

nomination petition in their own name; and (2) the Respondents failed to submit a nomination petition that contained at least 7,500 valid signatures.

An Administrative Law Judge (“ALJ”) of the Office of State Administrative Hearings held an evidentiary hearing on August 22, 2024. Petitioners and Respondents were represented by counsel at the hearing and had the opportunity to present testimony. The ALJ issued an Initial Decision on August 26, 2024, concluding that because Respondents did not each submit a nomination petition in their own name, none of the Respondents are qualified as candidates for the office of presidential elector.

After review of the Initial Decision, the hearing transcript, and written submissions of the parties, the Secretary of State adopts the Findings of Fact in the ALJ’s Initial Decision. However, the Secretary declines to adopt the ALJ’s Conclusions of Law that Respondents were required to each submit a nomination petition in their own name because it is contrary to a federal court order permanently enjoining the Secretary from requiring more than a total of 7,500 signatures on a nomination petition for a candidate to obtain ballot access for the office of President of the United States. *Green Party of Ga. v. Kemp*, 171 F. Supp. 3d 1340 (N.D. Ga. 2016), *aff’d* 674 F. App’x 974 (11th Cir. 2017).

In support of this Final Decision, the Secretary hereby makes the following Findings of Fact and Conclusions of Law.

I. Findings of Fact

1. Respondents’ independent candidate for the office of President, Claudia De la Cruz, timely filed her slate of candidates for the office of presidential elector that identified Respondents as her presidential elector candidates. (Ex. J-1.) Respondents also timely filed the notices of candidacy and candidate affidavits. (Ex. J-2.) None of the Respondents, however, submitted a

nomination petition in his or her own name. (*See* Ex. P-11.) Instead, the nomination petition was submitted in the name of Claudia De la Cruz.

II. Conclusions of Law

1. Independent candidates for President of the United State obtain access to the general election ballot in Georgia through a nomination petition process. Independent candidates for President qualify for office by filing 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” and a “nomination petition in the form prescribed in Code Section 21-2-170.” O.C.G.A. § 21-2-132.1(a); § 21-2-132(e). The certified presidential electors are also required to file notices of candidacy under Code Section 21-2-132(d)(1). Voters elect a single slate of electors for President and Vice President, *see* O.C.G.A. § 21-2-10, but it is the names of the candidates for President and Vice President that appear on the ballot rather than the individual names of the presidential electors. O.C.G.A. § 21-2-285(e).¹

2. Respondents are the slate of presidential electors certified by independent candidate Claudia De la Cruz. The ALJ found that De la Cruz timely filed with the Secretary of State her certified slate of presidential electors, and that Respondents timely filed notices of candidacy as required by Code Sections 21-2-132(d) and 21-2-132.1(a) and (b). A nomination petition in the name of Claudia De la Cruz was timely submitted in the form prescribed by the Secretary of State under Code Section 21-2-170(a) and was separately determined by the Secretary of State’s office to meet the petition requirement with 7,682 valid signatures.

¹ The slate of presidential electors chosen in the General Election assemble in the seat of government of the state to perform the duties required of them by the Constitution and laws of the United States as part of the Electoral College process. O.C.G.A. § 21-2-11.

3. The 7,500 signature requirement for nomination petitions for the office of President was established by a federal court order. Although the Georgia Elections Code provides that a nomination petition for a candidate seeking an office voted upon statewide must be signed by a number of voters equal to 1% of the number of registered voters eligible to vote in the last election for that office, *see* O.C.G.A. § 21-2-170(b), that number was reduced by a federal district court in *Green Party*, 171 F. Supp. at 1374.

4. In *Green Party*, the court held that the 1% signature requirement for statewide office under Code Section 21-2-170 as applied to the office of President was unconstitutional under the First and Fourteenth Amendments. *Id.* at 1372. The court permanently enjoined the Secretary from enforcing the 1% signature requirement against presidential candidates, and ordered that “a candidate for President may access the ballot by submitting 7,500 signatures on a petition that otherwise complies with Georgia law” until the Georgia General Assembly enacts a permanent measure. *Id.* at 1372, 1374. The *Green Party* decision was affirmed by the U.S. Court of Appeals for the Eleventh Circuit, *see* 674 F. App’x 974, and has not been overturned by courts or abrogated by an act of the Georgia General Assembly modifying the petition signature requirement for President.

5. Accordingly, the Secretary is prohibited from requiring independent candidates for President to submit more than 7,500 signatures on a single petition to access the general election ballot. To adopt the ALJ’s conclusion that an independent candidate for President must file a petition with 7,500 signatures *and* the candidate’s slate of presidential electors must each separately file petitions with 7,500 signatures for the candidate to obtain ballot access would impose a petition signature requirement far in excess of that permitted by the court’s decision in *Green Party*.

6. Here, Respondents are properly certified as the slate of presidential electors by Claudia De la Cruz and timely filed notices of candidacy with the Secretary. A nomination petition in the form prescribed by the Secretary of State containing a total of 7,682 verified signatures of eligible registered voters has been accepted by the Secretary. Accordingly, the Secretary concludes that Respondents are qualified to be candidates for the slate of presidential electors for Claudia De la Cruz.

Therefore, **IT IS HEREBY DECIDED** that Respondents are QUALIFIED to be candidates for the office of presidential elector.

SO DECIDED this 29th day of August, 2024.


BRAD RAFFENSPERGER
Secretary of State