FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-1470

SECRETARY OF STATE CORD BYRD, *et al.*,

Appellants,

v.

BLACK VOTERS MATTER CAPACITY BUILDING INSTITUTE, INC., *et al.*,

Appellees.

On appeal from the Circuit Court for Leon County.
J. Layne Smith, Judge.

June 17, 2022

PER CURIAM.

We recently had this case before us to consider the secretary of state's emergency motion to review the trial court's vacatur of an automatic stay. *See Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, No. 1D22-1470, 47 Fla. L. Weekly D1152, 2022 WL 1698353 (Fla. 1st DCA May 27, 2022). The stay had gone into effect when the secretary appealed the trial court's temporary injunction order. The temporary injunction on review would require the secretary to administer the 2022 congressional election using a redistricting plan drafted and proposed by the appellees and adopted by the trial court. The secretary would have to use that plan in place of the redistricting plan reflected in Senate Bill 2-C,

which was enacted by the Legislature and approved by the governor earlier this year.

In our granting of the secretary's motion and reinstatement of the stay, we noted that "[i]n cases like this, the stay and the temporary injunction on appeal go hand in hand, so naturally we consider them together." *Byrd*, 47 Fla. L. Weekly at D1158, 2022 WL 1698353, at *10. The analysis began with the following observation:

> The temporary injunction before us on appeal does not just return the parties to the condition that existed before the subject matter at the center of the present controversy arose, *i.e.*, before SB 2-C became law. The order does much more. It gives the appellees affirmative relief by requiring the secretary to conduct the 2022 congressional elections under an entirely new, unenacted plan recently proposed by the appellees during the nascent litigation. In the order, the circuit court even acknowledges that it is crafting a remedy for the appellees until there can be a trial. The grant of this provisional remedy, unmoored from an adjudication, was an unauthorized exercise of judicial discretion, making the temporary injunction unlawful on its face.

Id., 47 Fla. L. Weekly at D1153, 2022 WL 1698353, at *1.

We recognized at the time that the parties already had significantly briefed the validity of the temporary injunction on the merits in the context of the secretary's motion. Most, if not all, of the relevant record had been submitted for our consideration. In the interest of making efficient use of time and judicial resources, we closed our opinion with a direction that the parties tell us "whether any additional briefing or argument is necessary before the court disposes of the appeal of the non-final order on the merits." *Id.*, 47 Fla. L. Weekly at D1158, 2022 WL 1698353, at *10. The parties have responded that no further briefing on the merits of the appeal is necessary. In turn, we are prepared to dispose of this appeal. *Cf. Crawford v. Gilchrist*, 59 So. 963, 965 (Fla. 1912) (reaching the merits of an appeal from an injunction on a stay application, after permitting the parties to fully argue the merits, because "the granting or denial of [the stay would] virtually

dispose of the merits of the cause, [] the public [would be] vitally interested," and "questions of law only [were] involved"); *Jacksonville Elec. Light Co. v. City of Jacksonville*, 18 So. 677, 679 (Fla. 1895) ("An examination of this question has led to an investigation of the entire case presented by the record, and as it has been argued by counsel, and we have reached a conclusion thereon, we have decided to dispose of the appeal on its merits, without reference to the power of the court to grant a temporary injunction pending the appeal.").

The temporary injunction on review is unlawful on its face, as we discussed at length in our opinion issued on May 27, 2022. We incorporate by reference that reasoning, but we reiterate the fundamental principle that governs in this case. The Florida Supreme Court for nearly a century and a half has recognized the limited purpose of a temporary injunction, which is "to preserve the property or rights *in statu quo,* until a satisfactory hearing upon the merits, without expressing and indeed without having the means of forming an opinion as to such rights." *Sullivan v. Moreno*, 19 Fla. 200, 215 (1882); *see also Planned Parenthood of Greater Orlando, Inc. v. MMB Props.*, 211 So. 3d 918, 924 (Fla. 2017) ("As this Court acknowledged long ago, the purpose of a temporary injunction is to preserve the status quo while final injunctive relief is sought.").

We conclude that the trial court abused its discretion when it rendered the temporary injunction order. It is an unauthorized order and legally cannot remain in place.

VACATED.

JAY, M.K. THOMAS, and TANENBAUM, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

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and Bradley R. McVay and Ashley E. Davis, Florida Department of State, Tallahassee, for Appellant Secretary of State Cord Byrd.

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Andy Bardos of GrayRobinson, P.A., Tallahassee, for Florida House Appellants.

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