

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

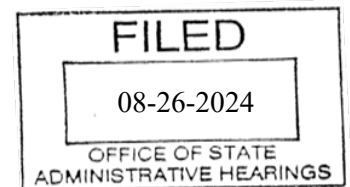
**CRAIG PIGG, CATHERINE SMITH,  
MARY LOU WAYMER,  
Petitioners,**

v.

**JEFF BAXTER, MELISSA  
LAMARCHE, THERESA BUTLER,  
VANESSA DELMER, RANDALL  
DUNCAN, SANDRA GOLDI, WILL  
HARRIS III, MELINDA HICKS, MARK  
JOHNSON, CHRISTOPHER LEMAY,  
ERNEST PURSLEY, LYNDELLE  
REDWOOD, WILLIAM REDWOOD,  
ROBERT SCHWARTZ, KIMBERLY  
SPENCER, TERRI STEWART,  
Respondents.**

**Docket No.: 2502868  
2502868-OSAH-SECSTATE-CE-60-  
Malihi**

**Agency Reference No.: 2502868**



**INITIAL DECISION**

**Counsel for Petitioners:**

Manoj S. "Sachin" Varghese  
Kayla Polonsky  
Bondurant, Mixson & Elmore, LLP

**Counsel for Respondents:**

Randall W. Duncan  
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Lawrence Otter  
Attorney at Law

**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 Jeff Baxter, Melissa LaMarche, Theresa Butler, Vanessa Delmer, Randall Duncan, Sandra Goldi, Will Harris III, Melinda Hicks, Mark Johnson, Christopher LeMay, Ernest Pursley, Lyndelle Redwood, William Redwood, Robert Schwartz,

Kimberly Spencer, and Terri Stewart (“Respondents”), challenging their qualifications to run as the slate of candidates for the office of presidential elector certified by Robert F. Kennedy, Jr., an independent candidate for the office of President.<sup>1</sup>

Petitioners contend (1) 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 (2) that the Respondents failed to submit a nomination petition that contained at least 7,500 valid signatures.<sup>2</sup>

A hearing was held on August 19, 2024. Based on the evidence and arguments presented, the Court concludes that 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.<sup>3</sup>

## II. FINDINGS OF FACT

The “Team Kennedy” campaign, on behalf of Robert F. Kennedy, Jr., an independent candidate for the office of President, timely filed his slate of candidates for the office of presidential elector. The slate identified the Respondents as Mr. Kennedy’s presidential elector candidates. (Ex. P-6.) Respondents also timely filed their notices of candidacy and candidate

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<sup>1</sup> The Georgia Republican Party, through counsel, filed a motion to intervene and accompanying brief on Monday, August 19, 2024. This motion was filed on the day of the hearing, after this matter had been pending for 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**.

<sup>2</sup> 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).

<sup>3</sup> The Court is aware of the recently announced suspension of Mr. Kennedy’s campaign in some states. However, the parties have not filed a formal request to withdraw with this Court.

affidavits. (Ex. P-8.) None of the Respondents, however, submitted a nomination petition in his or her own name. (See Ex. P-12.) Instead, the nomination petition was submitted in the name of Robert F. Kennedy, Jr. (*Id.*)

### 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.<sup>4</sup> 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).<sup>5</sup> “The candidates for presidential electors certified by an independent candidate for the office of President or Vice 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

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<sup>4</sup> “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.

<sup>5</sup> 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).

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).<sup>6</sup> Here, there is no dispute that Respondents timely filed their notices of candidacy and candidate affidavits. (Ex. P-8.)

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 whom he or she filed his or her notice of candidacy a nomination petition in the form prescribed in Code Section 21-2-170[.]”<sup>7</sup> 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).

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<sup>6</sup> 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).

<sup>7</sup> 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).

“[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 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 second issue raised by the Respondents, regarding whether the Respondents failed to

submit a nomination petition that contained at least 7,500 valid signatures.<sup>8</sup>

#### 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.<sup>9</sup>

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

  
**Michael Malihi, Judge**



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<sup>8</sup> See, e.g., *Sunbelt Plastic Extrusions v. Paguia*, 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)).

<sup>9</sup> The Respondents raised constitutional challenges to the Georgia Election Code at the hearing. The Court has no jurisdiction to resolve constitutional challenges to statutes and declines to address them in this Decision. Ga. Comp. R. & Regs. 616-1-2-.22(3). However, the Respondents’ challenges are acknowledged and preserved for review.