BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

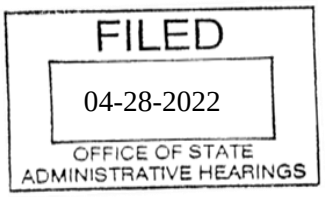
CRYSTAL MILLER,
Petitioner,

v.

PRESTON PARRA,
Respondent.

Docket No.: 2221875
2221875-OSAH-SECSTATE-CE-48-Boggs

Agency Reference No.: 2221875



INITIAL DECISION

I. INTRODUCTION & PROCEDURAL HISTORY

Petitioner Crystal Miller challenges Respondent Preston Parra's qualifications to be a candidate for the Georgia House of Representatives in District 64. Specifically, the Petitioner contends the Respondent does not meet the minimum age requirement.

A hearing took place before the undersigned on April 4, 2022, in Atlanta, Georgia ("April 4th hearing"). The Petitioner appeared and was represented by George Koenig, Esq. The Respondent was represented by Christopher J. Gardner, Esq.[1]

The night before the April 4th hearing, the Respondent filed a Motion to Dismiss. At the conclusion of the hearing, the Court held open the record for the Petitioner to file a written response to the legal arguments in the Motion to Dismiss by April 13, 2022 ("Petitioner's Response"), and for the Respondent to file a reply to the response by April 18, 2022 (Respondent's Reply").[2]

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[1] The Respondent, Preston Parra, did not attend the hearing.

[2] The Respondent's Reply included a "Motion to Strike New Evidence," referring to statements made in the Petitioner's Response. The Court, however, did not consider—and never intended to consider—any statements made in either the Petitioner's Response or the Respondent's Reply as probative evidence. The Respondent certainly can disagree with the Petitioner's characterization of the evidence, and he has done so in his Reply. Hence, the motion to strike is **DENIED**.

On April 20, 2022, the Court issued an order reopening the record solely for the purpose of receiving evidence that the Petitioner is a registered voter, which is a statutory requirement for bringing the instant challenge pursuant to Georgia Code Sections 21-2-2 and 21-2-5. The Respondent filed a motion asking the Court to reconsider its order. The Court issued a second order on April 22, 2022, denying the Respondent's request. However, the Court stated in this same order that the Respondent could request an opportunity to cross-examine the Petitioner and present rebuttal evidence concerning any evidence on voter registration the Petitioner did submit.

On April 25, 2022, the Petitioner timely its submission in response to the Court's April 20th order ("Voter Registration Exhibits 1 and 2"). On April 26, 2022, the Respondent timely filed his written objections to the submissions ("Respondent's Objections to Voter Registration Exhibits 1 and 2"). The Respondent did not submit a request to cross-examine the Petitioner or present rebuttal evidence by the stated deadline, so the record closed on April 26, 2022.

II. MOTION TO DISMISS

In his Motion to Dismiss and also at the April 4th hearing, the Respondent presented several arguments as to why this matter should be dismissed. Three of these arguments concern jurisdiction and shall be addressed first:

Jurisdictional Arguments

Argument #1: The Georgia House, and not this Court, has exclusive authority to decide the qualifications of those elected to its seats.

The Respondent argues the Georgia Constitution vests exclusive authority on the Georgia House of Representatives ("Georgia House") to decide the qualifications of its members. He cites to the following provision in Article III, Section IV, Paragraph VII (emphasis added):

> Each house [of the General Assembly] shall be the judge of the election, returns, and ***qualifications*** of its members and shall have power to punish them for disorderly behavior or misconduct by censure, fine, imprisonment, or expulsion;

> but no member shall be expelled except by a vote of two-thirds of the members of the house to which such member belongs.

The Respondent contends this provision gives the Georgia House a non-delegable power to judge its members' qualifications, and this power cannot be given by statute to another tribunal such as this Court.

At its core, the Respondent is contesting the constitutionality of provisions in the Georgia Election Code, O.C.G.A. § 21-2-1, et seq., specifically Code Section 21-2-5. This statute grants this Court jurisdiction to hold hearings regarding challenges to the qualifications of individuals seeking a seat in the Georgia House. O.C.G.A. § 21-2-5(a)-(c).[3] However, this Court—as an administrative tribunal—has no authority to declare a statute unconstitutional. Ga. Comp. R. & Regs. 616-1-2-.22(3).

Accordingly, for the purposes of this proceeding, the Court concludes it has subject-matter jurisdiction under Code Section 21-2-5 to hear a challenge brought against the Petitioner's qualifications for a seat in the Georgia House of Representatives. The Respondent's arguments as to the constitutionality of Code Section 21-2-5 and related statutes shall be preserved for appeal. See O.C.G.A. § 21-2-5(e).[4]

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[3] Any elector eligible to vote for a candidate for "federal or state office" may challenge the qualifications of that candidate within two weeks after the deadline for qualifying for the office. O.C.G.A. §§ 21-2-5(a), (b). The Secretary of State may also challenge the candidate's qualifications at any time prior to the election. Id. § 21-2-5(b). Upon such a challenge being raised, the Secretary of State "shall advise the candidate that he or she is requesting a hearing on the matter before an administrative law judge of the Office of State Administrative Hearings pursuant to Article 2 of Chapter 13 of Title 50." Id. § 21-2-5(b). The administrative law judge shall report her findings to the Secretary of State, who shall then determine whether the candidate is qualified to seek and hold the public office in question. Id. § 21-2-5(b), (c).

[4] As noted above, the administrative law judge shall report her findings to the Secretary of State following a hearing, and the Secretary of State renders the final decision on whether the candidate is qualified. O.C.G.A. §§ 21-2-5(b), (c). The Secretary of State's decision may be reviewed in Fulton County Superior Court, with the review "confined to the record." Id. § 21-2-5(e). The superior court may reverse or modify the Secretary of State's decision if substantial rights of the appellant have been prejudiced because the findings, inferences, conclusions, or decisions of the Secretary of State are

> (1) In violation of the Constitution or laws of this state;

Argument #2: The Petitioner cannot demonstrate that she has standing to bring this challenge.

The Respondent argues the Petitioner lacks standing to bring a challenge against the Respondent, as she has not shown she suffered a specific injury. Such a showing is required, despite "an apparent statutory grant of authority" under Code Section 21-2-5 for electors eligible to vote in the election in question. The Respondent cites as authority the Georgia Court of Appeals' decision in Sons of Confederate Veterans v. Newton County Board of Commissioners, 360 Ga. App. 798 (2021). Also at the hearing and in the Respondent's Reply, the Respondent contends the Petitioner has failed to meet the statutory requirements under Code Section 21-2-5 for bringing the instant challenge.

"Standing is, of course, a jurisdictional issue that must be considered before reaching the merits on any case." Sons, 360 Ga. App. at 803; see also Bowers v. Bd. of Regents of the Univ. Sys. Of Ga., 259 Ga. 221, 221-22 (1989) ("The existence of an actual controversy is fundamental to a decision on the merits . . . ."). Here, the questions of whether the Petitioner meets the statutory requirements and the "injury" requirement shall be addressed separately.

Statutory Requirements

Pursuant to the Georgia Election Code,

> Within two weeks after the deadline for qualifying, any elector who is eligible to vote for a candidate may challenge the qualifications of the candidate by filing a written complaint with the Secretary of State giving the reasons why the elector

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(2) In excess of the statutory authority of the Secretary of State;
(3) Made upon unlawful procedures;
(4) Affected by other error of law;
(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
(6) Arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

Id. An aggrieved party may obtain a review of any final judgment of the superior court by the Court of Appeals or the Supreme Court, as provided by law. Id.

> believes the candidate is not qualified to seek and hold the public office for which he or she is offering.

O.C.G.A. § 21-2-5(b). An "elector" is defined as "any person who shall possess all of the qualifications for voting now or hereafter prescribed by the laws of this state, including applicable charter provisions, and shall have registered in accordance with this chapter." O.C.G.A. § 21-2-2(7).

Upon review of the record, the Petitioner has met these requirements, in that she is a registered voter who resides in Georgia House District 64, and thus would be eligible to vote for the Petitioner. The Court reaches this determination based on the Petitioner's unrebutted testimony as well as a copy of her voter registration, which this Court has deemed admissible. (See Testimony of Petitioner at April 4th hearing; Voter Registration Exhibit 2.)

The Respondent has argued that the Petitioner's testimony was biased and self-serving, given that her husband is running for the same House seat as the Respondent (a fact to which she testified). (See Respondent's Reply, p. 3; see also Testimony of Petitioner, April 4th hearing.) Proof of a witness's bias is relevant to the factfinder. See Chrysler Group, LLC v. Walden, 339 Ga. App. 733, 743 (2016). However, after weighing any bias against her otherwise credible testimony, and in the absence of any evidence rebutting her statements, the Court finds the Petitioner's testimony to be reliable on this issue. See State v. Brown, 278 Ga. App. 457, 460 (2006) (holding that factfinder is authorized to make credibility determinations).

The Respondent also raised hearsay and authentication objections to the Petitioner's documents pertaining to her voter registration. (See Respondent's Objections to Voter Registration Exhibits 1 and 2.) For the document labeled Exhibit 2, however, the Court is satisfied that it is what the Petitioner claims, which is a copy of a government record of the Petitioner's voter-registration information that was verified and signed on April 21, 2022, by a

Paulding County election official. See O.C.G.A. § 24-9-920; O.C.G.A. § 24-9-901(a)(4); O.C.G.A. § 24-8-803(8); see also McDowell v. State, 309 Ga. 504, 507 (2020).[5]

Therefore, as described above, the Petitioner has met the Georgia Election Code's statutory requirements for bringing the instant matter. O.C.G.A. §§ 21-2-2(7), 21-2-5(b).

Injury

The question of standing next turns to whether the Petitioner has failed to identify how she would be specifically injured by the Respondent remaining on the ballot.

Under federal jurisprudence, there are three constitutional requirements for standing: "(1) an injury in fact; (2) a causal connection between the injury and the causal conduct; and (3) the likelihood that the injury will be redressed with a favorable decision." Grant State Outdoor Advertising Inc. v. City of Roswell, 283 Ga. 417, 418 (2008), cited in Sons, 360 Ga. App. at 803-04. An "injury in fact" is one that is both "concrete and particularized" and "actual or imminent, not conjectural or hypothetical." Ctr. For a Sustainable Coast, Inc. v. Turner, 324 Ga. App. 762, 764 (2013).

The opinion cited by the Respondent in Sons addressed a Georgia statute that gave "any person, group, or legal entity" the right to bring a cause of action regarding the relocation, removal, obscuring, or alteration of a publicly owned monument on public property. Id. at 801-03; see also O.C.G.A. § 50-3-1(b). The Georgia Court of Appeals acknowledged that legislators may "'elevate to the status of legally cognizable injuries concrete, de facto injuries that were previously inadequate in law.'" Sons, 360 Ga. App. at 804 (quoting Spokeo, Inc. v. Robins, 136 S. Ct. 1540, 1547 (2016)). Yet the court also emphasized the following:

[5] All other arguments in the Respondent's written objections to the voter-registration evidence have been considered. Upon review, all objections are **OVERRULED**.

> But even when the legislature identifies and elevates intangible harms, "a plaintiff [does not] automatically satisf[y] the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right." A "concrete" injury is still necessary even in the context of statutory violations."

Id. at 804-05 (quoting Spokeo, 136 S. Ct. at 1549).

The Respondent argues that the Petitioner, like the plaintiffs in Sons, does not have any particularized interest in the instant matter; instead, the Petitioner is "merely a voter in no different position than that of any other voter in her district." (See Motion to Dismiss, p. 3.) But this contention overlooks a key difference between the matter at hand and the circumstances described in Sons. In the latter, the statute in question gave a right to sue to "***any*** person, group, or legal entity." See O.C.G.A. § 50-13-1(b)(5). This broad language covers a wide-ranging category unbounded by any other limitation. In contrast, Code Section 21-2-5 does not give just "any person, group, or legal entity" the authority to challenge the Petitioner's candidacy. It does not even give this authority to ***any*** citizen of Georgia, or ***any*** registered Georgia voter. Instead, only those individuals who have the ability under the law to actually vote for the office or seat in question have the ability to challenge candidates for that office or seat. See O.C.G.A. § 21-2-5(b).

Any number of individuals or entities could have a "special interest" in ensuring the Respondent meets the qualifications for the Georgia House, such as a desire to protect the integrity of the election process. But it is the voters in District 64—who can select their representative in an election, and whom the Respondent seeks to represent—who would be "directly affected" by his presence on the ballot, should he in fact be ineligible. See Sons, 360 Ga. App. at 805 ("[A] plaintiff must show that he has been directly affected apart from his special interest in the subject at issue.") (citation and quotation omitted). Having a primary

candidate appear on the ballot, who is otherwise ineligible to hold the sought office, unquestionably would affect a voting member of the constituency.[6] See, e.g., Anderson v. Celebrezze, 460 U.S. 780, 788 n.9 ("[I]t is both wasteful and ***confusing*** to encumber the ballot with the names of frivolous candidates.") (emphasis added). It also presents a threat to unhindered and lawful representation in the General Assembly for those in House District 64. See, e.g., Lilly v. Heard, 295 Ga. 399, 404-05 (2014) ("As residents and voters of Baker County, they have a common interest in having the public offices in their community held by legally qualified persons . . . .").

Hence, constitutional standing is satisfied, as there is a distinct injury for the Petitioner connected to the presence of an ineligible candidate on the ballot, which could be redressed through this adjudication process. See Grant State, 283 Ga. at 418.

Accordingly, for the reasons stated above, the Court finds the Petitioner has sufficient standing to bring the challenge at issue.

Argument #3: The Petitioner's challenge is not ripe for adjudication.

The Respondent argues the challenge brought by the Petitioner is not ripe for adjudication, as the Respondent is not yet a candidate in the general election. Rather, the Respondent is "merely a candidate in the primary for the Republican party," and adjudicating the question of his qualifications to hold office "requires speculation as to who will win the primary." The Respondent further asserts that it is the Republican Party of Georgia, as a "private organization," that is authorized to qualify persons to stand for election pursuant to Code Section 21-2-153.[7] (Motion to Dismiss, p. 4.)

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[6] The Petitioner, moreover, testified she planned to vote in the upcoming election. (Testimony of Petitioner at April 4th hearing.)

[7] (See Respondent's Motion to Dismiss, p. 4.)

"A controversy is justiciable when it is definite and concrete, rather than being hypothetical, abstract, academic, or moot." Cheeks v. Miller, 262 Ga. 687, 688 (1993) (citation and quotation omitted), cited in Sons, 360 Ga. App. at 804 n. 12 (2021). See also Ctr. For a Sustainable Coast, 324 Ga. App. at 764 (describing injury-in-fact as "not conjectural or hypothetical").

In this matter, the Georgia Election Code clearly allows the Petitioner's challenge to be raised and adjudicated at the stage when the Respondent is seeking his party's nomination in a primary.

First, Code Section 21-2-5(b) allows eligible voters to bring challenges against "candidates," a term that is not defined in the overall statutory scheme. See generally O.C.G.A. § 21-5-1 et seq. However, in applying rules of statutory construction, the Court can look to "the entire scheme of the statute, and attempt to gather the legislative intent from the statute as a whole." Fulton-DeKalb Hosp. Auth. v. Hickson, 351 Ga. App. 221, 223 (2019) (citation and quotation omitted). Considering Code Section 21-2-5 in its entirety, it specifies eligible voters may bring a challenge "[w]ithin two weeks" of qualification. O.C.G.A. § 21-2-5(b). Thus, it is reasonable to presume the drafters of this law intended these challenges to be adjudicated any time after qualification, rather than waiting until after a primary.[8]

Additionally, the Court can construe the meaning of "candidate" in Code Section 21-2-5(b) by examining its use in other provisions within the Election Code. See Goldberg v. Kelly, 282 Ga. 542, 546-47 (2007) (citing statutory-construction rule whereby statute "must be construed in relation to other statutes of which it is a part, and all statutes relating to the same subject-matter . . . are harmonized wherever possible, so as to ascertain the legislative

[8] For a candidate seeking his party's nomination via a primary, the qualification period begins "at 9:00 A.M. on the Monday of the eleventh week immediately prior to the state or county primary" and ends "at 12:00 Noon on the Friday immediately following such Monday." O.C.G.A. § 21-2-153(c)(1)(A).

intendment and give effect thereto") (citation and quotation omitted). And throughout the Election Code, "candidate" is used in reference to an individual seeking a party nomination in a primary. See, e.g., O.C.G.A. § 21-5-153(a) ("A ***candidate*** for any party nomination in a state or county primary may qualify by either of the two following methods . . . ."); O.C.G.A. § 21-2-154(a) (". . . the state executive committee of each political party shall certify to the Secretary of State . . . all those ***candidates*** who have qualified with such committee for the succeeding primary election . . . ."); O.C.G.A. § 21-2-193 (requiring state executive committees of parties to submit to the Secretary of State "the names of the ***candidates*** of such party to appear on the presidential preference primary ballot"); O.C.G.A. § 21-2-369.1 (referring to "***candidates*** for the same nomination or office"); O.C.G.A. § 21-2-408(a)(1) (". . . each ***candidate*** entitled to have his or her name placed on the primary or run-off ballot . . ."). Again, the Court can reasonably conclude that "candidate," as used in Code Section 21-2-5(b), refers to an individual seeking a party nomination via a primary.

Lastly, the Respondent's contention that the Republican Party is a "private organization" has no bearing on whether this matter is ripe for adjudication. A political party's primary, in several respects, is still subject to the Election Code. An individual seeking his name on a party's primary ballot for a state race, for example, must have his party's state executive committee certify his name to the Secretary of State. O.C.G.A. §§ 21-2-153(e)(1), 21-2-154(a). This must occur at or before noon on the third day after the deadline for qualifying. Id. § 21-2-154(a). The Code further specifies that "[e]very candidate for . . . state office who is certified by the state executive committee of a political party . . . shall meet the constitutional and statutory qualifications for holding the office being sought." Id. § 21-2-5(a). Thus, regardless of the

future primary's outcome, the Respondent is still required to meet—as early as the certification stage—"the constitutional and statutory qualifications" for the House seat in District 64.

Accordingly, for the reasons stated above, the Court rejects the Respondent's arguments and finds the instant matter ripe for adjudication.

Remaining Arguments

In addition to its jurisdictional arguments, the Respondent's Motion to Dismiss lists other "constitutional defenses," which appear as follows:

> [1]. Respondent has a right to run for elected office under Art. I §1 p. V and IX of the Georgia Constitution and the First Amendment to the federal constitution. The attempt to preclude him from standing for election is a violation of these rights.
>
> [2]. The electors of the district for which Respondent seeks election have a right under the First Amendment to the federal constitution right to vote for whom they choose as well as Art. I §1 p. V and IX of the Georgia [C]onstitution. Denying Respondent the ability to stand for election deprives those electors of their choice undermining their fundamental constitutional right to vote.
>
> [3]. Petitioner['s] attempts to preclude Respondent from standing for election will have a chilling effect on those contemplating running for office prohibited by the First Amendment to the federal constitution as well as Art. I §1 p. V and IX of the Georgia [C]onstitution.
>
> [4]. The challenge statute, O.C.G.A. §21-2-5 is unconstitutional as it violates the due process clauses of the Fourteenth Amendment to the federal constitution and Art. I §1 p. I, VII, and XI of the Georgia [C]onstitution.
>
> [5]. The requirement an individual must be 21 years of age on the day of their election constitutes age discrimination under the Fourteenth Amendment to the federal [C]onstitution.

(Respondent's Motion to Dismiss, pp. 5-6.)

The Court has concluded the Petitioner is authorized to bring the instant challenge pursuant to the Georgia Election Code. The arguments above, however, assert the statutes authorizing this challenge violate the federal and state constitutions. As stated supra, this Court has no authority to declare a statute unconstitutional. Ga. Comp. R. & Regs. 616-1-2-.22(3). Accordingly (and as the Respondent requests in his Motion), these arguments shall be preserved for appeal.[9]

* * *

Accordingly, upon review of the arguments that can be addressed at this time, the Motion to Dismiss is hereby **DENIED**, and the Court can proceed to the merits of the Petitioner's challenge.[10]

III. EVIDENTIARY HEARING

Burden of Proof

During the April 4th hearing, the Respondent argued that the burden of proof in this proceeding lies with the party challenging a candidate's qualifications. He reiterated those arguments in his post-hearing Reply, in which he contended the Georgia Supreme Court's opinion in Haynes v. Wells, 273 Ga. 106 (2000)—approving of the candidate bearing the burden—is inapplicable and can be distinguished from this matter. The Respondent also argued that placing the burden of proof on the candidate himself, without any showing of proof by the challenger, is "unconstitutional burden shifting." (Respondent's Rely, pp. 9-10.)

[9] See footnote 4, supra.

[10] Any arguments addressed in the Motion to Dismiss (and also touched upon by the Respondent during the April 4th hearing and in the Respondent's Reply) that were not otherwise addressed here have been reviewed by the Court and are rejected.

The Court first starts with Haynes, which involved an appeal of a trial court's ruling that appellant Haynes was not an eligible candidate for the fifth-district seat on the Clayton County School Board. Haynes, 273 Ga. at 106. The Supreme Court concluded as follows:

> [W]e reject Haynes's argument that the trial court should have required appellee Wells to prove that at the time Haynes registered as a candidate, his address was not within the fifth district. The relevant statutes [i.e., O.C.G.A. §§ 21-2-132(e) and 21-2-153(e)] required Haynes to file an affidavit attesting that he was eligible to vote in the fifth district. ***Thus, the statutes place the affirmative obligation on Haynes to establish his qualification for office***. Wells is not required to disprove anything regarding Haynes's eligibility to run for office, as ***the entire burden is placed upon Haynes to affirmatively establish his eligibility for office***. He failed to make that showing. Hence, his candidacy for the fifth district seat was invalid.

Id. at 108-09 (emphasis added).

The Respondent has contended this holding does not apply here because (1) Haynes concerned an election for an office other than a Georgia House seat; and (2) while the statutes at issue in Haynes specifically required the candidate to list his residence on the affidavit, "the statute makes no similar requirement for a candidate's birthday," which is the focus of the instant matter. (Respondent's Reply, p. 10.) However, Code Section 21-2-153 *does* require a candidate for a party nomination in a state primary to file an affidavit with his political party stating, among other things, that he is "eligible to hold such office." O.C.G.A. § 21-2-153(a), (e)(7). And to be eligible to hold a Georgia House seat, there is a requisite age pursuant to the Georgia Constitution. See GA. CONST. Art. III, Sec. II, Para. III(b) ("At the time of their election, the members of the House of Representatives shall be citizens of the United States, shall be at least 21 years of age . . . .").

Thus, although Haynes concerned a school-board seat instead of a House seat, this distinction is irrelevant. Rather, the salient element in the Haynes holding is the candidate's requirement to "affirmatively establish" his qualifications for the office, given that he has to file

an affidavit establishing his qualifications in the first place. Haynes, 273 Ga. at 108. Thus, the "affirmative obligation" placed on candidate Haynes is likewise applicable to the Respondent. Id.

As to the constitutional argument, the Respondent offers little more than a statement that his bearing the burden of proof results in an "arbitrary and capricious denial" of his First Amendment rights. He does not cite any supporting case law.

While this Court cannot rule on the constitutionality of statutes,[11] this particular claim addresses a question of procedure, in the assigning of the burden of proof. Hence, the Court shall address this point briefly.

When deciding whether a state election law violates First and Fourteenth Amendment associational rights, the "character and magnitude" of the burden placed on those rights must be weighed against the interests justifying that burden, followed by a consideration of the extent to which the State's concerns make the burden necessary. Timmons v. Twin Cities Area New Party, 520 U.S. 351, 358 (1997).[12] Regulations imposing severe burdens on rights must be narrowly tailored and advance a compelling state interest. Id. Lesser burdens, however, trigger less exacting review, and a State's "'important regulatory interests" will usually be enough to justify "reasonable, nondiscriminatory restrictions." Id.

In first looking at the character and magnitude of the burden in this particular case, it is difficult to understand why presenting evidence of his ***own*** date of birth would prove especially burdensome to the Respondent. For instance, this is not a situation where the Respondent is required to "prove a negative." See, e.g., Speiser v. Randall, 357 U.S. 513, 515, 521-26 (1956)

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[11] See Ga. Comp. R. & Regs. 616-1-2-.22(3), and Part II, supra.

[12] Timmons cites Burdick v. Takushi, 504 U.S. 428, 434 (1992), which in turn quotes Anderson, 460 U.S. at 789.

(finding a violation of due process where taxpayers bore the burden of proving they have ***not*** advocated for the overthrow of the government). Rather, the Respondent need only present proof of a vital statistic that—it is reasonable to conclude—most people know about themselves. As for documentation, dates of birth can be established via a birth certificate or government-issued identification. Even if such documents were lacking, the Respondent could testify to his own knowledge or have family members testify to the date and year he was born. Hence, absent any indication to the contrary, whatever burden the Respondent would face to demonstrate his own age or birthday is not unreasonably demanding or taxing. Cf. Common Cause/Georgia v. Billups, 554 F.3d 1340, 1345, 1354 (11th Cir. 2009) (concluding burden imposed by Georgia law requiring every voter casting a ballot to produce a photo identification card is "not undue or significant").[13]

As the burden facing the Respondent is far from severe, the Court next turns to whether there are important regulatory interests to justify this burden. The Court concludes such interests do exist. "A State has an interest, if not a duty, to protect the integrity of its political processes from frivolous or fraudulent candidacies." Bullock v. Carter, 405 U.S. 134, 145 (1972). See also Burdick, 504 U.S. at 440 n.10 ("It seems to us that limiting the choice of candidates to those who have complied with state election law requirements is the prototypical example of a regulation that, while it affects the right to vote, is eminently reasonable.").

Accordingly, having the Respondent bear the burden of proof in this case is not "arbitrary or capricious," but rather a following of longstanding precedent set by the Georgia Supreme

[13] For these same reasons, justice does not call for the undersigned to shift the burden away from the Respondent, pursuant to this Court's rules. See Ga. Comp. & R. Regs. 616-1-2-.17(2).

Court in Haynes. Further, the Respondent's First Amendment rights are not violated by his bearing the burden of proof.[14]

Evidence

At the April 4th hearing, the Respondent declined to present any evidence. While the Petitioner did present admissible evidence, none of it addressed the Respondent's age or date of birth.

IV. Conclusions of Law

As noted earlier in this Decision, the Georgia Constitution lists the following requirement: "At the time of their election, the members of the House of Representatives . . . shall be at least 21 years of age . . . ." GA. CONST. art. III, sec. II, par. III(b). Absent any evidence establishing the Respondent's age or date of birth, this Court has no way to determine whether he could meet this qualification. Hence, the Respondent failed to meet his burden in this matter. See Haynes, 273 Ga. at 108-09.

V. Decision

Based on the foregoing, the Court hereby determines as follows:

- The Respondent's Motion to Dismiss is **DENIED**.
- The Respondent is **NOT** eligible to be a candidate for the Georgia House of Representatives in District 64.

SO ORDERED, this 28th day of April, 2022.

Lisa Boggs

Lisa Boggs
Administrative Law Judge

[14] Any other arguments raised by the Respondent during the April 4th hearing and in the Respondent's Reply that were not otherwise addressed here have been reviewed by the Court and are rejected.