

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Ryan Graham, an individual,
and the **Libertarian Party of
Georgia, Inc.**, a Georgia
nonprofit corporation,

Plaintiffs,

vs.

Christopher M. Carr, in his
official capacity as Georgia
Attorney General, and the
**Georgia Government
Transparency and Campaign
Finance Commission**,

Defendants.

Case No. _____

**Verified
Complaint**

Nature of the Case

1. This is a constitutional challenge to O.C.G.A. § 21-5-34.2, which allows a so-called “leadership committee” to accept political contributions that exceed the \$7,600 limit imposed by law on candidates for statewide office and their campaign committees.

2. The plaintiffs are the Libertarian Party of Georgia and Ryan Graham, the Libertarian Party's nominee for Lieutenant Governor. They allege that O.C.G.A. § 21-5-34.2 violates rights guaranteed to them by the First and Fourteenth Amendments to the United States Constitution because it allows the Republican and Democratic nominees for Lieutenant Governor to raise funds in unlimited amounts while Graham remains subject to the \$7,600 limit. The plaintiffs seek declaratory and injunctive relief prohibiting state officials from enforcing O.C.G.A. § 21-5-34.2 in a manner that violates his constitutional rights.

Jurisdiction and Venue

3. This Court has original jurisdiction of this action under 28 U.S.C. §§ 1331 and 1343(a)(3)-(4)

4. Venue is proper in this Court under 28 U.S.C. §§ 90(a)(2) and 1391(b).

Parties

5. The Libertarian Party of Georgia, Inc, is a Georgia nonprofit corporation founded in 1972.

6. Ryan Graham is a Georgia resident and registered voter. He is the nominee of the Libertarian Party of Georgia for the office of

Lieutenant Governor in the 2022 general election. His campaign committee, the Committee to Elect Ryan Graham, is subject to the \$7,600 contribution limit imposed by law on candidates for statewide office and their campaign committees. Graham wants to chair a leadership committee for the purpose of supporting Libertarian candidates for public office, including his own candidacy for Lieutenant Governor. He plans to run again as a Libertarian candidate for statewide public office in future elections.

7. Defendant Christopher M. Carr is the Georgia Attorney General. The Attorney General is charged with enforcing the Georgia Government Transparency and Campaign Finance Act, of which O.C.G.A. § 21-5-34.2 is a part. *See* O.C.G.A. § 21-5-6(b)(14). He is sued in his official capacity only.

8. Defendant Georgia Government Transparency and Campaign Finance Commission is an administrative body charged with enforcing the Georgia Government Transparency and Campaign Finance Act, of which O.C.G.A. § 21-5-34.2 is a part. *See* O.C.G.A. §§ 21-5-6, -7, -36. The Commission is capable of suing and being sued in its own name.

Background

9. The Georgia Government Transparency and Campaign Finance Act, O.C.G.A. § 21-5-1 *et seq.*, prohibits any statewide candidate or campaign committee from receiving aggregate contributions from any person—natural or corporate—exceeding \$7,600 for the primary, \$7,600 for the general, and \$4,500 for a runoff election. O.C.G.A. § 21-5-41(a), (k).

10. In 2021, the Georgia General Assembly amended the Act to allow for the creation of a “leadership committee” which “may accept contributions or make expenditures for the purpose of affecting the outcome of any election or advocating for the election or defeat of any candidate ...” O.C.G.A. § 21-5-34.2(d).

11. A “leadership committee” is defined as:

a committee, corporation, or organization chaired by the Governor, the Lieutenant Governor, the nominee of a political party for Governor selected in a primary election in the year in which he or she is nominated, or the nominee of a political party for Lieutenant Governor selected in a primary election in the year in which he or she is nominated. Such term shall also mean up to two political action committees designated by the majority caucus of the House of Representatives, the minority caucus of the House of Representatives, the majority caucus of the Senate, and the minority caucus of the

Senate. No person may chair more than one leadership committee.

O.C.G.A. § 21-5-34.2(a).

12. A leadership committee must register with the Georgia Government Transparency and Campaign Finance Commission within ten days of beginning to accept contributions and must disclose contributions or expenditures over \$500.00. *See* O.C.G.A. § 21-5-34.2(e).

13. Importantly, “[t]he contribution limits in Code Section 21-5-41 shall not apply to contributions to a leadership committee or expenditures made by a leadership committee in support of a candidate or a group of named candidates.” O.C.G.A. § 21-5-34.2(e). This means that a leadership committee may accept contributions in any amount and is not limited by the current monetary limitations on candidates and their campaign committees.

14. The only individual candidates for statewide office who can form leadership committees and can raise unlimited amounts of contributions under O.C.G.A. § 21-5-34.2 are the Governor, the Lieutenant Governor, and the nominees of a “political party” for those two offices who are chosen in a primary election. O.C.G.A. § 21-5-34.2(a).

15. Georgia law defines “political party” as any political organization which, at the preceding gubernatorial election, nominated a candidate for Governor who polled at least 20 percent of the total vote cast in the state for Governor; or which at the preceding presidential election nominated a candidate for President who polled at least 20 percent of the total vote cast in the nation for that office. O.C.G.A. § 21-2-2(25).

16. The only political parties in Georgia are the Democratic and Republican parties.

17. Under Georgia law, the Libertarian Party is a “political body,” which is defined as “any political organization other than a political party.” O.C.G.A. § 21-2-2(23). Political bodies nominate their candidates by convention. *See* O.C.G.A. § 21-2-172.

18. Because of these definitions, the only candidates for statewide public office who are eligible to form a leadership committee are the candidates for Governor and Lieutenant Governor nominated by the Democratic and Republican parties.

19. On June 17, 2022, the Republican nominee for Lieutenant Governor, Burt Jones, registered a leadership committee called the “WBJ Leadership Committee, Inc.”

20. On July 8, 2022, the WBJ Leadership Committee filed a campaign contribution disclosure form showing that it has raised at least \$60,000 in contributions that exceed the limits with which Graham and his campaign committee must comply.

Claim One

21. O.C.G.A. § 21-5-34.2 violates rights guaranteed to the plaintiffs by the First and Fourteenth Amendments to the United States Constitution, as enforced by 42 U.S.C. § 1983.

Claim Two

22. O.C.G.A. § 21-5-34.2 violates rights guaranteed to the plaintiffs by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, as enforced by 42 U.S.C. § 1983.

Relief

23. A real and actual controversy exists between the parties.

24. The plaintiffs have no adequate remedy at law other than this action for declaratory and equitable relief.

25. The plaintiffs are suffering irreparable harm because of the violation complained of here, and that harm will continue unless declared unlawful and enjoined by this Court.

WHEREFORE, the plaintiff respectfully prays that this Court:

- (1) enter a declaratory judgment that O.C.G.A. § 21-5-34.2 violates rights guaranteed to the plaintiffs by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and by the First and Fourteenth Amendments of the United States Constitution;
- (2) enjoin the defendants from enforcing O.C.G.A. § 21-5-34.2 in a manner that violates the United States Constitution;
- (3) award the plaintiffs the costs of this action together with their reasonable attorneys' fees under 42 U.S.C. § 1988; and
- (4) retain jurisdiction of this action and grant the plaintiffs any further relief which may in the discretion of the Court be necessary and proper.

Respectfully submitted this 8th day of September, 2022.


/s/ **Bryan L. Sells**

Georgia Bar No. 635562
Attorney for the Plaintiffs
The Law Office of
Bryan L. Sells, LLC
Post Office Box 5493
Atlanta, Georgia 31107-0493
(404) 480-4212 (voice/fax)
bryan@bryansellsllaw.com

Verification of Complaint

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the allegations in the foregoing Verified Complaint are true and correct to the best of my knowledge, information, and belief.

Executed this 8th day of September 2022.



Ryan Graham