

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

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

v.

**AMADI MCKENZIE, MADIHA ABID,
AYESHA ABID, FAISAL HOSSEIN,
JOHN WEATHERS, MARIE
WEATHERS, JOSHUA PRITCHETT,
CONLEY SCHENBURG, SARAH
MAHMOOD, LYN GRAYBILL,
ELIZABETH IRELAND, KISHOR
DESAI, ANNIE DESAI, SHAWN
DESAI, WAYNE WHITEHILL,
PHYLLIS DESAI, UNIFIED GREEN
PARTY OF GEORGIA,
Respondents.**

**Docket No.: 2509411
2509411-OSAH-SECSTATE-CE-60-
Malihi**

Agency Reference No.: 2509411



INITIAL DECISION

Counsel for the Petitioners:

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I. INTRODUCTION

Craig Pigg, Catherine Smith, and Mary Lou Waymer ("the Petitioners") filed this action pursuant to O.C.G.A. § 21-2-5(b) against Amadi McKenzie, Madiha Abid, Ayesha Abid, Faisal Hossein, John Weathers, Marie Weathers, Joshua Pritchett, Conley Schenberg, Sarah Mahmood, Lyn Graybill, Elizabeth Ireland, Kishor Desai, Annie Desai, Shawn Desai, Wayne

Whitehill, and Phyllis Desai (“the Respondents”), challenging their qualifications to run as candidates for the office of presidential electors for the Unified Green Party of Georgia.

The Petitioners contend that the Respondents are not qualified because (1) they failed to properly complete and submit notices of candidacy and affidavits, (2) the Unified Green Party of Georgia has not obtained ballot access in at least 20 other states or territories, pursuant to O.C.G.A. § 21-2-172(g), (3) or, if the Unified Green Party of Georgia has obtained ballot access in at least 20 other states or territories, such access does not automatically grant the electors themselves access as presidential electors, and (4) the Respondents have not properly registered their party under O.C.G.A. § 21-2-110(a) or met the requirements under O.C.G.A. § 21-2-132 or § 21-2-172 for presidential electors.

An evidentiary hearing was held on September 10, 2024. Based on the evidence and arguments presented, and for the reasons stated below, the Court concludes that the Unified Green Party of Georgia has obtained ballot access pursuant to O.C.G.A. § 21-2-172(g), and its candidates are **QUALIFIED** for the office of presidential elector.

II. FINDINGS OF FACT

1. The Unified Green Party of Georgia was founded on February 29, 2024. It has registered as a political body with the Georgia Office of the Secretary of State and paid the requisite filing fee. The Chairperson of the party is Conley Jacob Schenberg. The Unified Green Party of Georgia is the state affiliate of the Green Party of the United States. (Exs. P-5, P-6, P-7, P-8, R-1; Testimony of Schenberg).

2. The Unified Green Party of Georgia submitted its Presidential Elector Nomination Affidavit to the Secretary of State on or about August 23, 2024, providing a list of 20 states where ballot access had been obtained. According to Mr. Schenberg, as of the date of the

hearing, the party had obtained ballot access in 36 states. On August 29, 2024, the party submitted Notices of Candidacy and Affidavits for its presidential electors. (Exs. P-3, P-4, P-9, P-10, P-11; Testimony of Schenberg).

3. On the same day, August 29, 2024, General Counsel Charlene McGowan of the Office of the Secretary of State sent a letter to Mr. Schenberg stating as follows:

Based upon review of the application and supporting documentation, and our own independent confirmation that the Green Party and its affiliates have obtained ballot access in at least 20 other states, the application is approved and the Unified Green Party of Georgia “shall be allowed to qualify candidates for presidential elector and receive access to the general election ballot for the purpose of election of the office of presidential elector.” O.C.G.A. § 21-2-172(g). The names of the candidates for President and Vice President as indicated on the application will be placed on the General Election ballot in Georgia.

(Ex. P-2; Testimony of Schenberg.)¹

4. The Unified Green Party of Georgia has not sought qualification for the ballot through nomination petitions or any other means provided by the Georgia Election Code. In other words, it sought access exclusively through subsection (g) of Code Section 21-2-172. (Testimony of Schenberg.)

III. CONCLUSIONS OF LAW

1. The Georgia Election Code provides, in Code Section 21-2-172(g),

Notwithstanding any provision of law to the contrary, any political party or political body which has obtained ballot access in no fewer than 20 states or territories for the office of presidential elector shall be allowed to qualify candidates for presidential elector and receive access to the general election ballot for the purpose of election of the office of presidential elector.

When interpreting a statute, courts “must afford the statutory text its plain and ordinary

¹ The Secretary of State has issued a guidance document entitled “Notice Regarding Ballot Access for Presidential Electors under SB 189.” (Ex. P-1). However, as discussed in the Conclusions of Law of this Initial Decision, the plain language of a statute is the appropriate starting point for statutory interpretation.

meaning, . . . view the statutory text in the context in which it appears, and . . . read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English language would.” *See Deal v. Coleman*, 294 Ga. 170, 172–73 (2013); *see also Camp v. Williams*, 314 Ga. 699, 702 (2022). By its plain language, Code Section 21-2-172(g) grants ballot access to any political party or body that has obtained such access in at least 20 other states or territories, regardless of other requirements expressed in the Georgia Election Code, including additional requirements asserted by the Respondents in the instant challenge, that would otherwise impede said access.² Therefore, the Court must determine if the Respondents are the candidates of (1) a political body (2) that has obtained ballot access in no fewer than 20 states or territories.

2. The Georgia Election Code defines “political body” as “any political organization other than a political party.” O.C.G.A. § 21-2-2(23). A “political organization,” under the Code, is “an affiliation of electors organized for the purpose of influencing or controlling the policies and conduct of government through the nomination of candidates for public office and, if possible, the election of its candidates to public office” *Id.* § 21-2-2(24). The Court concludes that, according to these definitions, the Unified Green Party, as well as its national counterpart, the Green Party of the United States, are political bodies within the meaning of the Georgia Election Code.³

² The legislature’s use of the phrase “notwithstanding any provisions of law to the contrary,” in particular, strongly signifies its intent to remove impediments to general ballot access for political bodies who obtained ballot access in 20 states or more. *See New York v. Mitchell*, 931 N.E.2d 84, 86 (N.Y. 2010) (characterizing the phrase “notwithstanding any provision of law to the contrary” as “the verbal formulation frequently employed for legislative directives intended to preempt any other potentially conflicting statute, wherever found in the State’s laws”); *Arizona v. Greene*, 898 P. 2d 954, 958 (Ariz. 1995) (“[T]he legislature resolved the issue of whether any other statutory provisions prevent application of this . . . provision by prefacing [the statute] with the phrase ‘notwithstanding any provision of law to the contrary.’”); *Davis v. Cnty. of King*, 468 P.2d 679, 680 (Wash. 1970) (use of the phrase signifies the legislature’s intent that the provision apply “despite any enactment to the contrary” and “without prevention or obstruction by any prior act”); *see also Shearin v. Wayne Davis & Co., P.C.*, 281 Ga. 385, 386 (2006) (“The word ‘notwithstanding’ means ‘without prevention or obstruction from’ or ‘in spite of.’”).

³ Additionally, the Secretary of State has received and filed the registration of the Unified Green Party, pursuant to O.C.G.A. § 21-2-110.

3. Further, the Respondents established that the Green Party of the United States has obtained ballot access in more than 20 states or territories. *See* O.C.G.A. § 21-2-172(g). Accordingly, Code Section 21-2-172(g) mandates that the Unified Green Party, the Georgia affiliate of the Green Party of the United States, be allowed to qualify its candidates for presidential elector and receive access to the general election ballot. *Id.*

IV. Decision

Based on the foregoing findings of fact and conclusions of law, the Court concludes that the Unified Green Party of Georgia has obtained ballot access pursuant to O.C.G.A. § 21-2-172(g), and its candidates are **QUALIFIED** for the office of presidential elector.

SO ORDERED, this the 12th day of September, 2024.

Michael Malihi

Michael Malihi, Judge

