%	650	565	44	593	33	776	23	328
Smokerise (B) Elem. School 59.10%	1,733	1,533	223	1,424	67	N/A	85	818
South Decatur (A) 44.11%	3,196	2,258	1,856	1,265	21	112	466	509
South Decatur (B) 26.87%	98	67	63	33	1	N/A	6	12
Stone Mill 23.66%	2,932	1,767	2,340	468	16	78	262	152
Shadow Rock 46.39%	3,495	2,841	2,841	544	12	126	842	461
Stoneview 24.74%	1,056	683	761	269	18	52	121	44
Salem 47.54%	1,871	1,685	1,705	136	16	76	602	193
Shamrock (A) Middle School 55.12%	631	488	28	573	14	N/A	34	235
Shamrock (B) Middle School 51.87%	680	563	65	599	12	N/A	19	271
Stone Mountain (A) West 41.57%	1,878	1,352	1,241	547	20	115	311	244
Stone Mountain (B) East 36.59%	1,056	1,342	1,208	622	18	128	209	280
Snapfinger Road North (A) 47.49%	860	697	808	41	3	N/A	263	60
Snapfinger Road North (B) 39.39%	1,176	853	1,008	144	8	N/A	259	72
Snapfinger Rd. South 56.16%	1,587	1,298	1,449	117	8	N/A	547	170

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
Stephenson Road 47.11%	1,974	1,611	1,533	379	7	N/A	494	258
South Hairston 42.29%	2,844	2,095	2,390	389	16	89	600	275
Terry Mill 40.90%	1,192	912	1,117	60	1	15	313	57
Tilson (A) 34.68%	414	297	399	7	0	12	92	10
Tilson (B) 43.96%	1,249	941	1,175	54	5	N/A	347	52
Toney 50.17%	1,505	1,202	1,419	62	5	23	487	101
Tucker 56.42%	2,290	1,868	73	2,144	84	614	47	1,002
Till Mill Rd. 56.08%	1,351	1,143	23	1,277	124	433	29	608
Tucker Library (A) 28.72%	606	376	217	364	14	341	33	75
Tucker Library (B) 43.40%	1,655	1,189	458	1,123	55	N/A	81	427
Vanderlyn 61.67%	1,752	1,495	22	1,683	116	513	23	896
Wadsworth 45.89%	2,482	1,898	2,322	132	11	36	684	170
Wesley Chapel South 53.71%	2,362	1,914	2,231	81	5	103	828	187
Woodrow Road (A) 33.44%	817	610	736	74	6	N/A	171	30
Woodrow Road (B) 57.02%	153	121	78	75	6	N/A	39	28
Wiznona 56.90%	2,210	1,738	614	1,539	14	270	264	717
Woodridge 45.38%	3,003	2,338	2,428	485	30	133	750	299
Wesley Chapel North 45.24%	2,271	1,826	2,042	191	11	70	618	188
Warren (A) 43.14%	744	554	76	567	23	411	35	202
Warren (B) 46.80%	1,350	953	211	1,032	36	N/A	49	392
Woodard 29.87%	1,659	1,115	258	1,304	23	178	41	291

Precincts And % Turnout	Total # of Voters 2002	# of Active Voters 2002	# of Black Voters 2002	# of White Voters 2002	Republican District 4 Votes 2002	Republican Presidential Primary March 2000	McKinney Votes August 2002	Majette Votes August 2002
White Oak 40.57%	2,211	1,543	2,006	149	8	51	480	142
Winters Chapel 56.04%	1,314	1,101	48	1,218	73	368	22	592
Wynbrooke Elem. School 49.08%	1,934	1,683	1,485	400	16	N/A	495	317

Source: DeKalb Department of Voter Registration and Elections

Note: N/A is used in some cells in the column titled: Republican Presidential Primary, March 2000, because these precincts did not exist at the time of that election.



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Cathy Cox



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Georgia Election Results Official Results of the August 20, 2002 Primary Election

Last Updated 2:11:15 p.m. 08-27-2002

UNITED STATES REPRESENTATIVE - 4TH DISTRICT Democrat

100 % of precincts reporting
PR=Precincts Reporting
TP=Total Precincts

County	PR	TP	MAJETTE	MCKINNEY
			68,612 58.3%	49,058 41.7%
DEKALB	185	185	66,467	48,798
GWINNETT	133	133	2,145	250

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Georgia Election Results
Official Results of the August 20, 2002 Primary Election

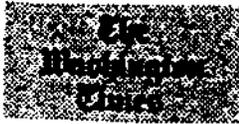
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UNITED STATES REPRESENTATIVE - 4TH DISTRICT
Republican

100 % of precincts reporting
 PR=Precincts Reporting
 TP=Total Precincts

County	PR	TP	DAVIS	PEREIRA	VAN AUKEN
			1,910 34.1%	1,515 27.1%	2,169 38.8%
DEKALB	185	185	1,787	1,434	2,067
GWENSMITH	138	138	123	81	102

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August 22, 2002

McKinney blames ouster on Republican crossover

By Steve Miller
THE WASHINGTON TIMES

Rep. Cynthia A. McKinney early yesterday blamed Republican voters in her speech conceding defeat in the Georgia Democratic primary.

"We saw massive Republican crossover into the Democratic primary, and it looks like the Republicans wanted to beat me more than the Democrats wanted to keep me," Mrs. McKinney told her supporters after conceding defeat.

"She is right for the first time in a while," said Phil Kent, president of Southeastern Legal Foundation, which has been a longtime critic of the five-term incumbent congresswoman. "It wasn't even a Jewish-Palestinian thing. It was the white Republicans who had the say-so here -- me included."

Republicans in Georgia's 4th District swarmed the polls to cross over and oust Mrs. McKinney in favor of a more centrist Democrat, former state judge Denise Majette. The challenger won 58 percent to 42 percent.

It was thought that Mrs. McKinney's outspoken pro-Palestinian and pro-Muslim rhetoric would be her demise, as Jewish money both national and local flowed into the Majette campaign. Meanwhile, Arab donors were solicited by the McKinney campaign with some success, although Mrs. Majette outraised her opponent by roughly \$500,000.

But it was the ire of the Republicans that sent Mrs. McKinney packing. Georgia has an open primary that allows people to vote for either party.

At some polling areas in the district, Republican voting booths sat unused for up to an hour while voters stood in line at the Democratic booths.

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"I look at our data and it tells me the story," said Dale Ranta, chairman of the DeKalb County Republican Party. "It looks like 95 percent of the total vote was Democrat in a county that is 60-40 Democrat."

Mr. Ranta said some DeKalb Republicans even volunteered for Mrs. Majette and attended her victory celebration Tuesday night.

"There were a lot of people who considered [Mrs. McKinney] just plain unrepresentative of this district," said Mr. Ranta, who cast his ballot in the Republican primary. "For the people who crossed over, it was worthwhile. She stirs so much emotion."

The Republican crossover vote may have even helped jeopardize the career of Mrs. McKinney's father, veteran state Rep. Billy McKinney, who faces a Sept. 10 runoff election after receiving 48 percent of the vote in a three-way Democratic primary.

Before the election, Mr. McKinney said the effort against his daughter was a Jewish plot. "Jews bought everybody. That's J-E-W-S," he said.

Mrs. Majette had not counted on Republican votes, said her campaign manager Roland Washington.

"It was just an anti-McKinney sentiment that transcended party lines," Mr. Washington said. "It was never our strategy to get that Republican vote."

Mrs. McKinney angered Republicans, among others, when she said President Bush may have ignored warnings about September 11 and benefited financially from the war on terrorism.

Ultimately, "this was a vote that was anti-McKinney rather than pro-Majette," said Charles Bullock III, a political scientist at the University of Georgia. "She had finally turned people off enough to vote against her."

Mrs. McKinney's pro-Palestinian views may also have contributed to her defeat, although there were few Jewish voters in her district.

"She made herself the poster child for anti-Israeli sentiment," said one member of a Jewish political action committee in Washington, who spoke on the condition of anonymity. "She tried to inflame this idea that Jews are out to get blacks — even though her opponent was black."

But McKinney supporter Joshua Ruebner, executive director of Jews for Peace in Palestine and Israel, said the Georgia Democrat spoke only of Middle East peace and warned of political repercussions.

"This is a dangerous dynamic," he said. "Jews are the ones who started picking off African-American politicians because of their views on the Middle East, and that was undue meddling. It is doing irreparable harm to relations with African-Americans."

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OUR OPINION: GOP to blame for blacks' fear of the "R" word

BYLINE: CYNTHIA TUCKER, STAFF

DATE: 06-09-2002

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EDITION: Home

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PAGE: F.8

If you thought Cynthia McKinney, the wild and wacky Democratic congresswoman from DeKalb County, might calm down and mute her rhetoric, you were wrong. With the FBI, the CIA and the White House reeling under revelations that they had missed signals of impending terrorist attacks, McKinney has only gained confidence and stature.

Back in April, you may recall, McKinney in effect suggested that President Bush had aided and abetted the Sept. 11 hijackers, hinting that the president knew of the attacks in advance but failed to prevent them so that his friends in the defense industry would profit from the ensuing war. She now claims vindication from recent revelations about undisclosed memos and warnings that were ignored.

Before that, McKinney had garnered international headlines for her ill-considered apology to Saudi Prince Alwaleed bin Talal. Bin Talal had offered \$10 million to a relief fund for victims of the terrorist atrocities, but his donation was appropriately rejected by then-New York Mayor Rudy Giuliani because in giving the money, the prince also suggested that American foreign policy had spurred the attacks. That didn't stop McKinney from butting in, suggesting the prince steer the \$10 million to black charities.

Now, McKinney is aiming her outrageous rhetoric at her re-election opponent in the Democratic primary — a Yale-educated, African-American lawyer named Denise Majette. No doubt searching her thesaurus to find the most despicable epithet to hurl at Majette, McKinney settled on this: Majette, McKinney says, is a Republican.

That's not true. Majette says she is a longtime, committed Democrat, and there's no evidence to suggest otherwise. But McKinney knows the power of that charge among African-American voters, and she hopes to use it to overcome her own history of reckless accusations, low-road insults and baseless conspiracy theories.

In other words, McKinney hopes that Republicans scare black voters more than she does, and she may be right. If so, the Republicans have only themselves to blame.

Since 1964, when Barry Goldwater drew Southern whites with a "states' rights" campaign to block racial integration, the GOP has drawn more and more of its support from the states of the Old Confederacy.

To keep that support, the Republicans have believed it necessary to play the race card, whipping up fears of black crime (Willie Horton), portraying the welfare system as overwhelmingly benefiting blacks (the majority of recipients are actually white).

<http://stacks.ajc.com/cgi-bin/display.cgi?id=3d9b26b374a216Mpqaweb1P11010&doc=prim>

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McKinneys 'guilty' of rescuing voters

By J.M. RAFFAUF

By poll closing time on Nov. 7, 2000, long lines had developed at the Stoneview precinct in DeKalb County. Hundreds of people were waiting to vote. Poll workers were able to process only 100 voters per hour.

As the polls closed at 7 p.m., many were locked out or otherwise discouraged from voting both by long lines and harassment from four Republican Party officials who showed up. The long lines were caused by the DeKalb County Elections Office. But four GOP officials were to blame for locking voters out and discouraging them from voting. These party officials have escaped investigation as well as punishment.

It is ironic that the people who saved the day for the voters — U.S. Rep. Cynthia McKinney (D-Ga.) and her father, state Rep. Billy McKinney (D-Atlanta) — were harassed by the DeKalb County Republicans, who accused them of violating state election law.

The lines were caused by three factors:

► An extraordinary number of voters — 1,876 of 2,216 registered voters in that precinct — showed up that day, but there were only a handful of machines to process their votes.

► There were only four phone lines to the DeKalb Registrar's office, which had just moved to a new location. Poll workers could not get through with complaints or requests for more machines.

► The area supervisor disappeared that day. He could have gotten more machines. He had been seen last at 5:30 p.m. and had noted the long lines, but said he did not know he could get more machines.

The McKinneys became involved only because of numerous calls, starting around 7 p.m., from voters. The McKinneys went to Stoneview to check out the problems and found that Republican poll watchers were trying to lock out voters because, they said, no one could vote after 7 p.m.

Georgia law states that voters must be allowed to vote after 7 p.m. if they are "already qualified and or inside the enclosed space." Here, the voters were qualified

at 7 p.m., having filled out the voter information slip provided by poll workers and then holding onto it until they voted. In fact, it was determined that no person voted

illegally.

The Republican poll watchers had been sent to Stoneview after receiving false information from the GOP that more than 1,000 people had arrived after 7 p.m. The poll manager, Ruby Johnson, reported to these Republicans that all voters in line had a certificate.

Even so, the DeKalb County Republicans set out to deny hundreds of voters in line at 7 p.m. their right to vote.

The Republicans interfered with the right to vote of the people of DeKalb County.

They even ordered the doors to the precinct locked so that legitimate voters could not vote.

These white Republicans naturally called the police for "crowd control" of black voters. No arrests were made, and no officer reported the need for any crowd control measures. In fact, one DeKalb police officer

stated that when the crowd heckled him, Cynthia McKinney took the bullhorn and came to his assistance by calming the crowd.

Congresswoman McKinney called the secretary of state's office and talked to an official there who set up a conference call with DeKalb elections official Linda Lattimore, who agreed to provide additional voting machines.

The McKinneys got the problems fixed, opening up the doors locked by the Republicans and getting more voting machines for the voters.

Faced with a failed mission, the DeKalb County Republicans, who attempted to stop legitimate voters, turned their efforts to the McKinneys, who deprived them of their intentions.

The Republicans interfered with the right to vote of the people of DeKalb County.

These egregious criminal violations have been completely overlooked by the media and state and county officials. Ignoring the real felons, we have been diverted to a side-show over whether the McKinneys entered the precinct to solicit votes. All they did was urge people to stay and exercise their constitutional right to vote under some of the most intimidating and trying circumstances, which should have been eradicated by the civil rights movement.

J.M. Raffauf is an attorney representing U.S. Rep. Cynthia McKinney and state Rep. Billy McKinney.

The Atlanta Journal-Constitution

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Georgia Office of Highway Safety: www.gohs.state.ga.us/

► **BOOKS:**

"2001 Car and Vehicle Safety Data: National Highway Traffic Administration Documents and Reports"

PLAINTIFF'S EXHIBIT



11/13/00

F

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

E. RANDEL OSBURN, et al.,

Plaintiff

v.

CASE NO. 1:02CV02721 (CAP)

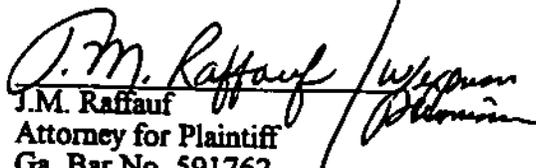
CATHY COX, Secretary of State of
Georgia, et al.,

Defendant

**NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANTS GEORGIA
REPUBLICAN PARTY AND DENISE MAJETTE**

COME NOW Plaintiffs pursuant to FRCP 41(a)(1) and LR 41.1, NDGa.,
and dismiss their complaint against defendants Georgia Republican Party and
Denise Majette, Candidate, 4th Congressional District.

This 20th day of December, 2002.


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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of this Brief in Opposition upon the following by mail, this the 20th day of December, 2002.

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JAN 08 2003

LUTHER J. [Signature]
By: Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

E. RANDEL T. OSBURN,
LINDA DUBOSE,
BRENDA LOWE CLEMONS,
DOROTHY PERRY, and
WENDELL MUHAMMED,

Plaintiffs,

vs.

CASE NO. 1:02CV2721-CAP

STATE OF GEORGIA,
SONNY PERDUE, Governor of Georgia,
CATHY COX, Secretary of State of Georgia,
DEKALB COUNTY BOARD OF ELECTIONS AND REGISTRATION,
GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION,
LINDA LATIMORE, DeKalb County Supervisor of Elections,
LYNN LEDFORD, Gwinnett County Supervisor of Elections,
and GEORGIA DEMOCRATIC PARTY,

Defendants.

**AMENDED COMPLAINT FOR EQUITABLE RELIEF
UNDER THE VOTING RIGHTS ACT AND THE UNITED
STATES CONSTITUTION**

JURISDICTION AND VENUE

1.

This is an action to enforce the Voting Rights Act of 1965, 42 U.S.C. § 1973, et seq. This action alleges that the crossover voting of Republicans in the August 2002 Democratic Primary in the Fourth Congressional District of Georgia impermissibly diluted, diminished, and interfered with the rights of African-American voters on account of race. This action also alleges that the maintenance of an open Democratic primary by the State of Georgia and malicious Republican

crossover voting in the August 2002 Democratic Primary in the Fourth Congressional District of Georgia violated the association rights preserved under the First Amendment to the United States Constitution and guaranteed to the Plaintiffs through the Fourteenth and Fifteenth Amendments and in contravention of the rights protected by 42 U.S.C. § 1983. The complaint also alleges intentional discrimination by the Defendants against the Plaintiffs and other African-American voters in the Fourth Congressional District of Georgia on account of their race.

2.

This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331, 1343, and 1367. This action for declaratory and injunctive relief is authorized by 28 U.S.C. § 2201 and 2202, and by Rules 57 and 65, Fed. R. Civ. P. Venue is proper in the Northern District of Georgia pursuant to 28 U.S.C. 1391(d).

THE PARTIES

3.

Plaintiffs E. RANDEL T. OSBURN, LINDA DUBOSE, BRENDA LOWE CLEMONS, DOROTHY PERRY, and WENDELL MUHAMMED are African-American Democratic registered voters in the Fourth Congressional District of Georgia who voted in the August 2002 Democratic Party primary.

4.

Defendant STATE OF GEORGIA is one of the 50 United States of America and its laws require that the state's major political parties' candidates be chosen in open primaries. It is under the auspices and control of the State of Georgia that the Democratic Primary in the Fourth

Congressional District of Georgia is conducted. Defendant SONNY PERDUE is the Governor of Georgia as of January 13, 2003.

5.

Defendant CATHY COX is the Secretary of State of Georgia and is sued herein in her official capacity. Ms. Cox has the obligation under Georgia law of overseeing elections in the state and, consequently, in the Fourth Congressional District of Georgia. She also has the duty of consolidating the returns from the counties that comprise the Fourth Congressional District of Georgia and certifying election results. Complete relief cannot be accorded in this matter without the presence of Ms. Cox.

6.

Defendant LINDA LATIMORE is the DeKalb County Supervisor of Elections and is responsible for conducting elections in that county, one of two counties comprising the Fourth Congressional District of Georgia. Ms. Latimore is also responsible for registering voters in DeKalb County and keeping records of those registrations. Complete relief cannot be accorded in this matter without the presence of Ms. Latimore. The DEKALB COUNTY BOARD OF ELECTIONS AND REGISTRATION is the legal entity created by state law to conduct and oversee elections in DeKalb County, Georgia.

7.

Defendant LYNN LEDFORD is the Gwinnett County Supervisor of Elections and is responsible for conducting elections in that county, the other of the two counties comprising the Fourth Congressional District of Georgia. Ms. Ledford is also responsible for registering voters in Gwinnett County and keeping records of those registrations. Complete relief cannot be

accorded in this matter without the presence of Ms. Ledford. The GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION is the legal entity created by state law to conduct and oversee elections in Gwinnett County, Georgia.

8.

Defendant GEORGIA DEMOCRATIC PARTY is a political party based in Georgia. The nomination of candidates for the Georgia Democratic Party, including the Democratic candidate for the Fourth Congressional District of Georgia, is conducted for the Georgia Democratic Party under Georgia law by the State of Georgia.

FACTS COMMON TO ALL COUNTS

9.

On August 20, 2002, the State of Georgia conducted a primary election for the Democratic Party of Georgia in the Fourth Congressional District. Under Georgia law, no voter is registered by political party and all voters may vote in any political parties' primary regardless of personal political affiliation.

10.

The Fourth Congressional District, as of the 2000 Census, is majority African-American in terms of population and voting age population. It was also, at the time of the August 2002 Democratic primary, majority African-American in registered voters. At the time of the August 2002 Democratic primary, an overwhelming majority of African-American voters in the Fourth Congressional District were Democrats.

11.

In the August 2002 Democratic Primary, two candidates faced each other for the Democratic Party nomination for the Fourth Congressional District: Cynthia McKinney and Denise Majette. McKinney won a majority of votes cast by Democratic voters. However, because of votes cast by Republican voters in the Democratic primary, Majette received a majority of votes cast in the primary and was certified by the Secretary of State as the nominee of the Georgia Democratic Party in the Fourth Congressional District. Majette was placed on the ballot for the November 2002 general election as the Democratic nominee in the Fourth Congressional District and won the general election.

12.

As of the 2002 election there were not enough Republican voters in the Fourth Congressional District to ensure the election of a Republican candidate at the general election. The crossover of Republican voters into the Democratic primary was orchestrated by the Republican Party of Georgia and the DeKalb Republican Party to ensure the nomination of a candidate whose views were more in tune with the philosophies of the Republican Party. Members of the Georgia Republican Party and the DeKalb Republican Party conceived and orchestrated a plan to run such a candidate in the Democratic Primary, funded that candidate, organized and encouraged the Republican voters in the Fourth District to vote for that candidate, Denise Majette.

COUNT I

VIOLATION OF PLAINTIFFS' RIGHTS UNDER THE
FOURTEENTH AND FIFTEENTH AMENDMENTS

13.

Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth

herein.

14.

Georgia's adoption of the open primary was done with the intent of discriminating against African-American voters, which replicates the effect of the infamous and now outlawed "white primary."

15.

The use of the open primary in the Democratic Primary in the Fourth Congressional District resulted in the defeat of the Democratic candidate preferred by the overwhelming majority of African-American voters, who make up the overwhelming majority of Democratic voters in the Fourth Congressional District.

16.

The State of Georgia, DeKalb County Board of Elections And Registration, Gwinnett County Board of Elections and Registration, Cathy Cox, Linda Latimore and Lynn Ledford, acting under color of law, conducted the open Democratic Primary in the Fourth Congressional district which contravened Plaintiffs' rights under the Fourteenth and Fifteenth Amendments and guaranteed pursuant to 42 U.S.C. 1983.

17.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

18.

Unless restrained by this court, the defendants will continue to violate the constitutional rights of the Plaintiffs to vote and to elect their nominees of choice, and the acts of defendants will continue to chill and deter the free exercise of that right to vote.

19.

Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their constitutional rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, policies, and practices.

20.

Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates the Plaintiffs' rights to Equal Protection under the Fourteenth Amendment and suffrage under the Fifteenth Amendment.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.

- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of Georgia conduct thereafter a special general election for Fourth Congressional District.
- G. An award of attorneys fees and costs, including expert witness expenses.
- H. All other relief that is appropriate.

COUNT II

VIOLATION OF PLAINTIFFS' RIGHTS UNDER
THE FIRST AMENDMENT

21.

Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth herein.

22.

The First Amendment to the United States Constitution guarantees the Plaintiffs a right of association with other Democrats in the choice of nominees of the political party.

23.

By constructing a primary system in which all voters, regardless of personal political affiliation are permitted to vote in the Democratic Primary in the Fourth Congressional District, the State of Georgia has interfered with the right of Plaintiffs and other Democratic voters to chose the nominees of their political party.

24.

The result of the open primary system in the Fourth Congressional District is the nomination of a person as the Democratic Party candidate who was not the choice of the majority of the Democratic Party voters who voted in the August 2002 primary.

25.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

26.

Unless restrained by this court, the defendants will continue to violate the constitutional rights of the Plaintiffs to vote and to elect their nominees of choice, and the acts of defendants will continue to chill and deter the free exercise of that right to associate.

27.

Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their constitutional rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, policies, and practices.

Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates the Plaintiffs' rights to associate under the First Amendment.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.
- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of

Georgia conduct thereafter a special general election for Fourth Congressional District.

G. An award of attorneys fees and costs, including expert witness expenses.

COUNT III

VIOLATION OF PLAINTIFFS' RIGHTS UNDER
THE VOTING RIGHTS ACT

29.

Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth herein.

30.

The State of Georgia's use of the open primary in the Fourth Congressional District is a voting procedure which results in the rights of the Plaintiffs, who are African-American Democratic voters and who make up the overwhelming majority of the Democratic Party voters in the Fourth Congressional District, to vote in the Democratic Party primary on account of race, in violation of the rights guaranteed by 42 U.S.C. § 1973(a).

31.

Because of the use of the open primary in the Fourth Congressional District, under the totality of circumstances, the nomination of Democratic candidates in the Fourth Congressional District is not equally open to participation by African-Americans in that African-Americans have less opportunity than other members of the electorate to participate in the political process and to nominate candidates of their choice.

32.

The effect of the open primary system in the Fourth Congressional District is the nomination of a person as the Democratic Party candidate who was not the choice of the majority of the Democratic Party voters, who are overwhelmingly African-American, who voted in the August 2002 primary.

33.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

34.

Unless restrained by this court, the defendants will continue to violate the rights guaranteed by Section 2 of the Voting Rights Act of the Plaintiffs to vote and to elect their nominees of choice.

35.

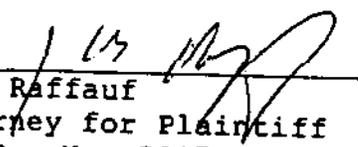
Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their statutory rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful acts, policies, and practices.

36.

Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates Section 2 of the Voting Rights Act.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.
- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of Georgia conduct thereafter a special general election for Fourth Congressional District.
- G. An award of attorneys fees and costs, including expert witness expenses.


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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of this Amended Complaint upon the following, by mail, this the 8 day of January, 2003.

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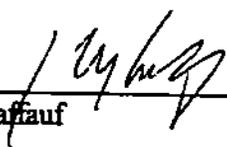
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J.M. Raffauf

FILED IN CLERK'S OFFICE

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DEC 05 2002

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

LUTHER D. THOMAS, Clerk
By  Deputy Clerk

COPY

E. RANDEL OSBURN,
LINDA DUBOSE,
BRENDA LOWE CLEMONS,
DOROTHY PERRY, and
WENDELL MUHAMMAD,

Petitioners,

v.

CATHY COX, Secretary of State
of Georgia;
LINDA LATIMORE, DeKalb County
Elections Supervisor;
LYNN LEDFORD, Gwinnett County
Elections Supervisor;
DENISE MAJETTE, Candidate, 4th US
Congressional District;
DEKALB COUNTY, GEORGIA
REPUBLICAN PARTY; GEORGIA
REPUBLICAN PARTY; and
GEORGIA DEMOCRATIC PARTY;

Defendants.

Case No. 1:02-CV-2721

DISPOSITIVE
MOTION

DEFENDANT DENISE MAJETTE'S MOTION TO DISMISS

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Denise Majette ("Majette") hereby respectfully moves the Court dismiss Plaintiffs' Complaint on the following grounds:

1. Plaintiffs lack standing to bring this lawsuit.
2. Plaintiffs' constitutional claims under the First, Fourteenth and Fifteenth Amendment to the United States Constitution (Count I) should be dismissed for failure to state a claim upon which relief can be granted.
3. Plaintiffs' claims under Section 2 of the Voting Rights Act (Count II) should be dismissed for failure to state a claim upon which relief can be granted.
4. Plaintiffs' claims under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution (Count III) should be dismissed for failure to state a claim upon which relief can be granted.
5. Plaintiffs' claims under 42 U.S.C. § 1983 (Count IV) should be dismissed for failure to state a claim upon which relief can be granted and because Section 1983 does not provide an independent basis for Plaintiffs to recover.
6. Plaintiffs' requests for injunctive relief no longer represent a live controversy and are moot.
7. Plaintiffs' unreasonably delayed filing this suit and, therefore, their claims are barred by the doctrine of laches.

WHEREFORE, Defendant Majette respectfully requests that this Motion be granted and that Plaintiff's Complaint be dismissed in its entirety, with

costs assessed against Plaintiff. A proposed order is attached for the Court's convenience.

Respectfully submitted, this 5th day of December, 2002.

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Attorneys for Denise Majette

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANT DENISE MAJETTE'S MOTION TO DISMISS** upon all parties via United States Postal Service addressed as follows:

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Thomas A. Farnen

Thomas A. Farnen

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

E. RANDEL OSBURN, et al.,
Plaintiffs,
v.
CATHY COX, et al.,
Defendants

Case No. 1:02-CV-2721

ORDER

This matter is before the Court on Defendant Denise Majette's Motion to Dismiss the Complaint for lack of standing and for failure to state a claim pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). After full and careful review of Defendant Majette's motion, her memorandum in support of her motion, Plaintiffs' memorandum in opposition to the motion, and other supporting documents filed with the Court, the Court hereby GRANTS Defendant Majette's motion to dismiss the Complaint.

The clerk is directed to remove Defendant Majette's name from the case and to recaption the case accordingly.

This ___ day of _____, 200__.

Charles A. Pannell, Jr
United States District Judge

fact that Plaintiffs sat idle and failed to seek expedited judicial review of the primary results during the more than ten weeks between the Democratic Primary and the general elections, Plaintiffs now seek, *inter alia*, an injunction against the State's certification of the Democratic Primary results and a declaration invalidating the results of the primary.¹ As will be demonstrated below, Plaintiffs can point to no principle of law that would support such a drastic and politically invasive remedy.

FACTS

On August 20, 2002, Georgia held its primary elections to determine the candidates for the November 5, 2002, general election. Plaintiffs are alleged voters in Georgia's 4th District who complain of the result of the Democratic Primary. The 4th District has a majority black population of 55%. *Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 44 (D.D.C. 2002). In 2002, the 4th District was "precleared" and found to be in full compliance with the Voting Rights Act.² In the 2002

¹ Despite Plaintiffs' requests for injunctive relief, they took no action after filing the Complaint on October 4, 2002, rendering much of their requested relief impossible. For instance, Plaintiffs filed no emergency motions with the Court to enjoin the November 5, 2002, general election.

² The preclearance process assures that any change in a voting "standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. § 1973c.

Democratic Primary in the 4th District, Denise Majette challenged five-time incumbent Cynthia McKinney. After an active campaign and record primary turnout, Denise Majette won the Democratic Primary with 58% of the vote. In the general election, Denise Majette defeated the Republican nominee, winning 77% of the vote.

Georgia voters are not required to register with a party prior to casting a vote in that party's primary election. Georgia's General Assembly has codified this "open primary" approach, which allows all registered voters to vote in the primary election they select. See O.C.G.A. § 21-2-224(d). This electoral system differs from states that have "closed primaries" or "blanket primaries." See generally *Tashjian v. Repub. Party of Conn.*, 479 U.S. 208, 222 n.11 (1986). In Georgia, voters do not formally affiliate at all prior to primary election day. Instead, voters choose a primary ballot on the day of the election. It is this act of selecting a ballot that creates the affiliation. Once a Georgia primary voter selects a ballot, he is limited to voting in that party's primary. See O.C.G.A. § 21-2-224(d).

ARGUMENT AND CITATION OF AUTHORITIES

"When the defendant challenges standing via a motion to dismiss, both trial and reviewing courts must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party." *Regions 8*

Forest Serv. v. Alcock, 993 F.2d 800, 806 (11th Cir. 1993). The standard of review for a 12(b)(6) motion to dismiss is similar, requiring that factual allegations in the complaint be accepted as true, and that all reasonable inferences be construed in the light most favorable to the plaintiff. See *Bryant v. Avado Brands, Inc.*, 187 F.3d 1271, 1273 n.1 (11th Cir. 1999). Despite this liberal standard, however, “[p]leadings must be something more than an ingenious academic exercise in the conceivable.” *Marsh v. Butler County*, 268 F.3d 1014, 1037 (11th Cir. 2001) (en banc). Accordingly, unsupported conclusions of law or mixed questions of law and fact are not sufficient to withstand a dismissal under Rule 12(b)(6). See *Marsh*, 268 F.3d at 1036 n.16; see also *South Fla. Water Mgmt. Dist. v. Montalvo*, 84 F.3d 402, 408 n.10 (11th Cir. 1996) (“As a general rule, conclusory allegations and unwarranted deductions of fact are not admitted as true in a motion to dismiss.”). In the instant case, Plaintiffs’ Complaint cannot withstand judicial scrutiny even under the lenient standards for Rule 12 motions.

I. Plaintiffs Lack Standing to Assert Their First Amendment Claims.

“The party invoking federal jurisdiction bears the burden of proving standing.” *Bischoff v. Osceola County*, 222 F.3d 874, 878 (11th Cir. 2000). To meet this burden with respect to their freedom of association claim, Plaintiffs must make three separate showings: (1) they suffered an “injury in fact” — an invasion

of a legally protected interest that is (a) concrete, and (b) actual or imminent rather than conjectural; (2) the injury must be fairly traceable to the conduct of the defendants and not the result of independent action; and (3) it must be likely, as opposed to speculative, that the injury will be redressed by a favorable decision. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). Since this showing is not a “mere pleading requirement[,] but rather an indispensable part of the plaintiff’s case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof.” *Id.*

This three-pronged calculus is the “irreducible constitutional minimum” of standing, and must be satisfied before a federal court has jurisdiction under Article III of the Constitution. *Id.* at 560. Even where this test is satisfied, however, federal courts also examine relevant prudential limitations on their exercise of jurisdiction and these prudential principles “may counsel for judicial restraint in considering plaintiff’s claims.”³ *Bischoff*, 222 F.3d at 878; see also *Allen v. Wright*, 468 U.S. 737, 751 (1984). In the instant case, Plaintiffs’ conjectural

³ These prudential principles include: “(1) whether the plaintiff’s complaint falls within the zone of interests protected by the statute or constitutional provision at issue; (2) whether the complaint raises abstract questions amounting to generalized grievances which are more appropriately resolved by the legislative branches; and (3) whether the plaintiff is asserting his or her own legal rights and interests rather than the legal rights and interests of third parties.” *Bischoff*, 222 F.3d at 883 (quoting *Saladin v. City of Milledgeville*, 812 F.2d 687, 690 (11th Cir. 1987)).

assertion that they were injured by the electoral process established by statute and endorsed by their own political party does not meet either test.

A. Injury in Fact

Plaintiffs have not suffered any “invasion of a legally protected interest” and therefore have failed to meet the Article III case or controversy requirements.

Lujan, 504 U.S. at 560. As an initial matter, Plaintiffs do not even allege that they voted for candidate McKinney in the Democratic Primary. While Plaintiffs’ Complaint asserts that the Plaintiffs are “all black democratic voters of the 4th US Congressional District,” nowhere do they allege that they voted in the 4th District 2002 Democratic Primary or that their chosen candidate was defeated. (Complaint ¶ 7.) Plaintiffs ask the Court to divine injury where none exists, a process well beyond the Supreme Court’s mandate that standing requires a “concrete and particularized” injury to Plaintiffs’ rights. *Lujan*, 504 U.S. at 560.

Even assuming Plaintiffs voted, however, they have still not alleged facts sufficiently suggestive of injury to survive dismissal. The crux of Plaintiffs’ Complaint — that so-called “malicious crossover” voting in the Democratic Primary prevented their preferred candidate from winning (Complaint ¶¶ 1, 3) — is legally unupportable. As an initial matter of law, “crossover” voting does not

exist in Georgia.⁴ Because there is no party registration in Georgia, the very term “crossover” is a misnomer, a fact recognized by the Georgia Secretary of State’s Office. See Press Release, Georgia Secretary of State, Georgia Election Law Provides for “Open” Primary, Voters May Select their Party Ballot Without Limitation or Restriction (Aug. 20, 2002) (“[T]he term ‘crossing over’ is in fact a misnomer. The selection of a ballot in previous Georgia Primaries or Primary Runoffs has no effect whatsoever on the choices available to voters today.”).

Georgia has a primary system that encourages voter participation by allowing any registered voter to vote in the primary, but only for one specific party. Thus, each Georgia voter who voted in the 2002 Primary affiliated on the day of the election by choosing either a Republican, Democratic, or Nonpartisan ballot. Georgia’s utilization of this “open primary” encourages voter participation in the primary selection process. The Supreme Court has even suggested that a state’s interest in using the open primary to encourage voter participation meets the “compelling state interest” test. *Dem. Party of the United States v. Wisc. La Follette*, 450 U.S. 107, 120-21 (1981).

⁴ Plaintiffs’ loose definition of a “crossover” voter includes voters who voted for the Republican presidential candidate in 2000 and then selected a Democratic ballot in the 2002 Primary. These voters did not “crossover,” they merely exercised their political right to vote consistent with Georgia election law.

Plaintiffs cite three Supreme Court cases for the proposition that they have alleged sufficient injury to their associational rights to confer standing. These cases, *California Democratic Party v. Jones*, 530 U.S. 567 (2000), *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208 (1986), *Democratic Party of the United States v. Wisconsin La Follette*, 450 U.S. 107 (1981), are inapposite. In each case, a political party rule or bylaw conflicted with relevant state law. See *Jones*, 530 U.S. 567 (California “blanket primary” conflicted with several political parties’ internal rules prohibiting nonmembers from voting in the party’s primary); *Tashjian* 479 U.S. 208 (Connecticut “closed primary” conflicted with state Republican Party’s rule permitting independent voters to participate in Republican primaries); *LaFollette*, 450 U.S. 107 (Wisconsin “open primary” conflicted with National Democratic Party rule allowing only party members). Because of this conflict, in each of these cases the Supreme Court had to address whether, and under what circumstances, a state law could prevent the political party from deciding how it wanted to choose its candidates. In each, the Supreme Court concluded that the state law involved infringed upon the *political parties’* rights to control the internal workings of their parties.

By contrast, Plaintiffs in the case at hand do not, and cannot, allege that there is any conflict between Georgia election law and the Georgia Democratic

Party. The Georgia Democratic Party agrees that the open primary is the process through which it desires to elect a candidate for the general election, a choice expressly authorized by Georgia law. See O.C.G.A. § 21-2-224(d) (authorizing open primaries). Accordingly, there is no tension between a political party's right to exclude nonparty members from its candidate selection process and Georgia law. Without such a conflict, Plaintiffs' allegations fall outside the precedential ambit of *Jones*, *Tashjian*, and *LaFollette*.

In *La Follette*, the Court stated in *dicta* that “[a]ny interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” 450 U.S. at 121. Plaintiffs have manipulated this *dicta* to form the crux of their case — that alleged “crossover” voters’ impact on the Democratic Primary constitutes an interference with their individual rights of association. Of course, the Democratic Party’s right to select its own candidate was not affected at all by any “crossover vote.” In *LaFollette*, the Court decided a dispute between the National and Wisconsin Democratic Parties regarding whether Wisconsin could have its delegates seated at the National Convention, even though those delegates were selected in a process not allowed by the National Democratic Party. *Id.* at 109. The Supreme Court concluded that the National Democratic Party could not be compelled to seat a delegation chosen in a way that violated its rules. Thus, the

Court based its holding on the associational rights of the National Democratic Party “to identify the people who constitute the association, and to limit the association to those people only.” *Id.* at 122.

Similarly, in *Jones*, the case on which Plaintiffs rely most heavily, the Court based its holding upon the associational rights of the political party involved. In that case, California political parties brought suit against the California Secretary of State alleging that California’s use of the “blanket primary” violated their First Amendment associational rights. 530 U.S. at 571. Each of the political parties challenging the primary had internal rules prohibiting nonmembers from voting in the party’s primary. *Id.* Thus, just as in *LaFollette*, the Court examined a dispute between political parties and state law, where the state law allowed an electoral procedure expressly disavowed by the political parties involved. Again, the focus was on the political parties’ right to organize politically, and the First Amendment’s protection of the “process by which a political party selects a standard bearer who best represents the party’s ideologies and preferences.” *Id.* at 575.

Finally, in *Tashjian*, the Supreme Court was yet again confronted with a case in which a political party adopted a rule that conflicted with the applicable state electoral law. The Court held that Connecticut’s closed primary law

impermissibly burdened the Republican Party's rights to control the Party's internal workings. See 479 U.S. at 229. Taken together, *LaFollette*, *Jones*, and *Tashjian* demonstrate that the Supreme Court guards the associational rights of *political parties* closely, and that state interference with those rights will be scrutinized carefully. In relation to Plaintiffs' claim, these holdings raise an obvious question: whose rights are Plaintiffs seeking to assert? They are not seeking to enforce the rights of their own party, the Democratic Party of Georgia, since it is an adverse party in the lawsuit. Instead, they are seeking to enforce their own associational rights. If a federal court were to allow a discontented few to hijack their party's election process, it would impinge upon the Party's right to choose its means for selecting candidates, a right strongly affirmed by the aforementioned Supreme Court cases.

B. Causal Connection Between Injury and Defendants' Conduct

In addition to demonstrating injury, Plaintiffs must show that the injury alleged is traceable to the Defendants' challenged action "and not . . . th[e] result [of] the independent action of some third party not before the court." *Lujan*, 504 U.S. at 561. In order to satisfy this burden, "there must be a sufficiently clear causal connection between the illegal action taken by the defendant and the injury suffered by the plaintiff." *Hoffman v. Jeffords*, 175 F. Supp. 2d 49, 57-58 (D.D.C

2001), *aff'd*, 2002 WL 1364311 (D.C. Cir. May 6, 2002), *petition for cert. filed*, 71 U.S.L.W. 3338 (U.S. Oct. 11, 2002). Accordingly, even if Plaintiffs could demonstrate some abstract injury to their associational rights, that injury is traceable only to their own party's acquiescence to Georgia's state primary system. Such acquiescence is merely incident to the democratic process and does not vest in individual party members the right to challenge specific election results.

Moreover, the Plaintiffs have not alleged a proper factual basis for causation. Because there is no such thing as "crossover" voting in Georgia, Plaintiffs' allegations lack any factual support connecting such alleged "crossover" voting to their purported injury, the election of Denise Majette. In fact, the election of Denise Majette was not caused by "crossover" voting, it was caused by the fact that she received more votes from the members of the electorate of Georgia's 4th District. In this sense, it was the concerted action of the Democratic electorate that resulted in Plaintiffs' proffered injury. That action, taken by parties not involved in the present dispute, reveals that Plaintiffs' claim lacks the required causal connection to withstand dismissal.

C. Redressability

In order to satisfy the redressability prong of the standing doctrine, the Plaintiffs must show that it is likely that their injury will be redressed by a favorable decision by the Court. *Lujan*, 504 U.S. at 560.

In essence, Plaintiffs are challenging the Georgia electoral system, which provides for open participation in the primary and does not require formal party affiliation. While Plaintiffs may properly challenge identifiable Georgia programs, diffuse arguments against Georgia agencies charged with carrying out state law are generally disfavored. Indeed, "suits challenging, not specifically identifiable Government violations of law, but the particular programs agencies establish to carry out their legal obligations . . . [are], even when premised on allegations of several instances of violations of law, . . . rarely if ever appropriate for federal-court adjudication." *Allen v. Wright*, 468 U.S. 737, 759-60 (1984).⁵

⁵ Plaintiffs seek a "permanent injunction against the certification of the vote" and ask that the "crossover votes be declared unconstitutional and invalid." (Complaint ¶ 42.) Since that certification, Denise Majette was elected in the general election to the U.S. House of Representatives. Under such circumstances, it is unclear whether a permanent injunction against the certification of the Primary results could redress Plaintiffs' alleged injury.

II. Plaintiffs Have Failed to State a Claim for Relief Under the U.S. Constitution, the Voting Rights Act, or 42 U.S.C. § 1983.

A. Plaintiffs Have Failed to State a Viable Constitutional Claim

Plaintiffs allege that Georgia's open primary resulted in "malicious Republican crossover" voting and that this voting violated their rights of political association. (Complaint ¶ 1.) This allegation is simply insufficient to create a cause of action. As Plaintiffs recognize in their Complaint, "[i]n no area is the political association's right to exclude more important than in the process of selecting its nominee." (Complaint ¶ 17 (quoting *Jones*, 530 U.S. at 575). A political party has the "legitimate right" "to determine its own membership qualifications." *Tashjian*, 479 U.S. at 215 n.6. The Preamble to the Georgia Democratic Party's bylaws, attached to Plaintiffs' Complaint, demonstrates that the Georgia Democratic Party encourages "equal opportunity for all segments of the Population to participate in party affairs." The Georgia Democratic Party does not oppose Georgia's primary system.

The statutory scheme in Georgia embraces each political party's freedom to select its nominee in the manner that it sees fit. *See* O.C.G.A. § 21-2-130(1) ("candidates may qualify for an election by virtue of: (1) Nomination in a primary conducted by a political party"); O.C.G.A § 21-2-151(a). Thus, absent an

allegation that the state primary system somehow infringes upon the rules of the Democratic Party, Plaintiffs state no cause of action for violation of their associational rights.

Plaintiffs were free to participate in the Democratic Primary like any other registered voter residing in Georgia's 4th District. Accordingly, the alleged infringement of their First Amendment rights is, in truth, an attack on the operation of the Georgia open primary system. The open primary, however, comports with First Amendment jurisprudence and expresses the General Assembly's desire to encourage political participation. This desire is underscored by the rules of the political parties, both of which use the open primary process to select their candidates. See Charter, Bylaws and Rules of the Democratic Party of Georgia, as approved August 13, 1994, Preamble ("[W]e encourage full, timely, and equal opportunity for all segments of the Population to participate in party affairs."); Rules of the Georgia Republican Party 6.3 (revised May 22, 1999) ("The State Convention or the State Committee may adopt rules for the conducting of Republican primaries consistent with the provisions of Georgia law.").

The Fourth Circuit considered a challenge similar to the one made by Plaintiffs in this case and affirmed a dismissal of that challenge. In *Marshall v. Meadows*, 105 F.3d 904 (1997), members of Virginia's Republican Party

challenged Virginia's open primary law, claiming that it violated their First Amendment rights to free speech and freedom of association. The *Marshall* court, affirming the district court's dismissal, reasoned that in the absence of evidence that the Virginia Republican Party opposed the open primary law, individual party members had no freedom of association claim. As the *Marshall* court explained, "[i]f the Virginia Republican Party voluntarily elects an 'open' primary, which it is legally entitled to do, then there is nothing this court can do to prevent the Virginia Republican Party from "forcing" its members to vote with non-Republicans." *Id.* at 907. The same is true in this case. If Plaintiffs do not approve of the rules used by their chosen political party to select a candidate in the primary, they are free to choose another political party or to create their own.

B. Plaintiffs Have Failed to Allege Facts Sufficient to State a Vote Dilution Claim Under Section 2 of the Voting Rights Act.

Throughout their Complaint, Plaintiffs have ignored one fact that is fatal to their claim: African-American voters comprise 51.16% of all registered voters in the 4th District. *See Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 44 (D.D.C. 2002). If African-American voters in the 4th district vote as a "black bloc," then their preferred candidate would always win, regardless of that candidate's political affiliation. In their vote dilution claim, Plaintiffs allege that "the white bloc vote, of both Republicans and Democrats, in the Democratic primary greatly diluted the

black Democratic vote, rendering it impotent.” (Complaint ¶ 26.) They contend that this allegation establishes a violation of Section 2 of the Voting Rights Act. Section 2 of the Voting Rights Act prohibits only those practices or procedures that deny or abridge a citizen’s right “to vote on account of race or color.”⁶ 42 U.S.C. § 1973(a). Nothing in Section 2 contemplates a challenge to a race-blind “open primary” election system. The “crossover” voting described in Plaintiffs’ Complaint is race-neutral. In Georgia, both African-American and white voters, regardless of whether they once voted in a Republican primary, are free to vote in the Democratic primary, and vice versa. There is no practice or procedure in connection with the open primary system in Georgia that denies or abridges any citizen’s right to vote based on race or color.

In *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986), the United States Supreme Court held that to establish a Section 2 vote dilution claim, a plaintiff must show “that the white majority votes sufficiently as a bloc to enable it, in the absence of special circumstances, usually to defeat the minority’s preferred candidate.” *Romero v. City of Pomona*, 665 F. Supp. 853, 864 (C.D. Cal. 1987), *aff’d*, 883 F.2d 1418 (9th Cir. 1989); *see also Brooks v. Miller*, 158 F.3d 1230, 1240 (11th Cir. 1998) (the third *Gingles* factor asks “whether the white majority is

⁶ *See Love v. Foster*, 147 F.3d 383, 385 (5th Cir. 1998).

usually able to defeat the minority bloc's candidates"). In other words, to prove legally significant white bloc voting, minority plaintiffs must present evidence of "a white bloc vote that normally will defeat the combined strength of minority support plus white 'crossover' votes. It is the 'usual' predictability of the majority's success [that] distinguishes structural dilution from the mere loss of an occasional election." *Rangel v. Morales*, 8 F.3d 242, 245 (5th Cir. 1993) (citations omitted).

The results of this one election are insufficient to establish the *Gingles* test. As explained above, Plaintiffs have not, and cannot allege, that whites vote consistently as a bloc to enable them to *usually* defeat the preferred candidate of minority voters. Cynthia McKinney, the candidate that Plaintiffs contend was the choice of minority voters, was first elected in 1994 in the 11th District. *See Ashcroft*, 195 F. Supp. 2d at 43-44. Based upon a remedial map drawn by a three-judge court in 1996, Ms. McKinney ran for election in the 4th District, and was successful in 1996, 1998, and 2000. *See id.* at 44. An African American has held that district's seat since its creation.

Vote dilution "is a determination that must be made over time and over the course of many elections." *Toaguo v. Atala County*, 92 F.3d 283, 288-89 (5th Cir. 1996). The fact that Ms. McKinney lost one election to another black woman does

not rise to the level of proof required by *Teague*. Section 2 of the Voting Rights Act “does not guarantee any group success in electing its preferred candidates What Section 2 does require is that members of a racial minority be given the same opportunity as other members of the electorate to elect candidates of their choice.” *Metts v. Almond*, 217 F. Supp. 2d 252, 255 (D.R.I. 2002). There is no question that African-American voters in the 4th District have the opportunity to elect candidates of their choice. As Plaintiffs have failed to allege facts sufficient to meet the *Gingles* standard, Plaintiffs’ claim of vote dilution under Section 2 of the Voting Rights Act should be dismissed for failure to state a claim upon which relief may be granted.

C. *Plaintiffs Fail to Allege Facts Sufficient to Establish a Prima Facie Case of Vote Dilution Under the Equal Protection Clause.*

“[A] threshold showing of discriminatory vote dilution is required for a *prima facie* case of an equal protection violation.” *Badham v. Eu*, 694 F. Supp. 664, 668 (N.D. Cal. 1988). To establish a constitutional vote dilution claim, Plaintiffs must show that: (1) the 4th District’s black population lacks an equal opportunity to participate in the political process and elect candidates of its choice; (2) this inequality of opportunity results from the State of Georgia’s open primary system; and (3) a racially discriminatory purpose underlies the open primary system. *See Johnson v. DeSoto County Bd. of Comm’rs*, 204 F.3d 1335, 1345

(11th Cir. 2000). Here, even assuming *arguendo* that the allegations of Plaintiffs' Complaint are true, Plaintiffs' equal protection claim should be dismissed because Plaintiffs have not alleged facts sufficient to establish any of the elements of a constitutional vote dilution claim.

First, there are no factual allegations regarding the role of African-American Democratic voters of the 4th District in the political process as a whole. One of the limits on a vote dilution claim is that "[u]nconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole." *Davis v. Bandemer*, 478 U.S. 109, 132 (1986). Plaintiffs' Complaint fails to allege that Plaintiffs have been, or will be, prevented from participating in the political process. Specifically, there are no allegations that African-American voters in the 4th District have been "shut out" of the political process. There are no allegations that anyone has ever prevented, or will ever prevent, Plaintiffs from registering to vote; organizing with other like-minded voters; fund-raising; campaigning or speaking out on matters of public concern. In short, Plaintiffs do not allege that there are, or have been, any impediments to African-American Democratic voters' "full participation in the unimpeded, robust, and wide-open public debate on which our political system relies." *Vieth v. Penn.*, 188 F. Supp. 2d 532, 545 (M.D. Pa.

2002); *Badham*, 694 F. Supp. at 670 (plaintiffs' complaint was insufficient to state an equal protection claim where there were no "allegations that anyone had ever interfered with Republican registration, organizing, voting, fund-raising, or campaigning").

Moreover, Plaintiffs fail to allege that their interests have been ignored by their past congressional representatives or will be ignored by Congresswoman-elect Majette. *See Bandemer*, 478 U.S. at 132 ("An individual or a group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that candidate as other voters in the district."); *O'Lear v. Miller*, 222 F. Supp. 2d 850, 857 (E.D. Mich.), *aff'd*, 123 S. Ct. 512 (U.S. 2002). Instead, Plaintiffs rely on the results of a single election in which their preferred candidate did not receive a majority of the votes in her district. It is well established, however, that the results of a single election are insufficient to establish an Equal Protection violation. *See, e.g., Bandemer*, 478 U.S. at 135 ("[r]elying on a single election to prove unconstitutional discrimination is unsatisfactory"); *Gamza v. Aguirre*, 619 F.2d 449, 453 (5th Cir. 1980).

Similarly, Plaintiffs have not alleged facts sufficient to establish the third element of constitutional vote dilution — they have not alleged that a racially

discriminatory purpose underlies the open primary system. “Discriminatory purpose implies that the decision maker chose a particular course of action because of its adverse effects upon a minority group, not merely in spite of its effects upon the minority.” *Lucas v. Townsend*, 967 F.2d 549, 554 (11th Cir. 1992). Here, Plaintiffs have not alleged that Georgia acted with a *discriminatory purpose* in adopting the open primary system. Plaintiffs have not, and cannot, allege that Georgia lawmakers adopted the open primary system to dilute the votes of African-American Democratic voters. Plaintiffs’ attempt to rely on the alleged *discriminatory effect* of the open primary system to establish an equal protection violation does not suffice. *See Smith v. Boyle*, 144 F.3d 1060, 1064 (7th Cir. 1998) (“[D]isparate impact — a law’s *unintentionally* bearing harder on one group than another — is not a permissible basis for finding a denial of equal protection.”) (emphasis in original). As Plaintiffs have failed to allege facts sufficient to establish the third element of a *prima facie* case of constitutional vote dilution claim, a discriminatory purpose underlying adoption of the open primary system, their Equal Protection claim must fail. Accordingly, Plaintiffs’ Equal Protection claim should be dismissed for failure to state a claim upon which relief may be granted.

D. Section 1983 Does Not Provide an Independent Basis for Plaintiffs to Recover.

In Count IV of the Complaint, Plaintiffs assert a claim based on violation of 42 U.S.C. § 1983. Section 1983 is not itself a source of substantive rights, but merely redresses the deprivation of rights created by the Constitution or federal statute. *See Albright v. Oliver*, 510 U.S. 266, 271 (1994); *Vieth v. Penn.*, 188 F. Supp. 2d at 548. Therefore, to the extent that Plaintiffs seek an independent basis for recovery under 42 U.S.C. § 1983, Plaintiffs' claim should be dismissed. *See Vieth*, 188 F. Supp. 2d at 548-49 (“[T]o the extent that Plaintiffs seek an independent basis for recovery, [their § 1983] claim will be dismissed.”).

Furthermore, as discussed above, Plaintiffs have failed to allege viable claims under the First Amendment, Equal Protection Clause, and the Voting Rights Act. Accordingly, to the extent Plaintiffs' Section 1983 claim is brought to redress the alleged deprivation of these constitutional and statutory rights, their Section 1983 claim should also be dismissed.

III. Plaintiffs' Requests for Injunctive Relief Are Moot.

Article III of the Constitution of the United States limits the jurisdiction of federal courts to live cases and controversies. *Siegel v. LePore*, 234 F.3d 1163, 1172 (11th Cir. 2000). When effective relief cannot be granted because of intervening events, an action must be dismissed as moot. *See Westmoreland v.*

NTSB, 833 F.2d 1461, 1462 (11th Cir. 1987). “A case is moot when the issues are no longer ‘live’” *Id.* at 1462-63.

Plaintiffs’ Complaint prays for an order declaring that Cynthia McKinney is the winner of the Democratic Primary of the 4th District; for the entry of permanent injunctions against the election results and certification of the vote in the 4th District; and for an Order enjoining the November 5, 2002, general election until this case is resolved. Plaintiffs’ request for an injunction of the November 5, 2002, general election for the 4th District seat and of certification of the election is moot since the general election for the 4th District seat was held on November 5, 2002.⁷ As the events Plaintiffs seek to preclude have already occurred, there is no live case or controversy as to these requests for relief. Accordingly, Plaintiffs’ requests for such relief should be dismissed.

CONCLUSION

⁷ The prejudice resulting from the late filing of Plaintiffs’ suit has been aggravated by Plaintiffs’ failure to seek a preliminary injunction of the general election or to take any other action between the filing of the Complaint on October 5, 2002, and the general election on November 5, 2002. *See Dobson v. Baltimore City*, 330 F. Supp. 1290, 1301 (D. Md. 1971) (dismissing plaintiffs’ request for injunctive relief where plaintiff sought to enjoin election ten days after the last day for candidates to file certificates of candidacy and only two months prior to the primary; failure of plaintiffs’ counsel to take appropriate steps to have the case heard promptly and decided within the shortest possible time added to the prejudice suffered by citizens, candidates, and government officials).

For the reasons stated above and in Congresswoman-elect Majette's Motion to Dismiss, this Court should dismiss this case as a matter of law.

Respectfully submitted this 5th day of December, 2002.



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CERTIFICATE OF COMPLIANCE

This is to certify that this motion has been prepared using Times New Roman font, 14 point type, which is one of the font and print selections approved by the Court in L.R. 5.1B.

This 10th day of December, 2002.

Thomas A. Farnen
Thomas A. Farnen

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANT DENISE MAJETTE'S MEMORANDUM OF LAW** IN SUPPORT OF HER MOTION TO DISMISS upon all parties via United States Postal Service addressed as follows:

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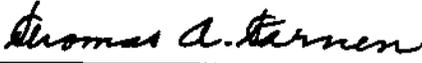
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This 5th day of December, 2002.



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