

IN THE SUPREME COURT OF GEORGIA

SONNY PERDUE, in his official )  
capacity as Governor, and )  
STATE ELECTION BOARD, )  
 )  
Appellants/Defendants, )  
 )  
v. )  
 )  
MS. ROSALIND LAKE, )  
 )  
Appellee/Plaintiff. )

Case No. S07A0525

**SUPPLEMENTAL BRIEF OF APPELLANTS**

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## **I. RESPONSE TO APPELLEE'S STATEMENT OF THE CASE**

Appellee presents several misleading and erroneous statements alleged as fact in her Statement of the Case. First, Appellee consumes far more space discussing the federal court's order enjoining the operation of the 2005 Photo ID Act based upon federal constitutional grounds in Common Cause v. Billups, 406 F. Supp. 2d 1326 (N.D. Ga. 2005), than she does defending the superior court's decision invalidating the 2006 Photo ID Act on state constitutional grounds. (See Br. of Appellee at 6-8.) The federal court's discussion of a portion of the evidence presented by the Common Cause plaintiffs to challenge the state's interest in preventing voter fraud is not relevant to the appeal in this case. As the superior court found:

Notwithstanding the dispute over voter fraud *vel non*, the Court does not believe it needs to weigh in on this issue to resolve the actual challenge made by the Plaintiff, Rosalind Lake. Indeed, the Court accepts and defers to the legislature's stated motive of preventing voter fraud. No one who is interested in the integrity of the electoral process can argue with the legislature's concern with ensuring the integrity of that process. The Court's only concern is with the constitutionality of the legislature's method of dealing with perceived voter fraud.

(R. 874.) Consequently, the superior court did not find it necessary to consider specific evidence of voter fraud because it is within the General Assembly's

plenary power to regulate this area, as long as the method of regulation comports with the Georgia Constitution.<sup>1</sup>

Second, Appellee characterizes Appellants' reference to the existing protections against absentee ballot fraud as a "misstatement of the law" (Br. of Appellee at 11-12), when it is actually Appellee who omits a key portion of that law in her discussion. Appellee asserts that "O.C.G.A. § 21-2-386(1)(B) directs an election official only to 'compare the signature on the oath [i.e., the certification that is sent in with a voted absentee ballot] . . . with the signature or mark on the absentee elector's application for absentee ballot.'" (Id. at 12.) Appellee's citation to this statute (which should have been O.C.G.A. § 21-2-386(a)(1)(B)) either intentionally or mistakenly omits the key portion supporting Appellants' position:

Upon receipt of each [absentee] ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then *compare the identifying information on the oath with the information on file in his or her office*, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's application for absentee ballot or a facsimile of said signature or mark taken from said application, and shall, if the information and signature appear to be valid, so certify by signing or initialing his or her name below the voter's oath.

O.C.G.A. § 21-2-386(a)(1)(B) (emphasis added). Thus, contrary to Appellee's assertion, the statute requires not just a comparison between the signature on the

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<sup>1</sup> The superior court noted that the "evidence" presented by both sides, which included citations by Appellee to the Common Cause record and decision, "includes a substantial amount of political posturing and disputed anecdotal claims of voter fraud . . . ." (R. 873.)

oath verifying eligibility with the signature on the absentee ballot application but also a comparison between the identifying information on the oath with the identifying information on file in the election official's office. This comparison of the information presented by the absentee voter on the oath with the identifying information on file (which information usually includes the signature made by the voter when first registering)<sup>2</sup> is necessarily a much different scenario than when a registered voter appears at the polls to vote in person. Because the voter casting a mail-in absentee ballot does not appear in person for verification of identity, the comparison of identifying information, including signature, provides as much assurance as possible that the person voting is the person who registered to vote.

Third, Appellee is simply wrong that these "controls" to prevent voter fraud for persons voting an absentee ballot by mail are "the very same controls" used to prevent voter fraud for in-person voting. (Br. of Appellee at 10-11.) In fact, they are, by law and by necessity, substantially different. Unlike the comparisons of signatures and other identifying information on file made by election officials when a person votes absentee by mail, someone who votes in person signs a voter's certificate, and the poll worker is only required to check that information

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<sup>2</sup> The exception to this general rule is when a person first registers to vote by mail instead of in person. In that case, when a mail registrant votes for the first time by absentee ballot, he or she must include a photo ID or copy of a specified government document that shows the voter's name and address. See O.C.G.A. § 21-2-386(a)(1)(D); see also 42 U.S.C. § 15483(b)(2)(A).

with the electors list physically present at the precinct. See O.C.G.A. § 21-2-431(a). The poll worker is simply verifying that the name on the voter's certificate appears on the electors list. There is no requirement that the information on the elector's certificate (including the elector's signature) be compared with any of the identifying information on file with the applicable county election official; in fact, poll workers are unable to make that comparison because the file is not located at the polling place.

## **II. ARGUMENT AND CITATION OF AUTHORITY**

Appellee's legal argument, succinctly stated, is that the 2006 Photo ID Act violates Article II, Section 1, Paragraph 2 of the Georgia Constitution because that paragraph limits the General Assembly only to "two specific functions" in its enactment of voting laws: "(1) establishing 'minimum residency requirements;' and (2) providing for the registration of electors." (Br. of Appellee at 14.) Appellee's argument, however, lacks legal merit for a number of reasons.

First, Article II, Section 1, Paragraph 2 grants certain Georgia residents the right to vote, but not the right to vote in a particular manner. Second, Appellee's theory completely discounts the more applicable, immediately preceding provision of Article II, Section 1, Paragraph 1 of the Georgia Constitution governing the "[m]ethod of voting," which expressly provides that elections shall be conducted in accordance with procedures prescribed by the General Assembly. See Ga. Const.

art. II, § 1, ¶ 1 (stating that elections “shall be conducted in accordance with procedures provided by law”). Third, longstanding precedent shows that the General Assembly is legally empowered to enact reasonable voting regulations such as the 2006 Photo ID Act.

**A. Article II, Section 1, Paragraph 2 of the Georgia Constitution Does Not Grant a Constitutional Right to Vote in Any Particular Manner, and the 2006 Photo ID Act Does Not Deny Any Georgia Voter the Right to Vote.**

Appellee contends that the constitutional provision stating that residents of Georgia at least 18 years of age who are not otherwise disenfranchised by the constitution “shall be entitled to vote” absolutely bars the General Assembly from imposing a photo ID requirement upon in-person voters. (Br. of Appellee at 14-15 (citing Ga. Const. art. II, § 1, ¶ 2).) Appellee’s argument might have some credibility if the referenced constitutional provision actually said “shall be entitled to vote *in person without limitation*.”

Of course, there is no such provision or limitation on the General Assembly’s plenary authority to regulate this area. The constitutional guarantee of a citizen’s right to vote does not provide that person with the right to vote in a particular or preferred manner. “[I]t does not follow [ ] that the right to vote in any manner . . . [is] absolute.” Burdick v. Takushi, 504 U.S. 428, 432 (1992); see Wheeler v. Bd. of Trustees, 200 Ga. 323, 334 (1946) (“The legislative branch of our government is charged with the duty of providing the manner of holding

elections . . . .”); see also McDonald v. Bd. of Comm’rs of Chicago, 394 U.S. 802, 807 (1969) (“It is thus not the right to vote that is at stake here but a claimed right to receive absentee ballots.”); Kramer v. Union Free Sch. Dist., 395 U.S. 621, 626 n.6 (1969); Ind. Democratic Party v. Rokita, No. 1:05-CV-0634-SEB-VSS, 2006 U.S. Dist. LEXIS 20321, at \*115 (S.D. Ind. Apr. 14, 2006) (“[T]here is no absolute constitutional right to vote in any specific manner an individual may desire . . . .”), aff’d, Crawford v. Marion County Election Bd., 472 F.3d 949 (7th Cir. 2007).

Contrary to Appellee’s argument and completely unsupported rhetoric that “hundreds of thousands” of Georgia voters are disenfranchised by the 2006 Photo ID Act (see Br. of Appellee at 8), the Act does not deny one person the right to vote as guaranteed by Article II, Section 1, Paragraph 2 of the Georgia Constitution. The 2006 Photo ID Act simply requires that in order for voters to choose the option of voting in person, they must present a photo ID. That requirement is completely consistent with Article II, Section 1, Paragraph 2 which, in granting the right to vote, imposes no limitation upon the legislature’s authority to require voters to present such identification.

**B. Article II, Section 1, Paragraph 1 of the Georgia Constitution Governing the “Method of Voting” Permits the General Assembly to Enact Election Laws Such as the 2006 Photo ID Act.**

Appellee’s argument that the 2006 Photo ID Act violates Article II, Section 1, Paragraph 2 of the Georgia Constitution also ignores the more applicable,

immediately preceding provision of the Georgia Constitution and, if upheld, would effectively deny the General Assembly its expressly granted constitutional authority to regulate the time, place, and manner of voting. See Ga. Const. art. II, § 1, ¶ 1 (governing “[m]ethod of voting” and providing that “[e]lections by the people shall be by secret ballot and shall be conducted in accordance with procedures provided by law”). Because the 2006 Photo ID Act affects the method and procedures for in-person voting, Article II, Section 1, Paragraph 1 is the applicable provision, and it expressly permits the General Assembly to enact appropriate statutes.

***1. This Court’s Decision in Franklin v. Harper Supports Appellants’ Position That the General Assembly Can Enact Laws to Verify Voter Qualifications.***

As Appellants discussed in their initial brief (see Br. of Appellants at 18-20), this Court has long emphasized that the Georgia Constitution, in setting forth the requirements for the qualifications of voters, “contemplates enactment of laws *to determine these qualifications.*” Franklin v. Harper, 205 Ga. 779, 790 (1949) (emphasis added). In fact, the Court has stressed that the General Assembly has “wide latitude” in determining how voting qualifications required by the Georgia Constitution may be determined, as long as the laws enacted do not make “the exercise of such right so difficult or inconvenient as to amount to a denial of the right to vote.” Id. at 790.

Appellee attempts to limit the applicability of Franklin v. Harper by arguing that the decision applies only to regulation of the registration process. (See Br. of Appellee at 22.) While the Court in Franklin was called upon to review the constitutionality of a voter registration act, the decision itself applies more broadly to include all methods for determining voter qualifications.

This Court in Franklin first addressed the requirements of registration by stating that “[t]he legislature, even in the absence of express constitutional power, can provide for the *registration* of voters.” Franklin, 205 Ga. at 790 (emphasis added). The Court then addressed voting and the constitutional limitation on action by the General Assembly in regards to voting *qualifications*: “[W]here the State Constitution provides who shall be entitled *to vote*, the legislature cannot take from or add to the *qualification* unless the power is granted expressly or by necessary implication.” Id. (emphasis added). Continuing with this thread regarding entitlement to vote, the Court stressed that notwithstanding the prohibition against establishing new *qualifications* to voting, the General Assembly is permitted “wide latitude” in choosing how the qualifications enumerated in the Constitution shall be *determined*:

However, the legislature has a wide latitude in determining how the qualifications required by the Constitution may be determined, provided it does not deny the *right of the franchise* by making the exercise of such right so difficult or inconvenient as to amount to a denial of the *right to vote*.

Id. (emphasis added).

Importantly, the Supreme Court emphasized these same points elsewhere in its decision and cited for support a seminal Georgia case on the issue – a case which itself involves voting procedures, not registration:

The *right to vote* is not granted to a citizen by the United States Constitution . . . . Though the Constitution of this State guarantees *the right of suffrage* to those who meet its qualifications, and they are entitled to register, and *this right* cannot be absolutely denied or taken away by legislative enactment, the legislature has the right to prescribe reasonable regulations as to how these qualifications shall be determined.

Id. at 789 (citing *inter alia* Stewart v. Cartwright, 156 Ga. 192, 197 (1923) (stating in a decision involving a balloting issue that the right of suffrage is “subject to reasonable regulation” as long as it is not absolutely denied or taken away by legislative enactment)) (emphasis added). Therefore, while Franklin initially involved an issue relating to registration, this Court also spoke to voting qualifications in general and confirmed that the legislature has the right to set those qualifications.

**2. *This Court’s Decision in Johnson v. Byrd Does Not Contradict Appellants’ Legal Position.***

Appellants’ legal position also is not contradicted by this Court’s holding in Johnson v. Byrd, 263 Ga. 173 (1993). In fact, even under Appellee’s interpretation, Johnson is consistent with Appellants’ position. (See Br. of Appellee at 23-25.) Appellee correctly states that the Court in Johnson recognized

the General Assembly’s power to provide by law for the registration of electors, and the General Assembly can “insure and sustain the integrity of public elections” at that point in the process. Johnson, 263 Ga. at 174 (quoting Leverette v. Leonard, 192 Ga. 359, 364 (1941)), quoted in Br. of Appellee at 24. This affirmative statement that the General Assembly can regulate the registration of voters, however, does not prevent the General Assembly from enacting any other type of voting regulation, and this Court did not so hold in Johnson – nor could it do so in regards to laws such as the 2006 Photo ID Act which regulate the *method*, or *manner*, of voting. The Georgia Constitution expressly vests that power in the General Assembly. See Ga. Const. art. II, § 1, ¶ 1. The Court’s decision in Johnson simply states that registration regulations are permitted. It in no way aids Appellee’s position because the Court nowhere states that all other voting regulations are forbidden.

C. **Because the 2006 Photo ID Act is a Reasonable Method of Establishing a Registered Voter’s Identification for In-Person Voters, the Act Does Not Violate Article II, Section 1, Paragraph 2 of the Georgia Constitution.**

Even if one accepts Appellee’s argument that the provision of Article II, Section 1, Paragraph 2 which authorizes the General Assembly to provide by law for the registration of electors has some relevance in relation to the photo ID requirement for in-person voting, that provision offers no support for Appellee’s argument that the 2006 Photo ID Act is unconstitutional. The Constitution clearly

provides the General Assembly with the authority to provide for the registration of qualified persons as voters. See Ga. Const. art. II, § 1, ¶ 2. The necessary corollary for such registration is determining that only registered voters appear to vote and that the votes cast are indeed cast by those very same qualified voters. Both registration laws and the 2006 Photo ID Act provide the “means or machinery under which proofs are furnished showing the existence of the voter’s qualifications.” Franklin, 205 Ga. at 790 (citations omitted).

***1. Appellee Herself States That Identity Verification at the Polls is a “Registration Regulation.”***

Appellee has admitted that confirming one’s identity at the polls is only a “[r]egistration regulation” which “merely requires a voter to confirm his or her identify [*sic*] for comparison to [the] registration list.” (R. 725.) If executing a voter’s certificate at the polls to confirm one’s identity constitutes a permissible “registration regulation,” then showing personal identification such as a photo ID at the same time and for the same purpose is likewise just a registration regulation, for it also “merely requires a voter to confirm his or her [identity] for comparison to [the] registration list.” (R. 725.) Similarly, Appellee has referred to the pre-2005 law permitting a person to show one of seventeen forms of identification or to simply swear an oath as “constitutional” and “simply part of the procedure of voting” and has even stated that it “cannot be termed an additional ‘qualification’ . . . .” (See Br. of Appellee at 27; R. 724-25.) The inconsistency of Appellee’s

analysis of the 2006 Photo ID Act, compared with her analysis of pre-existing law, highlights how her case is based not on any actual legal distinction but rather personal preference. Having admitted that verification at the polls is constitutionally permissible, any argument as to what specific items may or may not be presented is a policy debate which belongs in the Legislative, not Judicial, Branch.

**2. *Appellee’s Interpretation Would Prohibit Any Identification Requirement at the Polls.***

At its core, the requirement to register hardly matters at all if an election official is subsequently stripped of the authority to determine whether the person who appears to vote is, in fact, the qualified and registered voter whose name appears on the voter registration list. But that is precisely the scenario promoted by Appellee, and adopted by the superior court, which would prohibit a poll worker from verifying whether the person appearing to vote is, in fact, the registered voter he or she claims to be. Applying this interpretation, one could challenge *any* identification requirement, for both in-person and absentee voters. That surely is not the meaning of Article II, Section 1, Paragraph 2 and would certainly be an absurd result not contemplated by Georgia law. See, e.g., Gen. Elec. Credit Corp. v. Brooks, 242 Ga. 109, 112 (1978) (“It is the duty of the court to consider the results and consequences of any proposed construction and not so construe a statute as will result in unreasonable or absurd consequences not contemplated by the legislature.”).

The photo ID requirement is simply a mechanism by which election officials can determine whether those who vote in person are who they claim to be and, if so, are qualified to vote. See Franklin, 205 Ga. at 790 (“The Constitution of this State, in setting up requirements for the qualification of electors, contemplates enactment of laws to determine these qualifications.”). Determination of qualifications is necessary both at registration and when one is voting. Registration is just one means – the initial means – for determining whether voters are qualified to vote. See id. at 789 (“The fact that a citizen who meets one of several tests provided by the Constitution has to register or reregister does not deprive him of his constitutional right of suffrage, but is only a reasonable regulation under which the right may be exercised.”). Requesting photo identification at the polls to ascertain that in-person voters are the registered individuals they claim to be is simply a reasonable follow-up method necessary for determining qualifications as those persons actually attempt to vote.

**3. *The Cases from Other States and Federal Courts Which Appellee Cites Are Inapplicable and Do Not Support Her Legal Position.***

Appellee’s attempt to analogize this case to two federal cases involving efforts to impose term limitations on and otherwise exclude qualified persons from becoming members of Congress misses the point entirely. (See Br. of Appellee at 15-16 (citing Powell v. McCormack, 395 U.S. 486 (1969), and U.S. Term Limits v.

Thornton, 514 U.S. 779 (1995).) As even Appellee conceded in the trial court, these cases are not about the right of individual voters to cast a ballot (R. 325 n.6), and the U.S. Supreme Court and other federal courts have specifically approved other candidate laws as regulating only the time, place, and manner of elections. See, e.g., Storer v. Brown, 415 U.S. 724, 728-46 (1974) (holding that a provision of the California Election Code forbidding ballot position to independent candidate who had registered affiliation with qualified political party within one year prior to primary election was not unconstitutional as improperly adding qualifications for Congress); Williams v. Tucker, 382 F. Supp. 381, 388 (M.D. Pa. 1974) (holding that Pennsylvania statute, which had effect of preventing candidate defeated in primary from obtaining position on general election ballot as independent candidate, merely regulated the manner of holding elections and did not unconstitutionally add qualifications for Congress).

Appellee's reliance on both Morris v. Powell, 25 N.E. 221 (Ind. 1890), and Koy v. Schneider, 218 S.W. 479 (Tex. 1920), is also misplaced. (See Br. of Appellee at 16 n.27.) In Morris, Indiana law required residents who were absent from the state for at least six months to (1) register an intention to vote, (2) declare their precinct at least three months prior to that election, and (3) present a certificate from the county auditor that they still owned taxable property and remained a taxpayer during their absence from the state. 25 N.E. at 221-22.

Unlike the situation in Morris, the 2006 Photo ID Act imposes no additional qualification – residency or otherwise – on any voter, but only requires that the voter prove his or her *identity* before voting in person.

In Koy, the Texas Supreme Court answered the question of whether a statute allowing women to vote in primaries violated the Texas Constitution – which limited the right to vote in an “election” to “every male person” – by holding that women could vote in primaries because they were conducted by political parties and not the government. 218 S.W. at 479-80, 483. As Appellants explained in their initial brief, nothing in Koy has any applicability to a requirement to present identification at the polls, and Appellee has failed to respond with any argument otherwise. (See Br. of Appellant at 21; Br. of Appellee at 16 & n.27.) It is revealing that the case law cited by Appellee as “analogous” to her allegations are, in fact, cases that are wholly unrelated to the Georgia state law claim she asserts.

Actually, analogous persuasive authority from other courts confirms that state governments must take a substantial, active role in regulating elections and recognizes that such regulation invariably will impose some burden on voting. “Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections.” Burdick, 504 U.S. at 433. The authority to regulate elections, including “the initial task of determining the qualifications of voters,” is given to the states, and “there must be a substantial

regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” Storer, 415 U.S. at 729-30 (citing U.S. Const. art. I, § 2, cl. 1); see also Dunn v. Blumstein, 405 U.S. 330, 336 (1972) (“[T]he States have the power to impose voter qualifications, and to regulate access to the franchise in other ways.”).

Election laws will invariably impose some burden upon individual voters. Each provision of a code, “whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, *or the voting process itself*, inevitably affects – at least to some degree – the individual’s right to vote and his right to associate with others for political ends.”

Burdick, 504 U.S. at 433 (quoting Anderson v. Celebrezze, 460 U.S. 780, 788 (1983)) (emphasis added). Indeed, the United States Court of Appeals for the Seventh Circuit explained in upholding Indiana’s similar state photo ID law just last month, “it is beyond question ‘that States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election-and campaign-related disorder.’” Crawford, 472 F.3d at 954 (quoting Clingman v. Beaver, 544 U.S. 581, 593 (2005)).

**D. The 2006 Photo ID Act Does Not Prohibit Any Registered Voter from Casting a Ballot.**

Contrary to Appellee’s argument, the 2006 Photo ID Act does not deny any eligible Georgia voter his or her right to vote in any election. Under the 2006 Photo

ID Act, every eligible Georgia resident remains entitled to vote in any election, and any voter without a photo ID has a number of options.

First, the 2006 Photo ID Act applies only to registered voters who vote in person, and any registered voter who does not possess a photo ID can obtain one free of charge at a location in his or her own home county or at any of the sixty DDS service centers throughout Georgia. See O.C.G.A. § 21-2-417.1(a). This Court has held that imposition of such an additional step before voting is not unconstitutional. See Franklin, 205 Ga. at 792 (“It may be that those voters who are now on the permanent voters’ list will be put to great inconvenience in registering again, but this standing alone is not a sufficient reason to strike down the act.”) Second, even if a registered voter shows up at the polls without a photo ID, that person may still vote a provisional ballot and have the voted counted by presenting a photo ID within two days. See O.C.G.A. § 21-2-417(b). Third, a voter who does not wish to obtain a free photo ID card can still register and vote without a photo ID by casting an absentee ballot by mail without being required to offer any excuse for electing to vote absentee. See id. § 21-2-381(a)(1)(C).

**E. Appellee’s Attempt to Distinguish Other Election Laws Illuminates the Inconsistency of Her Legal Position.**

If Appellee’s interpretation of Article II, Section 1, Paragraph 2 is adopted – that the only election laws which the General Assembly can enact are those related to residency and registration – then a whole host of existing Georgia election laws

could be challenged as unconstitutional. (See Br. of Appellants at 28.) Appellee contends that Appellants’ position is without merit “because each of the code sections cited fall [*sic*] within the proper scope of power given to the General Assembly, either by the General Assembly’s limited [power] to provide for the registration of electors or it’s [*sic*] limited power to regulate the ‘time place and manner’ of elections.” (Br. of Appellee at 29.)

It is noteworthy how broadly Appellee reads both the registration and method of voting provisions in the Constitution in responding to this argument. In fact, according to Appellee, absentee voting is merely a method of voting pursuant to Article II, Section 1, Paragraph 1 of the Constitution, for which the legislature can enact applicable procedures. (R. 725 (stating that Georgia’s absentee voting procedures are a “[p]lace or manner restriction” and Article II, Section 1, Paragraph 1 is the constitutional source allowing such procedures to be determined by statute).) Because, as Appellee acknowledges, absentee voting is a method of voting for which procedures can be enacted, there can be no legal argument that procedures for in-person voting are impermissible.

Second, as noted in section C.1, *supra*, Appellee also contends that confirming one’s identity at the polls by executing a voter’s certificate is only a “[r]egistration regulation” and is needed for comparison to the voter registration list. (R. 725.) If confirming one’s identity at the polls is a registration

requirement, then the 2006 Photo ID Act – which has the same purpose – is also a registration requirement, and Appellee’s challenge must fail.

Appellee reads the registration and method of voting provisions in the Constitution so broadly as to justify virtually every election law in Georgia – except the one law which she has challenged in this case and wishes to have this Court strike down. This glaring inconsistency in Appellee’s position provides further support that her challenge is not based on the law but on politics. Case law, however, is clear that the Judiciary is not the forum for resolving political disputes, “[n]or do courts have anything to do with either ‘the wisdom, policy or expediency of a law. These are matters purely of legislative deliberation and cognizance.’” Franklin, 205 Ga. at 792 (quoting Winter v. Jones, 10 Ga. 190, 200 (1851)). If Appellee opposes the 2006 Photo ID Act, she should seek relief from her elected representatives, not from this Court.

If the General Assembly can determine the greater restriction of whether voting should be in person, absentee by mail, a combination of both, or otherwise, it certainly can enact lesser restrictions on how to implement the chosen voting methods and ensure that elections are conducted fairly and honestly. See Storer, 415 U.S. at 729-30 (1974) (“[T]here must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.”). Contrary to Appellee’s contention

otherwise, the photo ID requirement is not a qualification, or “condition,” of one’s right to vote (see R. 329, 718), but merely a way to verify the identity of the voter and that the voter, having been identified, meets those qualifications stated in our State Constitution.

### **III. CONCLUSION**

The 2006 Photo ID Act is merely a method by which elections officials in Georgia are required to determine that those who cast ballots in person are the qualified voters they claim to be. The minimal burden accompanied by the photo ID requirement for in-person voting does not deny anyone the right to vote. Because Appellee cannot demonstrate that the photo ID requirement imposes additional qualifications on the right to vote or makes it “so difficult or inconvenient as to amount to a denial of the right to vote,” Franklin, 205 Ga. at 790, Appellants respectfully urge this Court to reverse the superior court’s decision that the 2006 Photo ID Act violates the Georgia Constitution.

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This 28th day of February, 2007.

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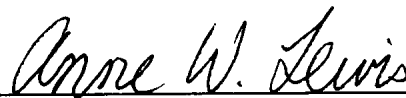
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**CERTIFICATE OF SERVICE**

This is to certify that I have this day served a true and correct copy of  
SUPPLEMENTAL BRIEF OF APPELLANTS upon counsel for Appellee via  
electronic mail and U.S. mail addressed as follows:

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This 28th day of February, 2007.



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MARK H. COHEN  
Georgia Bar No. 174567