

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

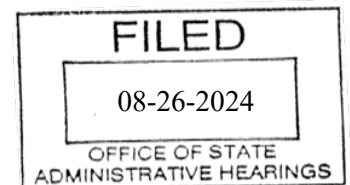
**CATHERINE SMITH, MARY LOU
WAYMER, & CRAIG PIGG,
Petitioners,**

v.

**HASAN AL BARI, MIRANDA
BAUMANN, BRYAN SHEPARD,
DAVID MEADOWS, FATIMA
MUSTAFAA, JOSEPH ROGERS,
COURTNEY CAAMANO, DONNETTA
WASHINGTON, WILLIAM MATHIS,
JOSHUA ROBERTS, SHERRY
TANNER, BARTHOLOMEW SCOTT,
JEROME MARSHALL, DARA
ASHWORTH, JERMON BELL, ADAM
INYANG,
Respondents.**

**Docket No.: 2502870
2502870-OSAH-SECSTATE-CE-33-
Malihi**

Agency Reference No.: 2502870



INITIAL DECISION

Counsel for Petitioners:

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The Election Law Group

Judge:

Michael Malihi

I. INTRODUCTION

Craig Pigg, Catherine Smith, and Mary Lou Waymer ("Petitioners") filed this action pursuant to O.C.G.A. § 21-2-5(b) against Hasan Al Bari, Miranda Baumann, Bryan Shepard, David Meadows, Fatima Mustafaa, Joseph Rogers, Courtney Caamano, Donnetta Washington,

William Mathis, Joshua Roberts, Sherry Tanner, Bartholomew Scott, Jerome Marshall, Dara Ashworth, Jermon Bell, and Adam Inyang (“Respondents”), challenging their qualifications to run as the slate of candidates for the office of presidential elector certified by Cornel West, an independent candidate for the office of President.¹

Petitioners contend (1) that the slate of presidential electors was not timely filed by Dr. West, (2) that each of the Respondents failed to satisfy the requirements necessary to qualify as a candidate for the office of presidential elector because they did not file a nomination petition in their own name, and (3) that the Respondents failed to submit a nomination petition that contained at least 7,500 valid signatures.²

A hearing was held on August 22, 2024. Based on the evidence and arguments presented, the Court concludes that although the slate of electors was timely filed, each candidate for the office of presidential elector is required to submit a nomination petition in their own name, and because none of the Respondents did so, none of the Respondents qualified as candidates for the office of presidential elector.³

II. FINDINGS OF FACT

1. Respondents’ independent candidate for the office of President, Cornel West, timely filed

¹ The Georgia Republican Party, through counsel, submitted a motion to intervene and accompanying brief on Wednesday, August 21, 2024. This motion was filed three days before the hearing, after this matter had been pending for approximately one month and both parties had briefed their arguments at length. Given the timing of this motion, as well as the expedited timeframe for issuing the initial decision, granting a motion to intervene at this stage would unduly delay and prejudice adjudication of the rights of the existing parties. O.C.G.A. § 50-13-14. Moreover, the Court is not persuaded that the movant’s interests are not adequately represented. *See id.* Therefore, having read and considered the motion to intervene, it is **DENIED**.

² At the hearing, counsel for Petitioners clarified for the Court that they were no longer pursuing two additional issues they had previously identified: whether the Respondents must pay a filing fee and whether Respondents can qualify for the ballot pursuant to O.C.G.A. § 21-2-172(g).

³ It is worth emphasizing that this case concerns the qualifications of the presidential electors certified by Cornel West. The qualifications of Dr. West himself as an independent candidate are discussed in *Wittenstein v. West*, Docket No. 2502867-OSAH-SECSTATE-CE-60-Malihi.

his slate of candidates for the office of presidential elector that identified Respondents as his presidential elector candidates. (Exs. R-2, R-5, R-21; Testimony of Mike McCorkle, Tr. 11:15-13:19.) Respondents also timely filed their notices of candidacy and candidate affidavits. (Stipulated Facts and Documents, filed August 20, 2024.) None of the Respondents, however, submitted a nomination petition in his or her own name. (*Id.*) Instead, the nomination petition was submitted in the name of Cornel West.

III. CONCLUSIONS OF LAW

1. In Georgia, independent candidates do not themselves qualify for the office of President and Vice President of the United States of America for the ballot. Rather, individuals seeking the office of presidential elector qualify for the ballot to have their candidate for President or Vice President placed on the ballot.⁴ Thus, “[a]n independent candidate for the office of President or Vice President of the United States shall file with the Secretary of State . . . a slate of candidates for the office of presidential elector which such independent candidate has certified as being the presidential electors for such independent candidate.” O.C.G.A. § 21-2-132.1(a).⁵ “The candidates for presidential electors certified by an independent candidate for the office of President or Vice

⁴ “At the November election to be held in the year 1964 and every fourth year thereafter, there shall be elected by the electors of this state persons to be known as electors of President and Vice President of the United States and referred to in this chapter as presidential electors, equal in number to the whole number of senators and representatives to which this state may be entitled in the Congress of the United States.” O.C.G.A. § 21-2-10.

⁵ The slate of candidates for the office of presidential elector must be filed “not later than the Friday before the opening of qualifying for such office as provided in subsection (d) of Code Section 21-2-132.” § 21-2-132.1(a). An independent candidate for the office of President or Vice President of the United States may certify a number of candidates for the office of presidential elector that is equal to or less than the number of presidential electors who may be elected from the State of Georgia. O.C.G.A. §§ 21-2-132.1(c). Based on the evidence presented, the Court has determined that the slate here was timely filed. (Exs. R-2, R-5, R-21; Testimony of Mike McCorkle, Tr. 11:15-13:19.) *Cf. Dannenfelser v. Squires*, 365 Ga. App. 819, 822 (2022) (“‘There is a presumption of law that [the] entry of filing [a civil pleading] by the clerk is correct,’ but this presumption is rebuttable by evidence showing another date of delivery.”); *Forsyth v. Hale*, 166 Ga. App. 340, 341 (1983) (noting the presumption that the entry of filing of pleadings and other papers by a court clerk is correct “until the contrary is shown”).

President of the United States shall then qualify for election to such office in accordance with Code Section 21-2-132.” O.C.G.A. § 21-2-132.1(b).

2. Prior to 2017, Code Section 21-2-132(d)(1) mandated that “each *candidate* for federal or state office, or his or her agent, desiring to have *his or her name* placed on the election ballot shall file a notice of *his or her candidacy*, giving *his or her name*, residence address, and the office he or she is seeking, in the office of the Secretary of State[.] O.C.G.A. § 21-2-132(d)(1) (2016) (emphasis added.) However, in 2017, the Georgia General Assembly revised Code Section 21-2-132(d) by replacing each “*candidate* for federal or state office” with each “*elector for President or Vice President of the United States*” and replacing “*his or her name*” with “*the names of his or her candidates for President and Vice President.*” See H.B. 268, 154th Gen. Assemb., Reg. Sess. (Ga. 2017) (emphasis added).

3. Therefore, as of July 1, 2017, to qualify for election to office as a candidate for the office of presidential elector in accordance with Code Section 21-2-132, each “*elector for President or Vice President of the United States*, or his or her agent, desiring to have *the names of his or her candidates for President and Vice President* placed on the election ballot shall file a notice of *his or her candidacy*, giving *his or her name*, residence address, and the office he or she is seeking, in the office of the Secretary of State[.]” O.C.G.A. § 21-2-132(d)(1) (emphasis added).⁶ Here, there is no dispute that Respondents timely filed their notices of candidacy and candidate affidavits. (Stipulated Facts and Documents.)

4. Code Section 21-2-132(e), which was *not* revised in 2017, mandates that each “*candidate required to file a notice of candidacy* by this Code section shall . . . file with the same official with

⁶ Each elector “shall file a notice of his or her candidacy . . . during the period beginning at 9:00 A.M. on the fourth Monday in June immediately prior to the election and ending at 12:00 Noon on the Friday following the fourth Monday in June, notwithstanding the fact that any such days may be legal holidays[.]” O.C.G.A. § 21-2-132(d)(1).

whom he or she filed his or her notice of candidacy a nomination petition in the form prescribed in Code Section 21-2-170[.]”⁷ O.C.G.A. § 21-2-132(e) (emphasis added). Further, “[e]ach petition shall support the candidacy of only a *single* candidate.” O.C.G.A. § 21-2-170(c) (emphasis added). “[I]f the statutory text is clear and unambiguous, we attribute to the statute its plain meaning, and our search for statutory meaning is at an end.” *Premier Health Care Invs. v. UHS of Anchor*, 310 Ga. 32, 39 (2020) (quoting *Deal v. Coleman*, 294 Ga. 170, 172-73 (2013)); *see also Pelham Fed. Sav. & Loan Ass’n v. Williams*, 216 Ga. 730, 732 (1961) (“The law is unambiguous, hence requires no construction but simply acceptance.”); *Harris v. Mahone*, 340 Ga. App. 415, 422 (2017) (“[W]e cannot and will not add a line to the law.”) (citation omitted).

5. “[A]ll statutes are presumed to be enacted by the legislature with full knowledge of the existing condition of the law and with reference to it.” *Gray v. State*, 310 Ga. 259, 262 (2020). The Court therefore presumes that when the legislature enacted Code Section 21-2-132.1 in 2017, which required “candidates for presidential electors” to “qualify for election to such office in accordance with Code Section 21-2-132,” the legislature did so with full knowledge of the existing condition of Code Section 21-2-132, including the requirements that those “candidates for presidential electors” would be required to file a notice of *his or her candidacy* under Code Section 21-2-132(d)(1), and a nomination petition under Code Section 21-2-132(e). Thus, it is clear from the plain text of the statute, as amended, that the “candidates” who must meet the qualification requirements are the “candidates for presidential electors.” O.C.G.A. § 21-2-132.1(b).

6. The Court concludes that to qualify as a candidate for the office of presidential elector, each candidate for that office of presidential elector is required to timely file “a nomination petition

⁷ The nomination petition was required to be filed “no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the second Tuesday in July immediately prior to the election[.]” O.C.G.A. § 21-2-132(e).

in the form prescribed in Code Section 21-2-170[.]” Here, there is no dispute that none of the Respondents submitted a nomination petition in his or her own name in the form prescribed in Code Section 21-2-170. And because none of the Respondents did so, none of the Respondents qualified as candidates for the office of presidential elector. It is not necessary for the Court to address the final issue raised by the Respondents, regarding whether the Respondents failed to submit a nomination petition that contained at least 7,500 valid signatures.⁸

IV. DECISION

Based on the foregoing findings of fact and conclusions of law, the Court concludes that the Respondents are **NOT QUALIFIED** as candidates for the office of presidential elector.⁹

SO ORDERED, this 26th day of August, 2024.



Michael Malihi, Judge

⁸ See, e.g., *Sunbelt Plastic Extrusions v. Pagua*, 360 Ga. App. 894, 899 (2021) (“[T]he cardinal principle of judicial restraint — if it is not necessary to decide more, it is necessary not to decide more — counsels us to go no further.”) (quoting *Moore v. McKinney*, 335 Ga. App. 855, 857 (2016)).

⁹ The Court again emphasizes that this Decision bears on the qualifications of Respondents as presidential electors, not the qualifications of candidate Cornel West.