IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

David Rowan, Donald Guyott, Robert Rasbury, Ruth Demeter, and **Daniel Cooper**, Petitioners, vs. **Brad Raffensperger**, Secretary of State of the State of Georgia Respondent.	Case No. ____________________ **Petition for Judicial Review**

Nature of the Case

1. This is a petition for judicial review of the Secretary of State's decision that Marjorie Taylor Greene is qualified to be a candidate for United States Representative from Georgia's Fourteenth Congressional District. The petitioners are five of Greene's current constituents who challenged her qualifications under O.C.G.A. § 21-2-5(b). They ask this Court to reverse or remand the Secretary's decision.

Jurisdiction and Venue

2. This Court has appellate jurisdiction of this appeal under O.C.G.A. § 21-2-5(e).

3. Venue is proper in this Court under O.C.G.A. § 21-2-5(e).

4. This petition is timely filed within 10 days of the final decision of the Secretary of State on May 6, 2022. O.C.G.A. § 21-2-5(e).

Parties

5. David Rowan, Donald Guyatt, Robert Rasbury, Ruth Demeter, and Daniel Cooper are Georgia electors who are eligible to vote for United States Representative in Georgia's Fourteenth Congressional District. They are authorized by statute to challenge the qualifications of candidates seeking the office of United States Representative from that district. O.C.G.A. § 21-2-5(b). They are also authorized to appeal the decision of the Secretary of State. O.C.G.A. § 21-2-5(e).

6. Brad Raffensperger is the Secretary of State of the State of Georgia. He is the chief election official of the State of Georgia and is empowered by statute to determine the qualifications of candidates for federal and state offices, including the office of United States Representative. O.C.G.A. § 21-2-5(c).

Background

7. Georgia law requires "[e]very candidate for federal and state office … [to] meet the constitutional and statutory qualifications for holding the office being sought." O.C.G.A. § 21-2-5(a).

8. Georgia law also provides for challenges to a candidate's qualifications by the Secretary of State or eligible voters. *Id.*

9. The statute requires the Secretary to refer any challenge to an administrative law judge for a hearing under Georgia's ordinary rules of administrative procedure. O.C.G.A. § 21-2-5(b).

10. The administrative law judge reports her or his findings to the Secretary of State, who then makes an initial determination of the candidate's qualifications. O.C.G.A. §§ 21-2-5(b) & (c).

11. On March 24, 2022, the petitioners filed a timely challenge to Greene's qualifications based on the Disqualification Clause of the Fourteenth Amendment.

12. The relevant part of the Disqualification Clause provides: "No Person shall be a … Representative in Congress … who, having previously taken an oath, as a member of Congress … to support the

Constitution of the United States, shall have engaged in insurrection or rebellion against the same." U.S. Const. amend. XIV, § 3.

13. The Secretary referred the challenge to an administrative law judge as required by law and requested an expedited hearing.

14. The administrative law judge scheduled a hearing for April 13.

15. On March 28, the petitioners filed a notice to produce seeking certain documents in Greene's possession, custody or control. The petitioners also filed a motion for leave to take Greene's deposition.

16. On April 4, the administrative law judge denied the motion for a deposition on the ground that it was "impracticable and unrealistic to require a deposition of [Greene] prior to the scheduled hearing date."

17. On April 8, the administrative law judge quashed the notice to produce on the ground that it was "impracticable and unrealistic to require Respondent to deliver a significant volume of material prior to the scheduled hearing date."

18. On April 11, counsel for the parties held an extended telephone conference with the administrative law judge to discuss various outstanding issues related to the hearing. During that

conference, Greene's counsel indicated that his client was unavailable on April 11, and the parties agreed to postpone the hearing to accommodate Greene's schedule. The hearing was reset to April 22.

19. On April 13, the administrative law judge issued a prehearing order addressing several pending matters. Among other things, the administrative law judge granted Greene's motion under Office of State Administrative Hearings Rule 616-1-2-.07(2) to shift the burden of proof from Greene to the petitioners, ruling that justice required the petitioners to prove Greene's ineligibility to hold office by a preponderance of the evidence.

20. The hearing in this matter was held on April 22. Both sides were represented by counsel. There were two witnesses —Greene and Professor Gerard Magliocca, an expert on the Disqualification Clause of the Fourteenth Amendment-—and a substantial number of documentary and video exhibits admitted into the record. The hearing was recorded by audio, video, and stenographic means.

21. The petitioners relied on evidence of the violent attack on the Capitol on January 6, 2021, including evidence that Congress, the Department of Justice, and the courts had determined that the attack on

the Capitol was, in fact, an insurrection. The petitioners also relied on evidence that Greene voluntarily aided the insurrection by encouraging the attack on the Capitol and by defending those who carried out the attack. That evidence included, among other things, Greene's video-taped statement on January 5, 2021, when she was asked how they were going to stop the election from being certified for Joe Biden, that tomorrow (January 6) would be "our 1776 moment." In addition, substantial evidence of her earlier statements, including urging supporters to "flood the Capitol"; threatening violence and death against her political opponents; telling a gun rights activist that freedom must be won "with the price of blood"; and, most significantly, declaring in a videotaped statement, after Joe Biden had been declared the winner of the election, that we "cannot allow" a "peaceful transfer of power" to Joe Biden, established that Greene was in fact calling for her supporters to engage in violent resistance to the peaceful transfer of power. Evidence also showed that Greene defended those who personally and violently attacked the Capitol and referred to them as "patriots."

22. Greene's defense rested almost entirely on her claimed lack of memory. She answered "I don't recall" or some version thereof more

than 80 times during the hearing, including to the question of whether she had discussed calls for then-President Trump to declare martial law to prevent the peaceful transition of power to President-Elect Biden.

23. On April 27, the petitioners moved to supplement the record with a text message from Greene to then-White House Chief of Staff Mark Meadows on January 17, 2021, discussing calls for then-President Trump to declare martial law to prevent the peaceful transition of power to President-Elect Biden. The petitioners learned of the text message on April 25, three days after the hearing, when it was first publicly reported.

24. The parties filed post-hearing briefs on April 29, and the record was closed at that time.

25. On May 6, the administrative law judge issued an initial decision. A true and correct copy of that decision is attached to this petition as Exhibit A. The decision concludes that the petitioners "failed to prove their case by a preponderance of the evidence" and therefore holds that Greene is qualified to be a candidate for United States Representative for Georgia's Fourteenth Congressional District. The

decision does not rule on or discuss the petitioners' motion to supplement the record.

26. The Secretary issued a final decision later that same day. A true and correct copy of that decision is attached to this petition as Exhibit B. The Secretary's decision explicitly adopts the administrative law judge's initial decision, findings of fact and conclusions of law and concludes on that basis that Greene is qualified to be a candidate for United States Representative for Georgia's Fourteenth Congressional District.

Transmittal of Record

27. Under O.C.G.A. § 21-2-5(e), the Secretary of State is required to transmit the record of the proceedings under review to this Court "as soon as possible."

28. Because this is a time-sensitive election matter, the petitioners request that the Court order the Secretary to file the record within seven days after service of this petition.

Grounds for Review

29. The petitioners seek review under O.C.G.A. § 21-2-5 (e), which provides:

> The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Secretary of State as to the weight of the evidence on questions of fact. The court may affirm the decision or remand the case for further proceedings. The court may reverse or modify the 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;
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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.

30. The Secretary's final decision here was made upon unlawful procedures and affected by other errors of law.

Issue One

The Secretary erred by shifting the burden from the candidate to the petitioners.

31. The Georgia Supreme Court has held that the burden of establishing one's eligibility to run for public office is on the candidate.

Haynes v. Wells, 273 Ga. 106, 108-09 (2000) (stating challenger "[was] not required to disprove anything regarding [candidate's] eligibility to run for office, as the entire burden is placed upon [candidate] to affirmatively establish his eligibility for office.").

32. The basis for our Supreme Court's holding that the one seeking to run for public office bears the burden of establishing their qualification is grounded in the Elections Code—particularly, O.C.G.A. § 21-2-153(e), which requires the individual seeking to run for public office to file an affidavit attesting that they are qualified to hold the office he or she is seeking. *Haynes*, 273 Ga. 108-09.

33. O.C.G.A. § 21-2-153(e) requires each candidate for party nomination to file an affidavit attesting, among other things, that "he or she is eligible to hold such office."

34. The logic of assigning the burden to a candidate in a challenge case, as *Haynes* and the Election Code require, is that the evidence necessary to establish eligibility for office is in the candidate's control.

35. Although Rule 616-1-2-.07(2) of the Rules of the Office of State Administrative Hearings permits an administrative law judge to

shift the burden in a matter when "law or justice requires," that administrative rule does not supersede *Haynes* or the statutory allocation of the burden in the Election Code. Therefore, in candidate challenges, the burden must remain on the candidate.

36. Even if the administrative law judge had the power to shift the burden, justice also does not require a challenger to disprove a candidate's eligibility for office where the evidence necessary to do so is within the candidate's control. Here, all the relevant evidence was in Greene's control but the administrative law judge blocked the petitioners from all discovery. The petitioners' notice to produce documents under Rule 616-1-2-.19(2) of the Rules of the Office of State Administrative Hearings propounded 24 distinct requests for documents, any of which could have resulted in admissible evidence sufficient to establish Greene's involvement in the insurrection, refresh her recollection, and/or impeach her credibility. The petitioners sought, for example, Greene's communications referring to "1776" and communications between Greene and people under investigation for their involvement in the events of January 6, such as Ali Alexander, Enrique Tarrio, Anthony Aguero, and Nicholas Fuentes. Thus, petitioners were denied access to

relevant evidence while Greene was relieved of any incentive to produce evidence to establish her qualifications.

37. The administrative law judge's decision to shift the burden of proof was erroneous on its own, but even if it were not, it was erroneous in combination with the administrative law judge's order quashing petitioners' notice to produce.

38. Accordingly, the Secretary's decision was made upon unlawful procedures and affected by other errors of law.

Issue Two

The Secretary erred by quashing the petitioners' notice to produce.

39. Rule 616-1-2-.19(2)(c) of the Rules of the Office of State Administrative Hearings permits an administrative law judge to quash a notice to produce under four circumstances: (1) if the notice to produce is "unreasonable or oppressive"; (2) if material sought is "irrelevant, immaterial, or cumulative"; (3) if the material sought "is unnecessary to a party's preparation and presentation of its position at the hearing"; or (4) if "basic fairness" dictates that the notice should be quashed.

40. The petitioners here issued a notice to produce to Greene on March 28—four weeks before the hearing date and more than a month before the close of the record—seeking her communications regarding the events of January 6, and particularly communications with specific individuals known to have been involved in those events.

41. The administrative law judge here quashed the notice to Greene in its entirety not for any of the reasons permitted by rule but on the sole ground that it was "impracticable and unrealistic to require Respondent to deliver a significant volume of material prior to the scheduled hearing date."

42. The administrative law judge's decision to quash petitioners' notice to produce was erroneous on its own, but even if it were not, it was erroneous in combination with the administrative law judge's order shifting the burden of proof to petitioners.

43. Accordingly, the Secretary's decision was made upon unlawful procedures and affected by other errors of law.

Issue Three

The Secretary erred by failing to properly consider Greene's conduct prior to taking the oath of office.

44. The administrative law judge correctly stated, as a matter of law, that evidence of Greene's conduct before she took the oath of office can be used to show that Greene's conduct after she took the oath of office amounted to engaging in an insurrection or rebellion.

45. The administrative law judge also correctly acknowledged that the evidence here shows that Greene "engaged in months of heated political rhetoric" prior to taking the oath of office.

46. Among many other pre-election statements, that evidence includes Greene's statement urging her supporters to join her in Washington to "flood the Capitol building."

47. That evidence also includes Greene "liking" a Facebook post suggesting that a "bullet to the head would quicker" to remove House Speaker Nancy Pelosi from office for committing treason.

48. That evidence also includes telling a gun rights activist—who was wearing a t-shirt referencing "1776" during the recorded interview—that if anyone takes away your "freedoms," the only way to get them back is "with the price of blood."

49. That evidence also includes Greene's statement after the 2020 election that "**You can't allow it to just transfer power 'peacefully'** like Joe Biden wants and allow him to become our president."

50. This evidence was uncontroverted, yet the administrative judge failed to mention any of it.

51. Instead, the administrative law judge concluded, as a matter of law, that Greene's pre-oath rhetoric "is not engaging in insurrection under the 14th Amendment" and that the only evidence in the record "that could even possibly be interpreted as" engaging in insurrection is Greene's statement during a television interview on January 5, 2021, that "[t]his is our 1776 moment."

52. The administrative law judge concluded that this statement, by itself, was "ambiguous." But Greene's pre-oath conduct demonstrates that, in context, that statement was a marching order or directive to disrupt or obstruct a congressional proceeding and forcibly prevent the peaceful transfer of power.

53. The administrative law judge thus failed to properly consider Greene's pre-oath conduct as critical context for her post-oath conduct.

54. Accordingly, the Secretary's decision is affected by an error of law.

Issue Four

The Secretary erred by applying the incorrect legal standard for "engaging" in insurrection.

55. The administrative law judge concluded, as a matter of law, that the petitioners had failed to establish that Greene had "engaged" in insurrection within the meaning of the Disqualification Clause because they had failed to show "months of planning and plotting to bring about the Invasion," a "months-long enterprise" culminating in "[a] call to arms for consummation of a pre-planned violent revolution."

56. This is an incorrect legal standard, since "engagement" is legally defined as "a voluntary effort to assist the Insurrection . . . and to bring it to a successful [from insurrectionists' perspective] termination," i.e., "[v]oluntarily aiding the rebellion by personal service or by

contributions, other than charitable, of anything that was useful or necessary."

57. Neither the text of the Disqualification Clause, its purpose, nor the case law support the administrative law judge's requirement that the petitioners demonstrate that Greene had engaged in a "months-long enterprise" and "pre-planned violent revolution." To the contrary, even if Greene did not learn about any plan to unlawfully challenge the election and attack the Capitol until she voiced her support for it on January 5, 2021, her encouragement would still constitute "voluntary aiding" and therefore engaging in insurrection. Similarly, even if the insurrectionist plan was not hatched until January 5, shortly before Greene urged her support, that too would amount to "voluntary aiding" and therefore engaging in insurrection.

58. The administrative law judge thus evaluated the evidence under a legally incorrect and unreasonably burdensome standard.

59. Accordingly, the Secretary's decision is affected by an error of law.

Request for Written Briefing and Oral Argument

60. The petitioners request oral argument and the opportunity to submit written briefs. Cf. O.C.G.A. § 50-13-19(g).

Relief Requested

WHEREFORE, the petitioners respectfully pray that this Court:

(1) enter an expedited schedule for the parties to brief the issues on appeal and set a date for oral argument;

(2) reverse the Secretary's decision and conclude that Greene is not qualified to be a candidate for United States Representative for Georgia's Fourteenth Congressional District; or, in the alternative, vacate the Secretary's decision and remand the case to the administrative law judge for further proceedings; and

(3) grant such other relief as the Court deems equitable and just, consistent with O.C.G.A. § 21-2-5 (e).

Respectfully submitted this 16th day of May, 2022.

*/s/ **Bryan L. Sells***
Georgia Bar No. 635562
The Law Office of Bryan L. Sells, LLC
PO Box 5493
Atlanta, Georgia 31107-0493
Telephone: (404) 480-4212
Email: bryan@bryansellslaw.com

Ronald Fein*
John C. Bonifaz*
Ben Clements*
Courtney Hostetler*
Benjamin Horton*
FREE SPEECH FOR PEOPLE
1320 Centre St. #405
Newton, MA 02459
(617) 244-0234
rfein@freespeechforpeople.org

Of counsel:

Jonathan S. Abady
Andrew G. Celli, Jr.
Sam Shapiro
Andrew K. Jondahl
EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP
600 Fifth Avenue, 10th Floor
New York, NY 10020
(212) 763-5000
jabady@ecbawm.com
acelli@ecbawm.com

Attorneys for the Petitioners

* Application for admission pro hac vice forthcoming

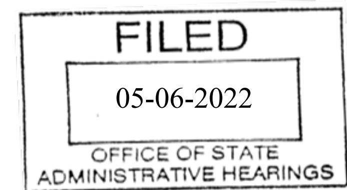
BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

DAVID ROWAN, DONALD GUYATT, ROBERT RASBURY, RUTH DEMETER, and DANIEL COOPER,
Petitioners/Challengers,

v.

MARJORIE TAYLOR GREENE,
Respondent/Candidate.

Docket No.: 2222582
2222582-OSAH-SECSTATE-CE-57-Beaudrot



INITIAL DECISION

I. Introduction

This matter arises from challenges brought by the Petitioners ("Challengers") to the qualifications of Respondent Marjorie Taylor Greene ("Rep. Greene") for office under O.C.G.A. § 21-2-5.

Specifically, Challengers allege that Rep. Greene "does not meet the federal constitutional requirements for a Member of the U.S. House of Representatives and is therefore ineligible to be a candidate for such office." (OSAH Form 1). They assert that Rep. Greene "voluntarily aided and engaged in an insurrection to obstruct the peaceful transfer of presidential power, disqualifying her from serving as a Member of Congress under Section 3 of the 14th Amendment . . . ." (*Id.*; Stipulated Facts ¶ 5).

Challengers filed their challenge to Rep. Greene's candidacy with the Secretary of State on March 24, 2022. When referring this matter to the Office of State Administrative Hearings ("OSAH"), the Secretary of State requested that it be heard on an expedited basis due to its time-sensitive nature. Accordingly, on March 24, 2022, the matter was docketed, and a notice of hearing was sent to the parties. The hearing initially was scheduled to be held April 13, 2022.

On April 1, 2022, Rep. Greene filed an action in the United States District Court for the Northern District of Georgia, styled *Greene v Raffensperger*, No. 1:22-cv-01294-AT, seeking to

enjoin the hearing in this matter and other relief (the "Federal Court Litigation").

On April 11, 2022, counsel for the parties and the Court participated in an extended telephone conference (the "April 11 Conference") to discuss a variety of pending motions and to address issues regarding the conduct of the hearing in this matter. During the April 11 Conference, the parties, through their respective counsel, agreed to postpone the hearing to accommodate Rep. Greene's schedule. The hearing then was rescheduled to Friday, April 22, 2022, at 9:30 a.m.

Following the April 11 Conference, the undersigned issued an Order on April 13, 2022, addressing pending matters and motions (the "April 13 Order"). In the April 13 Order, among other actions, the Court granted Rep. Greene's motion regarding burden of proof, ruling that the burden of proof in this matter rests upon Challengers.

In an Order entered on April 18, 2022, in the Federal Court Litigation (the "Federal Court Order"), Judge Amy Totenberg ruled as follows:

> After a thorough analysis of the evidentiary and legal issues presented in this complex matter involving unsettled questions of law, the Court finds Plaintiff [Respondent] has not carried her heavy burden to establish a strong likelihood of success on the legal merits in this case. Accordingly, the Court denies the Plaintiff's Motions for Temporary Restraining Order and Preliminary Injunction . . . . The state proceedings under the Challenge Statute [O.C.G.A. § 21-2-5] may therefore proceed.

The hearing in this matter was held on April 22, 2022, beginning at 9:30 a.m. At the hearing, Andrew G. Celli, Esq. and Ronald Fein, Esq. appeared for Challengers, and James Bopp, Esq. appeared for Rep. Greene. Witnesses at the hearing consisted of Rep. Greene and Gerard N. Magliocca, Professor of Law at Indiana University. Documentary evidence, including certain video recordings and written records proffered by the parties, reviewed by the Court in advance of the hearing and the subject of a telephone hearing with counsel on April 21, 2022, was admitted. Additional documentary evidence was admitted during the course of the hearing. The hearing was recorded using audio and video technology as well as stenographically by a court reporter.

The parties filed post-hearing briefs and various supporting exhibits on April 29, 2022, and the record was closed at that time. Included as an exhibit to Challengers' post-hearing brief is a rough transcript of the hearing. References to testimony at the hearing will refer to the page numbers used in this transcript.[1]

After review of evidence in this matter and the legal arguments and authorities presented at the hearing and in the parties' briefs, the Court concludes that the evidence in this matter is insufficient to establish that Rep. Greene, having "previously taken an oath as a member of Congress . . . to support the Constitution of the United States . . . engaged in insurrection or rebellion against the same, or [gave] aid or comfort to the enemies thereof" under the 14th Amendment to the Constitution.

As this is the sole basis for Challengers' suit, the Court concludes that Rep. Greene is qualified to be a candidate for Representative for Georgia's 14th Congressional District.

II. Issue for Decision

The issue for decision in this matter is whether Rep. Greene engaged in insurrection or rebellion against the United States and is therefore disqualified as a candidate for Representative for Georgia's 14th Congressional District by reason of Section 3 of the 14th Amendment to the Constitution. U.S. CONST. amend. XIV, § 3. This section of the 14th Amendment provides:

> No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress

[1] In the interest of expediency, the Court cannot await the official transcript of the hearing, which is scheduled to be released May 9, 2022. In this Decision, the Court cites to the unofficial transcript only after concluding that the portion cited accurately reflects the undersigned's recollection of the proceedings.

may by a vote of two-thirds of each House, remove such disability.

Id.

III. Findings of Fact

1. Rep. Greene is over the age of 25, has been a United States citizen for more than seven years, and is an inhabitant of Georgia. (Stipulation ¶¶ 1-3).

2. Challengers are all registered voters in Georgia's 14th Congressional District. (Stipulation ¶ 4).

3. In the 2020 election, Rep. Greene successfully ran for, and was elected to, Congress as Representative from Georgia's 14th Congressional District. (Testimony of Rep. Greene; Exhibit P-65).

4. As a result of the 2020 presidential election, Joseph R. Biden obtained a majority of Electoral College votes. (Exhibit P-19, p. 21; Exhibit P-36).

5. President Trump did not accept the results of the 2020 election and initiated challenges to the election results. These efforts were conducted under the rubric of "Stop the Steal." (Exhibit P-19, p. 21; Exhibits P-2, P-18, P-54)

6. Rep. Greene actively supported President Trump's efforts to challenge the results of the 2020 presidential election. (Testimony of Rep. Greene, Tr. 91–93, 101; Exhibits P-1D, P-1E, P-1-F, P-1G, P-1K, P-1M).

7. As part of the Stop the Steal campaign, supporters of President Trump organized rallies and demonstrations, including the "Save America Rally" to be held at the White House Ellipse on January 6, 2021. (Exhibit P-19, p. 22; Exhibits P-2C, P-2D, P-68).

8. One purpose of the Save America Rally was to encourage members of Congress to oppose the certification of the election results of the Electoral College by objections and votes on the floor, and to encourage Vice President Pence to refuse to certify the results of the Electoral College if

those objections failed to result in President Trump being declared the winner of the 2020 presidential election. (Exhibit P-54; Exhibit P-18).

9. Rep. Greene encouraged supporters to be present in Washington, D.C. on January 6, 2021. (Testimony of Rep. Greene, Tr. 90–91; Exhibit P-2C).

10. On January 3, 2021, Rep. Greene took the oath of office to be a Member of the U.S. House of Representatives for the first time. (Stipulation ¶ 5; Exhibit P-65).

11. On January 5, 2021, Rep. Greene participated in a broadcast interview on Newsmax. In this interview (the "Newsmax Interview"), Rep. Greene discussed her plans to challenge the results of the 2020 presidential election by supporting challenges to the certification of Electoral College votes. When asked, "What is your plan tomorrow? What are you prepared for?" Rep. Greene answered, "Well, you know, I'll echo the words of many of my colleagues as we were just meeting together in our GOP conference meeting this morning. This is our 1776 moment." (Exhibit P-27; Tr. 167:1-4).

12. At or around 1:00 p.m. on January 6, 2021, a joint session of Congress was called to order for the purposes of opening, counting, and resolving any objections to the Electoral College vote of the 2020 presidential election, and certifying the results of the Electoral College vote. (Stipulation ¶ 6; Exhibit P-36).

13. Rep. Greene did not speak at or attend the Save America Rally. She was inside the Capitol building while the Save America Rally was occurring. (Testimony of Rep. Greene, Tr. 115:19-22, 120).

14. President Trump spoke at the Save America Rally. During his speech, President Trump encouraged the participants at the rally to go to the Capitol. (Exhibit P-54).

15. On January 6, 2021, a group of people that did not include Rep. Greene unlawfully entered the U.S. Capitol. (Stipulation ¶ 7). This unlawful incursion will be referred to in this Decision as

the "Invasion" and the participants will be referred to as "Rioters."

16. By 11:00 a.m. on January 6, 2021, the United States Capitol Police ("USCP") reported "large crowds around the Capitol building." (Exhibit P-19, p. 22). Some of the people gathering in Washington were "equipped with communication devices and donning reinforced vests, helmets, and goggles." (Exhibit P-44, p. 4).

17. President Trump began his address to the Save America Rally just before noon. *Id.* In his remarks, he encouraged his supporters to go to the Capitol. (Exhibit P-54, pp. 8–9). Before President Trump finished his address, "crowds began leaving the Ellipse for the Capitol." (*See* Exhibit P-19, p. 2).

18. By 12:45 p.m., crowds were forming around the Capitol. (Exhibit P-19, p. 22). At 12:53 p.m., the Rioters breached the outer security perimeter the USCP had established around the Capitol. (*Id.* at p. 23). At one point, individuals "picked up one of the metal bike racks that demarcated USCP's security perimeter and shoved it into the USCP officers standing guard." (*Id.*). Following this initial breach, crowds flooded into the Capitol's West Front grounds. (*Id.*). People "pressed towards the Capitol building—climbing the inaugural platform and scaling walls. The only remaining security perimeter consisted of the USCP officers positioned around the grounds, who were overwhelmed and outnumbered." (*Id.*).

19. Inside the Capitol, Congress was in session proceeding with its duties under the 12th Amendment. At approximately 1:15 p.m., the House and the Senate separated to debate objections to the certification of Arizona's Electoral College votes. (*See* Exhibit P-36, p. H77).

20. By 2:06 p.m., Rioters had reached the Rotunda steps, and by 2:08 p.m., they were at the House Plaza. (Exhibit P-19, p. 24). At 2:10 p.m., the barricades on the West Front and northwest side of the Capitol were breached. (*Id.*). Rioters smashed through first-floor windows on the Capitol's south side, making a hole big enough to climb through, and a stream of people entered,

with two individuals kicking open a nearby door to let others into the Capitol. (*Id.* at 24–25). On the east side of the Capitol, individuals "weaved through the restricted area in a military 'stack' formation with hands on shoulders and gear," and ultimately ascended the stairs on the Capitol's east side. (Exhibit P-16, ¶¶ 30–32). Some of these individuals were armed with bear spray and tactical gear and accompanied by an 82-pound German Shepherd. (Exhibit P-44, p. 5).

21. At 2:13 p.m., the Senate was forced to go into recess. (Exhibit P-36, p. S18). At 2:29 p.m., the House was forced to follow suit. (*Id.* at H85). One floor below the Senate chamber, just as the Senate was beginning its recess, Rioters chased a USCP officer up the stairs to the second floor, passing within 100 feet of Vice President Pence and his family. (*See* Exhibit P-73, at 3:08-3:50). Outside the Capitol, someone announced that Senators "just ran out of the session," and a number of Rioters cheered. (*Id.* at 4:15-4:31).

22. At 2:25 p.m., Rioters overran USCP officers in the crypt just below the Rotunda. (*Id.* at 6:35-6:45). At the same time, another group entered the Rotunda above from doors on the east side of the building. (*Id.* at 6:45-7:10). At 2:43 p.m., Rioters "broke the glass of a door to the Speaker's Lobby," a hallway that would have given them direct access to the House chamber. (Exhibit P-19, p. 25). When the Rioters attempted to lift Ashli Babbitt, one of their company, through the opening, "a USCP officer fatally shot her." (*Id.*). Less than ten minutes later, Rioters breached the Senate chamber. (*Id.* at 26). "In the House chamber, USCP officers barricaded the door with furniture and drew their weapons," trying to fend off people who were trying to enter the chamber. (*Id.*).

23. Inside and outside of the Capitol, Rioters announced their desire to find and kill lawmakers and to stop Congress from certifying the Electoral College votes. Recorded statements captured on video include: "We're here for you, Nancy," (Exhibit P-73 at 1:46); "Drag 'em out. Hang 'em out," (Exhibit P-73 at 8:07-8:10); "Can I speak to Pelosi? Yeah, we're coming bitch. Oh, Mike

Pence? Yeah, we're coming for you, too, you fucking traitor," (Exhibit P-72 at 4:27-4:32); "Hang Mike Pence! Hang Mike Pence!" (Exhibit P-72 at 4:32-4:36); "Start making a list and put all the names down and we start hunting them down one-by-one," (Exhibit P-72 at 4:47-4:55). The Rioters also set up gallows outside the Capitol building. (*See* Exhibit P-72 at 4:40-4:45).

24. Rioters attacked police officers as they made their way through the Capitol. In one police radio transmission, an officer sought help as he announced that he was "taking metal, sharpened objects, missiles, to include bottles and rocks and hand-thrown, chemical-grade fireworks." (Exhibit P-72 at 0:58-1:05). Video evidence shows Rioters trying to force their way into the Capitol through a barrage of police officers in riot gear. (Exhibit P-72 at 3:50-4:14). At one point, one Rioter forcibly tries to remove a police officer's gas mask. (*Id.*).

25. In response to the Invasion, the mayor of Washington, D.C. was forced to call the Secretary of the Army to seek National Guard support. (Exhibit P-19, p. 24). The USCP called the commanding general of the D.C. National Guard as well. (*Id.*). An announcement also went out over police radio asking for "all military and sworn officers" to come to the Capitol. (Exhibit P-73, at 9:18-9:39). A number of agencies and entities were needed to repel the Rioters, "including DHS; the FBI; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Montgomery County Police Department; the Arlington County Police Department; the Fairfax Police Department; and Virginia State Troopers." (Exhibit P-19, p. 26).

26. During the Invasion, Members of the House were held in a secret location, guarded by the USCP and the military. (Testimony of Rep. Greene, Tr. 231:12-15).

27. The Invasion caused significant injuries, damage, and death. Approximately 140 law enforcement officers reported injuries suffered during the attack. Some of the more serious injuries included brain injuries, cracked ribs, and smashed spinal discs. One officer was stabbed with a metal fence stake; another officer lost an eye. Another officer suffered a heart attack after being

attacked several times with a stun gun. Three officers lost their lives following the attack. USCP Officer Brian Sicknick was attacked with bear spray and died on January 7, 2021. Officer Howard Liebengood died on January 9. Officer Jeffrey Smith died on January 15. (Exhibit P-19, p. 29).

28. Besides the injuries and loss of life, the Invasion caused substantial property damage, "requiring the expenditure of more than $1.4 million dollars for repairs." (Exhibit 16, ¶ 40).

29. Numerous persons have been arrested in connection with the Invasion. (*See* Exhibits P-16, P-17).

30. Immediately after the Invasion, the U.S. Department of Justice characterized the events of January 6 as "a violent insurrection that attempted to overthrow the United States Government" in *United States v. Chansley*.[2]

31. Many of the prosecutions of Rioters are still pending trial. In some cases, individuals pleaded guilty to committing crimes and signed Statements of Offense in which they stipulated to facts they conceded the United States would be able to prove beyond a reasonable doubt. These stipulations included acknowledgements that one or more Rioters "entered the Capitol in part to hinder or delay the certification of President-Elect Joseph R. Biden as President of the United States," "intended to use force and did, in fact, use force in the Capitol and when engaging in physical altercations with law enforcement, in order to prevent, hinder, and delay the execution of the laws governing the transfer of power," and "intended to use force and did, in fact, use force to obstruct, impede, or interfere with the certification of the Electoral College vote, and did forcibly assault, resist, oppose, impede, intimidate, or interfere with, officers or employees of the United States." (Exhibit P-16, ¶¶ 32, 36; Exhibit P-17, ¶ 42).

32. Congress has characterized the Invasion as an insurrection. In Public Law 117-32, which

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[2] Government's Brief in Support of Detention at 1, *United States v. Chansley*, No. 2:21-MJ-05000-DMF (D. Ariz. Jan. 14, 2021), ECF No. 5.

the House passed by a 406-21 majority, and the Senate passed unanimously, Congress declared, "On January 6, 2021, a mob of insurrectionists forced its way into the U.S. Capitol building and congressional office buildings and engaged in acts of vandalism, looting, and violently attacked Capitol Police officers." (Exhibit P-22 § 1(2)).

33. On February 13, 2021, Senator Mitch McConnell stated on the floor of the Senate that the people who entered the Capitol on January 6 had "attacked their own government." (Exhibit P-55, p. S735). "They used terrorism to try to stop a specific piece of domestic business they did not like," he continued. *Id.* "Fellow Americans beat and bloodied our own police. They stormed the Senate floor. They tried to hunt down the Speaker of the House. They built a gallows and chanted about murdering the Vice President." *Id.*

34. The January 6, 2021, joint session of Congress was suspended during the Invasion, and the members of Congress took shelter. The Senate did not reconvene until 8:06 p.m. (*See* P-36 at S18). The House reconvened at 9:02 p.m. (*See id.* at p. H85.) Congress did not certify the Electoral College votes until 3:40 a.m.

35. During the Invasion, Rep. Greene took shelter in a secure location in the Capitol with other members of Congress. While sheltering in the cloak room inside the House Chamber, Rep. Greene recorded and transmitted a video, a copy of which was admitted into evidence as Exhibit R-1, and a transcript of which was admitted as Exhibit R-4. In this video, Rep. Greene stated:

> Hi, everyone. This is Congresswoman Marjorie Taylor Greene. I am putting out a message to you all just letting you know for all the great people, wonderful Americans who support President Trump that are here in Washington, D.C. today, today is a time to support your President; and just know that we're fighting for you here in the Capitol in Congress, fighting for your vote and fighting for President Trump.
>
> So I urge you to remain calm. I urge you to have a peaceful protest. Make sure that everyone is safe and protected, and let's do this in a — in a peaceful manner. This is — this is not a time for violence. This is a time to support President Trump, support our election integrity, and support this important process that we're going through in Congress where we're allowed to object.

> So this is — this is very important, so I urge you to stay calm. Be the great American people that — that I know you are, and just know that we're — we're in here fighting for you.

(Exhibits R-1, R-4; Testimony of Rep. Greene, Tr. 222:17-24).

36. After order was restored in the Capitol, Congress reconvened and ultimately certified the results of the Electoral College vote at approximately 3:40 a.m. on January 7, 2021. (Stipulation ¶ 9; Exhibit P-36).

37. Rep. Greene filed her candidacy for the upcoming midterm elections for Georgia's 14th Congressional District on March 7, 2022. She filed an amended notice of candidacy on March 10, 2022. (Stipulation ¶ 10).

38. Two weeks later, on March 24, 2022, Challengers filed an official challenge to Rep. Greene's qualifications to serve as a member of Congress with the Georgia Secretary of State's office pursuant to O.C.G.A. § 21-2-5.

39. The parties acknowledge that the ballots for the May primary at issue in this matter have been printed. Rep. Greene's name is on the printed ballot.[3]

40. In her testimony at the hearing of this matter, Rep. Greene denied having advance knowledge of the Invasion, or that she was in any way involved in its planning or execution. (Testimony of Rep. Greene, Tr. 142, 170:15-17, 171:10-11, 180–82, 204–07, 209, 226–27). She testified that she was unaware of activities by certain persons involved in the Invasion. (*Id.*, Tr. 142, 170:15-17, 171:10-11, 180–82, 204–06). She testified that she did not know that "1776" was being used by some of the persons who invaded the Capitol as a "code word" for a violent attempt to stop the Congress from proceeding with certification of the results of the 2020 presidential election. (*Id.* Tr. 168:11-12, 170:15-17, 171:10-11). She testified that her references to "1776" or "this is our 1776 moment" in the Newsmax Interview or other statements made after taking the

[3] *See Greene v. Raffensperger*, No. 22-cv-1294-AT, 2022 U.S. Dist. LEXIS 70961, at *8 (N.D. Ga. Apr. 18, 2022).

oath were references to her efforts to lawfully challenge electoral votes on January 6, 2021. (*Id.*, Tr. 168:11-12). Her calls for supporters to come to Washington, D.C., she asserted, were intended to invite them to attend peaceful demonstrations, and not meant to induce them to engage in violent behavior. (Testimony of Rep. Greene, Tr. 91:16-20).

IV. Conclusions of Law

A. The Burden of Proof

In the April 13 Order, the undersigned ruled that the burden of proof in this matter must be placed upon Challengers, noting that, in the interests of justice, Rep. Greene should not be required to "prove a negative" and affirmatively establish she did not engage in an insurrection. Ga. Comp. R. & Regs. 616-1-2-.07(2). Therefore, Challengers had the burden of establishing that Rep. Greene is disqualified. To do so, they were required to prove, by a preponderance of the evidence, that Rep. Greene, having "previously taken an oath as a member of Congress . . . to support the Constitution of the United States . . . engaged in insurrection or rebellion against the same, or [gave] aid or comfort to the enemies thereof" under the 14th Amendment to the Constitution. Ga. Comp. R. & Regs. 616-1-2-.21(4).

B. Elements of the Disqualification Clause

To prove that the Disqualification Clause bars Rep. Greene's candidacy, Challengers must show that:

(i) *after* Rep. Greene took *an oath* to defend the Constitution

(ii) she *engaged*

(iii) in *insurrection* against the Constitution.

See U.S. CONST. amend. XIV, § 3.

C. The Oath

The parties have stipulated that the first time Rep. Greene took an oath to defend the

Constitution was January 3, 2021, when she was sworn in as a member of Congress. Therefore, only conduct by Rep. Greene occurring after taking that oath on January 3, 2021, is relevant in determining whether the Disqualification Clause applies. *See* U.S. CONST. amend. XIV, § 3. Similarly, statements made by Rep. Greene and actions taken by her prior to her taking of the oath on January 3, 2021, are only relevant, and can only be considered, to the extent they explain her conduct occurring *after* the taking of the oath. In other words, conduct prior to January 3 may not, standing alone, disqualify Rep. Greene, but may be used to show that conduct *after* January 3 amounted to "engag[ing] in insurrection or rebellion."

D. "Engage"

There appear to be two judicial opinions that have considered the meaning of the word "engage" as used in the Disqualification Clause. *See United States v. Powell*, 65 N.C. 709 (1871) (defining "engage" as "a voluntary effort to assist the Insurrection . . . and to bring it to a successful [from insurrectionists' perspective] termination");[4] *Worthy v. Barrett*, 63 N.C. 199, 203 (1869) (defining "engage" as "[v]oluntarily aiding the rebellion by personal service or by contributions, other than charitable, of anything that was useful or necessary").[5]

It appears that it is not necessary that an individual personally commit an act of violence to have "engaged" in insurrection. *See Powell*, 65 N.C. at 709 (defendant paid to *avoid* serving in Confederate Army); *Worthy*, 63 N.C. at 203 (defendant simply served as county sheriff). Nor does "engagement" require previous conviction of a criminal offense. *See, e.g.*, *Powell*, 65 N.C. at 709 (defendant not charged with any prior crime); *Worthy*, 63 N.C. at 203 (defendant not charged with any crime); *In re Tate*, 63 N.C. 308 (1869) (defendant not charged with any crime); Gerard N. Magliocca, *Amnesty and Section Three of the Fourteenth Amendment*, 36 CONST. COMMENT. 87,

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[4] *See also United States v. Powell*, 27 F. Cas. 605, 607 (C.C.D.N.C. 1871).

[5] The *Worthy-Powell* standard appears to provide the only judicial construction of "engage" under the Disqualification Clause. *See also In re Tate*, 63 N.C. 308 (1869) (applying *Worthy*).

98–99 (2021) (in special congressional action in 1868 to enforce Section Three and remove Georgia legislators, none of the legislators had been charged criminally).[6]

Rep. Greene points to the use of word "engage" in a similarly-worded 1867 statute with more severe consequences (disenfranchisement) than the Disqualification Clause. The then Attorney General construed that statute to require "some direct overt act, done with the intent to further the rebellion." 12 Op. Att'y Gen. 141, 164 (1867). The authority does not indicate that a prior criminal conviction is necessary to trigger the Disqualification Clause.

On balance, therefore, it appears that "engage" includes overt actions and, in certain limited contexts, words used in furtherance of the insurrections and associated actions. "Merely disloyal sentiments or expressions" do not appear be sufficient. *Id.* But marching orders or instructions to capture a particular objective, or to disrupt or obstruct a particular government proceeding, would appear to constitute "engagement" under the *Worthy-Powell* standard. To the extent (if any) that an "overt act" may be needed, *see id.*, it would appear that in certain circumstances words can constitute an "overt act," just as words may constitute an "overt act" under the Treason Clause, *e.g., Chandler v. United States*, 171 F.2d 921, 938 (1st Cir. 1948) (enumerating examples, such as conveying military intelligence to the enemy), or for purposes of conspiracy law, *e.g.*, *United States v. Donner*, 497 F.2d 184, 192 (7th Cir. 1974) (even "constitutionally protected speech may nevertheless be an overt act in a conspiracy charge").

Challengers argue that Rep. Greene's speeches, texts, tweets, and appearances evidence a long-term plan to foment an insurrection on January 6 in order to prevent Congress from completing its Constitutional duties in certifying the election of President Biden. Under Challengers' view of the evidence, Rep. Greene was planning and furthering insurrection long

[6] Rather than require a criminal conviction as a prerequisite to a civil action to disqualify an officeholder, Congress did the reverse and imposed criminal penalties for those who held office in defiance of the Disqualification Clause. *See* Act of May 31, 1870, ch. 114, § 15, 16 Stat. 140, 143.

before she took office. This plan, they contend, began as soon as it was clear that President Trump would lose the 2020 election. Under Challengers' view of the evidence, the January 6 Invasion was "Plan B," to be triggered when efforts to object to the Electoral College votes and to persuade Vice President Pence to refuse the certification of President Biden failed. Petitioners' Post-Hearing Brief, pp. 11-16; Tr. 273.

The difficulty with Challengers' theory is the lack of evidence. Whatever the exact parameters of the meaning of "engage" as used in the 14th Amendment, and assuming for these purposes that the Invasion was an insurrection, Challengers have produced insufficient evidence to show that Rep. Greene "engaged" in that insurrection after she took the oath of office on January 3, 2021. In short, even assuming, arguendo, that the Invasion was an insurrection, Challengers presented no persuasive evidence Rep. Greene took *any* action—direct physical efforts, contribution of personal services or capital, issuance of directives or marching orders, transmissions of intelligence, or even statements of encouragement—in furtherance thereof on or after January 3, 2021.

There is no evidence to show that Rep. Greene participated in the Invasion itself. To the contrary, the evidence shows that she was inside the Capitol building at the time, and unaware of the Invasion until proceedings were suspended at approximately 2:29 p.m. on January 6, 2021.

Further, there is no evidence showing that after January 3, 2021, Rep. Greene communicated with or issued directives to persons who engaged in the Invasion. Challengers point to Rep. Greene's apparent prior contact with certain persons, such as Anthony Aguero. They point to postings from various persons, such as Ali Alexander. But the evidence does not show that Rep. Greene was in contact with, directed, or assisted these individuals, or indeed anyone, in the planning or execution of the Invasion. Rep. Greene denies any such contact or involvement and that denial stands unchallenged by other testimony or documentary evidence.

Challengers make a valiant effort to support inferences that Rep. Greene was an insurrectionist, but the evidence is lacking, and the Court is not persuaded. The evidence shows that prior to January 3, 2021, Rep. Greene engaged in months of heated political rhetoric clothed with strong 1st Amendment protections. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 908 (1964); *see also Brandenburg v. Ohio*, 395 U.S. 444 (1969). The evidence does not show Rep. Greene engaged in months of planning and plotting to bring about the Invasion and defeat the orderly transfer of power provided for in our Constitution. Her public statements and heated rhetoric may well have contributed to the environment that ultimately led to the Invasion. (*See* Sen. McConnell's Remarks, P-55). But expressing constitutionally-protected political views, no matter how aberrant they may be, prior to being sworn in as a Representative is not engaging in insurrection under the 14th Amendment.

Challengers point to Rep. Greene's statement during the Newsmax Interview on January 5, 2021, as a literal call to arms to storm the Capitol. Petitioners' Post-Hearing Brief, pp. 11-12. The Court finds this to be the only conduct that could even possibly be interpreted as triggering the Disqualification Clause. If this statement was in fact a coded message from Rep. Greene to her co-conspirators to go forward with a previously planned incursion into the Capitol, it might constitute an overt act and one that occurred after she took her oath as Representative. Based on the evidence, the Court is unpersuaded that Rep. Greene's ambiguous statement that "[t]his is our 1776 moment" was a coded call to violent insurrection on January 6, 2021. Heated political rhetoric? Yes. Encouragement to supporters of efforts to prevent certification of the election of President Biden? Yes. Encouragement to attend the Save America Rally or other rallies and to demonstrate against the certification of the election results? Yes. A call to arms for consummation of a pre-planned violent revolution? No. It is impossible for the Court to conclude from this vague, ambiguous statement that Rep. Greene was complicit in a months-long enterprise to

obstruct the peaceful transfer of presidential power without making an enormous unsubstantiated leap.

This case, like all cases in all legal proceedings, must be decided based upon the evidence adduced at the hearing. It is true that absence of evidence is not evidence of absence. But the absence of evidence supporting Challengers' case means that they have failed to meet their burden of proof and establish that Rep. Greene engaged in insurrection at some time after taking her oath on January 3, 2021. This matter must be decided based upon a preponderance of admissible evidence. One ambiguous statement on January 5, 2021, which appears to be the only direct post-oath evidence supporting Challengers' case, is simply not enough. Challengers have failed to meet their burden of proof.

E. Insurrection

The parties and the Court agree that the actions of the participants in the Invasion were despicable. The parties strongly disagree, however, as to whether the Invasion constituted an "insurrection" within the meaning of the 14th Amendment. They proffer competing definitions of the meaning of the term "insurrection" as used in the 14th Amendment and whether the events of the Invasion meet those definitions.

The events that occurred on January 6, 2021, are truly tragic. Multiple lives were lost, including those of law enforcement officers who died defending the Capitol. Many sustained injuries, some of them permanent and life-changing. The citadel of democracy, the U.S. Capitol, was violently breached in the most serious incursion in 200 years. Members of Congress, including Rep. Greene, were forced to take shelter for several hours to avoid the wrath of the invaders. Congress was unable to perform its obligations under the 12th Amendment to the Constitution. It is among the saddest and most tragic days in the history of our American Republic. The well documented images of the events of the day are painful in the extreme.

Whether the Invasion of January 6 amounted to an insurrection is an issue of tremendous importance to all Americans and one that may yet be addressed. However, it is not a question for this Court to answer at this time. Because the Court finds Rep. Greene did not "engage" in the Invasion, either as a direct participant or in its planning and execution, after taking her oath on January 3, 2021, it is not necessary to address the question of whether the events of January 6 constituted an "insurrection" within the meaning of the 14th Amendment.[7]

F. Constitutional and Other Issues

1. Constitutional Claims

The Constitution, including the 14th Amendment, is the Supreme Law of this country and is binding on every court and every government agency. Likewise, acts of Congress, including the Amnesty Act of 1872, are the law of the land by virtue of the Supremacy Clause. Like any court, OSAH judges are required to follow and apply the Constitution and applicable Federal law, and regularly do so in their decisions. If a Georgia statute or regulation is inconsistent with the Constitution, the OSAH judge may make findings of fact to that effect.

An OSAH judge is not permitted to invalidate or decline to follow a statute based upon a finding that it is unconstitutional. An OSAH judge is, however, permitted to develop the record as to relevant issues of constitutional validity and make findings of facts as to those issues. Ga. Comp. R. & Regs. 616-1-2-.22(3). Any constitutional objections that cannot be addressed by the undersigned are preserved and may be considered by the Secretary of State in his decision to accept or reject this Initial Decision, and by reviewing courts on appeal.

Rep. Greene has made and properly preserved various objections, including constitutional

[7] *See, e.g.*, *Manning v. Upjohn Co.,* 862 F.2d 545, 547 (5th Cir. 1989) ("Principles of judicial restraint dictate that if resolution of an issue effectively disposes of a case, we should resolve the case on that basis without reaching any other issues that might be presented."); *Sunbelt Plastic Extrusions v. Paguia*, 360 Ga. App. 894, 899 (2021) ("When 'we are able to decide [a] case on a narrower basis, we do not reach the broader issues.'" (quoting *Crenshaw v. Crenshaw*, 267 Ga. 20 (1996))).

objections, to this proceeding and the conduct of the hearing. These were initially identified in her "Motion to Dismiss" filed on April 1, 2022, renewed in her "Motion to Request Ruling on Constitutional Objections and Incorporated Brief in Support" filed on April 11, 2022, and enumerated again in her post-hearing brief filed on April 29, 2022. Rep. Greene's objections are noted, have been properly raised, and have been preserved for appeal.

2. The Amnesty Act of 1872

Because the Court has determined the Disqualification Clause does not apply, it is not necessary to address Rep. Greene's arguments concerning the 1872 Amnesty Act.[8]

V. Decision

The burden of proof in this matter is on Challengers. Challengers have failed to prove their case by a preponderance of the evidence. The evidence in this matter is insufficient to establish that Rep. Greene, having "previously taken an oath as a member of Congress . . . to support the Constitution of the United States . . . engaged in insurrection or rebellion against the same, or [gave] aid or comfort to the enemies thereof" under the 14th Amendment to the Constitution.

Therefore, the Court holds that Respondent is qualified to be a candidate for Representative for Georgia's 14th Congressional District.

SO ORDERED, this _6th_ day of May, 2022.

Charles R. Beaudrot
Administrative Law Judge

[8] *See* FN 6, *supra*.

IN THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

DAVID ROWAN, DONALD GUYATT, ROBERT RASBURY, RUTH DEMETER, and DANIEL COOPER,	)	
Petitioners,	)	
v.	)	**Docket Number: 2222582 2222582-OSAH-SECSTATE-CE-57-Beaudrot**
MARJORIE TAYLOR-GREENE,	)	
Respondent.	)	

FINAL DECISION

Challengers, David Rowan, Donald Guyatt, Robert Rasbury, Ruth Demeter, and Daniel Cooper (hereinafter "Challengers") filed this candidate challenge pursuant to O.C.G.A. § 21-2-5(a) and Section Three of the Fourteenth Amendment to the United States Constitution contending that Respondent, Marjorie Taylor-Greene (hereinafter "Respondent"), does not meet the qualifications to be a candidate for U.S. Representative pursuant to Section Three of the 14th Amendment of U.S. Constitution. Typical candidate challenges submitted pursuant to O.C.G.A. § 21-2-5 raise questions as to a candidate's residency or whether they have paid all of their taxes. This challenge is different. In this case, Challengers assert that Representative Greene's political statements and actions disqualify her from office. That is rightfully a question for the voters of Georgia's 14th Congressional District. THEREFORE, Administrative Law Judge Charles R. Beaudrot's Initial Decision, Findings of Fact, and Conclusion of Law are hereby **AFFIRMED.**

On April 22, 2022, a hearing on the challenge was held before Judge Charles R. Beaudrot at the Office of State Administrative Hearings. Challengers were present and represented by counsel. Respondent was present and represented by counsel. Documentary evidence, including

EXHIBIT
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certain video recordings and written records proffered by the parties, was admitted. Additional documentary evidence was admitted during the course of the hearing. The parties filed post-hearing briefs and various supporting exhibits on April 29, 2022, and the record was closed at that time.

Judge Beaudrot issued his Initial Decision on May 6, 2022, finding that Challengers have failed to prove their case by a preponderance of the evidence and that Respondent is qualified to be a candidate for Representative for Georgia's 14th Congressional District. Judge Beaudrot's Initial Decision and Findings of Fact and Conclusions of Law are hereby **ADOPTED**.

Therefore, **IT IS HEREBY DECIDED** that Respondent MARJORIE TAYLOR-GREENE is QUALIFIED to be a candidate for the office of United States Representative for Georgia's 14th Congressional District.

SO DECIDED, this 6th day of May, 2022.

Brad Raffensperger

Brad Raffensperger, Secretary of State