

**UNITED STATES DISTRICT COURT
OF THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MARJORIE TAYLOR GREENE, an individual,

Plaintiff,

v.

MR. BRAD RAFFENSPERGER, in his official capacity as Georgia Secretary of State, **MR. CHARLES R. BEAUDROT**, in his official capacity as an Administrative Law Judge for the Office of State Administrative Hearings for the State of Georgia, **JOHN DOE 1**, in his official capacity, and **GOVERNMENT ENTITY 1**,

Defendants.

Civ. No.

Plaintiff’s Motion for Preliminary Injunction

Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiff Marjorie Taylor Greene (“**Rep. Greene**”) moves for a preliminary injunction to enjoin Defendants Mr. Brad Raffensperger, Mr. Charles R. Beaudrot, John Doe 1, and Government Entity from enforcing Ga. Code Ann. § 21-2-5 (“**Challenge Statute**”) made against her based on Section Three of the Fourteenth Amendment to the U.S.

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Constitution.

The fundamental rights of an individual to run for political office, to not be subject to the burden to “prove” her innocence; and the proper role of Congress and the State’s authority consistent with the Constitution are at stake in this litigation.

Rep. Greene has standing in this litigation as she has suffered an injury in fact which is traceable to the Secretary of State’s enforcement of the Challenge Statute, and her injury is redressable by an injunction of the same. The *Younger* abstention doctrine does not apply here because the the Secretary of State has no authority to decide the constitutional issues before this Court, and the issues at bar weigh in favor of resolution by this Court.

The Challenge Statute’s provision allows a Challenge to Rep. Greene’s “qualifications” to be a Candidate for Congress based upon only a Challenger’s “belief” regarding her alleged disqualification. This provision violates Rep. Greene’s First Amendment rights in the same way a peaceful protestor’s rights would be violated if arrested based upon a reasonable suspicion.

The Challenge Statute’s burden shifting provision violates the Due Process Clause of the Fourteenth Amendment by requiring Rep. Greene prove a negative

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(i.e., that she did not engage in insurrection).

The power in the Challenge Statute reaches far beyond the State's authority to regulate its elections, conduct counts and recounts of votes, and other administrative functions allowed by our system of federalism. Georgia cannot frustrate the House of Representative's ability to make its independent, final judgment of the qualifications of a Member. Because the Challenge Statute directly usurps Congress' constitutional responsibilities, it violates Article 1, § 5 of the U.S. Constitution.

Congress used its constitutionally specified authority to remove the political disability found in Section Three of the Fourteenth Amendment from any Representative other than those who served during the 36th and 37th Congresses. Rep. Greene is a Member of the 117th Session of Congress, so the 1872 Act removed the ability to apply Section Three to Rep. Greene. Since Section Three does not apply to Rep. Greene (or any Member holding office after the 37th Congress), the application of Section Three to Rep. Greene is prohibited by federal law.

Because Rep. Greene is likely to succeed on the merits of her constitutional claims; she would be irreparably harmed by the unconstitutional enforcement of

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the Challenge Statute; the balance of harms favors Rep. Greene; and the public interest is served by enjoining unconstitutional statutes, this Court should enjoin the Secretary of State's ability to enforce the Challenge Statute.

Pursuant to Federal Rule of Civil Procedure 65(a), all Defendants have been issued Notice of this Motion via email and via service.

WHEREFORE, Plaintiff prays this Court grant Plaintiffs' Motion for Preliminary Injunction enjoining the application of the Challenge Statute against Rep. Greene and disqualifying her under Section Three of the Fourteenth Amendment from being a candidate for Congress in Georgia.

Dated: April 1, 2022

/s/ Kurt R. Hilbert

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Respectfully Submitted,

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* Motions for *Pro hac vice* admission
forthcoming

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Certificate of Service

I hereby certify that on April 1, 2022, a copy of the foregoing document was served upon the following persons by email, and Defendants were served according the Federal Rules of Civil Procedure:

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