IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA v. DONALD JOHN TRUMP, RUDOLPH WILLIAM LOUIS GIULIANI, JOHN CHARLES EASTMAN, MARK RANDALL MEADOWS, JEFFREY BOSSERT CLARK, RAY STALLINGS SMITH III, ROBERT DAVID CHEELEY, MICHAEL A. ROMAN, DAVID JAMES SHAFER, SHAWN MICAH TRESHER STILL, STEPHEN CLIFFGARD LEE, HARRISON WILLIAM PRESCOTT FLOYD, TREVIAN C. KUTTI, CATHLEEN ALSTON LATHAM, and MISTY HAMPTON.	INDICTMENT NO. 23SC188947

ORDER ON DEFENDANTS' MOTIONS TO DISMISS
UNDER THE FIRST AMENDMENT

The Defendants seek to dismiss the indictment on as-applied and facial First Amendment grounds. U. S. Const. Amend. I; *see also* Ga. Const., Art. I, Sec. I, Par. V & IX. They argue this prosecution violates the First Amendment's protections of political speech and activity, freedom of association, and the right to petition Congress as-applied to their alleged conduct, and further contend that the indicted charges are overbroad. After considering the extensive briefing, the argument of counsel, and the indictment, the Court finds these vital constitutional protections do not reach the actions and statements alleged by the State. Nor do the statutes themselves facially violate the First Amendment. The Defendants' motions are therefore denied.

The First Amendment

Abridged to a basic description, "the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content," and that laws regulating speech outside categorically excluded forms of expression are subject to "exacting scrutiny." *Scott v. State*, 299 Ga. 568, 569 (2016) (quoting *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564, 573 (2002)) (citation and punctuation omitted); *United States v. Alvarez*, 567 U.S. 709, 715 (2012) (plurality opinion). Although the First Amendment is "a broad umbrella that shelters all political points of view and shields a wide range of avenues for expression," free speech — including political speech — is not without restriction. *State v. Fielden*, 280 Ga. 444, 445 (2006) (quotations and citation omitted); *United States v. Stevens*, 559 U.S. 460, 468 (2010). Several "narrowly defined forms of expression [] are categorically excluded" from protection. *Scott*, 299 Ga. at 569 (citing *Alvarez*). When such a categorical restriction applies, levels of scrutiny have no analytical impact. *See*, *e.g.*, *Stevens*, 559 U.S. at 468-69.

These excluded categories include speech integral to criminal conduct, fraud, or speech presenting an imminent threat that the government can prevent. *Alvarez*, 567 U.S. at 717–18. Restrictions on "speech integral to criminal conduct . . . 'have never been thought to raise any Constitutional problem[.]'" *Stevens*, 559 U.S. at 468-69 (quoting *Chaplinksy v. New Hampshire*, 315 U.S. 568, 572 (1942)); *see also Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 498 (1949) ("speech or writing used as an integral part of conduct in violation of a valid criminal statute" is not constitutionally protected). Nor is a false statement which threatens to deceive and harm the government and that is knowingly and willfully made "in a matter within a government agency's

jurisdiction" free from restriction. *Haley v. State*, 289 Ga. 515, 528 (2011) (rejecting facial and as-applied First Amendment challenges to O.C.G.A. § 16-10-20).

The First Amendment's freedom of association includes the "right to associate for the purpose of engaging in those activities protected by the First Amendment — speech, assembly, petition for the redress of grievances, and the exercise of religion." *Roberts v. United States Jaycees*, 468 U.S. 609, 618 (1984). This protection "encompasses a political party's decisions about the identity of, and the process for electing, its leaders." *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 229 (1989); *Fortson v. Weeks*, 232 Ga. 472, 480 (1974) (citizens may "exercise freely [their] First Amendment rights in support of [their] chosen candidate"). But, like political speech, the right of association is not immune from restriction — particularly where the "State indisputably has a compelling interest in preserving the integrity of its election process" — and thus laws "burden[ing] the associational rights of political parties and their members" may be valid. *Eu*, 489 U.S. at 231 (citing *Rosario v. Rockefeller*, 410 U.S. 752, 761 (1973)).

Similarly, the protection afforded by the Petition Clause of the First Amendment, ensuring the ability to "communicate [one's] will" to government officials, and regarded as "implicit in 'the very idea of government, republican in form,'" does not extend to allegedly fraudulent petitions. *McDonald v. Smith*, 472 U.S. 479, 482 (1985) (quoting 1 Annals of Cong. 738 (1789); *United States v. Cruikshank*, 92 U.S. 542 (1876)). In other words, the law does not insulate speech allegedly made during fraudulent or criminal conduct from prosecution under the guise of petitioning the government. The right to petition is not absolute, nor does it carry "special First Amendment status" that would render claims asserted under it immune from criminal recourse. *McDonald*, 472 U.S. at 484–85.

Turning to the arguments at hand with these guarantees and limitations in mind,[1] the Defendants generally seek dismissal of the indictment on the basis that it violates their First Amendment right to contest the 2020 presidential election.[2] The Defendants' constitutional challenges are more specifically summarized as follows:

- The Defendants challenge Georgia's RICO Act (O.C.G.A. § 16-14-4 *et seq.*) facially and as-applied to the alleged conduct in Count 1 as violating their First Amendment rights to speak, associate, and petition the government and assert that every predicate act upon which the alleged conspiracy is founded constitutes protected speech and conduct.[3]

[1] Defendants also invoke in passing the Georgia Constitution's free speech provisions. *See*, *e.g.*, Ga. Const., Art. I, Sec. I, Par. V & IX. There may well be an analytical distinction as the Georgia Supreme Court long-ago held that this State's constitution can offer broader protections than the First Amendment. *See*, *e.g.*, *K. Gordon Murray Prods. v. Floyd*, 217 Ga. 784, 792 (1962) (finding ordinance invalid under Georgia Constitution but not under First Amendment); Nels S.D. Peterson, Principles of Georgia Constitutional Interpretation, 75 Mercer L. Rev. 1, 19 (2023). Counsel did not brief or argue this issue in depth, nor have our appellate courts offered any concrete guidance. This Court therefore proceeds under the belief that federal and state free speech principles should be applied identically in this case. *See*, *e.g.*, *Kennedy v. Avondale Estates, Ga.*, 414 F. Supp. 2d 1184, 1216 (N.D. Ga. 2005) (citation omitted) ("Georgia courts have consistently applied United States Supreme Court precedent, drawing no analytical distinction between the state and federal constitutions.").

[2] Directly or through adoption. (Trump Docs. 69, 9/28/23; 77, 10/17/23; 99, 12/18/23; 105, 1/8/24); (Giuliani Doc. 72, 1/4/24); (Eastman Doc. 57, 1/8/24); (Meadows Doc. 57, 11/30/23); (Clark Docs. 89, 94, 96, & 98, 2/5/24); (Smith Doc. 24, 9/11/23); (Cheeley Docs. 48, 10/5/23; 62, 11/28/23; 69, 12/18/23; 71, 12/20/23; 82, 2/5/24); (Roman Docs. 56, 11/27/23; 57, 12/1/23); (Shafer Doc. 46, 9/27/23); (Still Doc. 51, 10/2/23); (Lee Doc. 59, 1/8/24); (Floyd Doc. 113, 1/5/24); (Kutti Doc. 55, 12/8/23); (Latham Doc. 57, 11/30/23); (Hampton Doc. 32, 9/18/23).

[3] Directly or through adoption. (Trump Doc. 77, 10/17/23); (Giuliani Doc. 72, 1/4/24); (Eastman Doc. 57, 1/8/24); (Meadows Doc. 57, 11/30/23); (Clark Docs. 94, 96, & 98, 2/5/24); (Smith Doc. 24, 9/11/23); (Cheeley Doc. 69, 12/18/23); (Roman Doc. 56, 11/27/23); (Shafer Doc. 85, 2/5/24); (Still Doc. 73, 1/5/24); (Lee Doc. 59, 1/8/24); (Floyd Doc. 113, 1/5/24); (Kutti Doc. 55, 12/8/23); (Latham Doc. 57, 11/30/23); (Hampton Doc. 32, 9/18/23).

- The Defendants argue that O.C.G.A. § 16-10-23 (it is a crime for an individual to "falsely hold[] himself or herself out as a [] public officer or employee with intent to mislead another into believing that he or she is actually such officer") is unconstitutional facially and as-applied to their conduct alleged in Counts 8 and 9 which charge the Defendants with Impersonating a Public Officer and Conspiracy to Commit Impersonating a Public Officer because it infringes on their right to speak, associate, and petition the government.[4]
- The Defendants challenge the constitutionality of O.C.G.A. § 16-9-1(b) (an individual commits the offense of forgery in the first degree when "with the intent to defraud he or she knowingly makes, alters, or possesses any writing, other than a check, in a fictitious name or in such manner that the writing as made or altered purports to have been made . . . by authority of one who did not give such authority and utters or delivers such writing") facially and as-applied to their conduct alleged in Counts 10-11 and 16-17, which charge the Defendants with Forgery in the First Degree and Conspiracy to Commit Forgery in the First Degree, on the ground that their speech and conduct relate to a matter of public concern.[5]
- The Defendants challenge O.C.G.A. §§ 16-10-20 (False Statements and Writings) and 16-10-20.1(b)(1) (Filing False Documents) facially and as-applied to their conduct

[4] Directly or through adoption. (Trump Doc. 77, 10/17/23); (Giuliani Doc. 72, 1/4/24); (Eastman Doc. 57, 1/8/24); (Cheeley Docs. 48, 10/5/23; 69, 12/18/23); (Roman Doc. 56, 11/27/23); (Shafer Doc. 85, 2/5/24); (Still Doc. 73, 1/5/24); (Latham Doc. 57, 11/30/23).

[5] Directly or through adoption. (Trump Doc. 77, 10/17/23); (Giuliani Doc. 72, 1/4/24); (Eastman Doc. 57, 1/8/24); (Cheeley Docs. 48, 10/5/23; 69, 12/18/23); (Roman Doc. 56, 11/27/23); (Shafer Doc. 85, 2/5/24); (Still Doc. 73, 1/5/24); (Latham Doc. 57, 11/30/23).

alleged in Counts 3-4, 12-15, 18-19, 24, 26-27, 30, and 40 on the grounds of First Amendment protections of speech, expressive conduct, and the right to petition the government.[6] The indictment alleges that Defendants Giuliani, Smith, and Cheeley knowingly and willfully made false statements to members of the Georgia Senate at a Senate Judiciary Subcommittee meeting (Counts 3-4, 24, and 26), that the Defendants knowingly and willfully made and used a false document and conspired to knowingly and willfully file false documents purporting to certify 2020 presidential votes of the electors from Georgia and falsely representing that Defendants were Chairman and Secretary of the 2020 Georgia Electoral College Meeting (Counts 12-13, and 18-19), that the Defendants mailed, with the intent to file, a false certificate of the votes of the 2020 electors from Georgia in a court of the United States and conspired to knowingly file, enter, and record the false document (Counts 14-15), that Defendants Trump and Eastman knowingly filed a document containing false statements concerning the election in a lawsuit in the United States District Court for the Northern District of Georgia (Count 27), that the Defendants conspired to commit solicitation of false statements and writings involving an election worker (Count 30), and that Defendant Shafer knowingly and willfully made false statements in the presence of Fulton County District Attorney's Office investigators (Count 40).

[6] Directly or through adoption. (Trump Doc. 77, 10/17/23); (Giuliani Doc. 72, 1/4/24); (Eastman Doc. 57, 1/8/24); (Smith Doc. 24, 9/11/23); (Cheeley Docs. 48, 10/5/23; 69, 12/18/23); (Roman Doc. 56, 11/27/23); (Shafer Doc. 85, 2/5/24); (Still Doc. 73, 1/5/24); (Lee Doc. 59, 1/8/24); (Floyd Doc. 113, 1/5/24); (Kutti Doc. 55, 12/8/23); (Latham Doc. 57, 11/30/23).

As-Applied Challenges

As-applied constitutional challenges typically rely on the development of a factual record after trial.[7] Yet our Supreme Court's decisions in *Hall*, *Boyer*, and *Major* demonstrate that as-applied challenges may be considered pretrial using the limited record at hand. *Hall v. State*, 268 Ga. 89 (1997) (assessing constitutionality of Georgia's reckless conduct statute as-applied on due process vagueness grounds to the pretrial facts stipulated by the State in addition to the indictment); *State v. Boyer*, 270 Ga. 701 (1999) (same); *Major v. State*, 301 Ga. 147, 153 (2017) ("Based on the evidence in the [pretrial] record before us, we find that the statute has not been unconstitutionally applied . . ."). While *Hall* and *Boyer* involved due process vagueness challenges,[8] neither of these

[7] *See Major v. State*, 301 Ga. 147, 152-53 (2017) (holding as-applied challenges concern the "facts of a particular case" and that questions of intent are reserved for the jury); *Schultz v. Alabama*, 42 F.4th 1298, 1319 (11th Cir. 2022) ("because a factual, as-applied challenge 'asserts that a statute cannot be constitutionally applied in particular circumstances, it necessarily requires the development of a factual record'") (quoting *Harris v. Mexican Specialty Foods, Inc.*, 564 F.3d 1301, 1308 (11th Cir. 2009); *Jones v. State*, 307 Ga. 505, 509 (2019) (noting that an as-applied Equal Protection and Eighth Amendment post-conviction challenge requires addressing the particular facts of a case as shown by the record).

[8] *See Hall*, 268 Ga. at 91 ("It is well established that vagueness challenges to statutes which do not involve First Amendment freedoms [] must be examined in light of the facts of the case at hand.") (quotations and citations omitted); *see also Boyer*, 270 Ga. at 702 ("a non-First Amendment vagueness challenge is decided by the facts of the case").

opinions articulated a procedural distinction between First Amendment challenges and all others.[9] This Court therefore follows the Georgia Supreme Court's path in *Hall*, *Boyer*, and *Major*, and as the State holds to its position that nothing is stipulated or agreed to beyond the grand jury's averments, confines its analysis to the four corners of the indictment. *See Hall*, 268 Ga. at 91; *Boyer*, 270 Ga. at 701 (Carley, J., concurring) ("In addressing such a pre-trial constitutional challenge, a court is . . . bound by the well-pleaded allegations of the indictment. . . .") (quotations and citation omitted).

After interpreting the indictment's language liberally in favor of the State as required at this pretrial stage, the Court finds that the Defendants' expressions and speech are alleged to have been made in furtherance of criminal activity and constitute false statements knowingly and willfully made in matters within a government agency's jurisdiction which threaten to deceive and harm the government. *See Malloy v. State*, 293 Ga. 350, 360 (2013); *see also Haley v. State*, 289 Ga. 515, 528 (2011); *Johnson v. State*, 233 Ga. App. 450, 451 (1998). Even core political speech addressing matters of public concern is not impenetrable from prosecution if allegedly used to further criminal activity. *See*, *e.g.*, *United States v. Rahman*, 189 F.3d 88, 117 (2d Cir. 1999). And independently lawful acts involving speech within the meaning of the First Amendment may nonetheless suffice

[9] This Court previously ruled on two co-Defendants' First Amendment challenges, holding that the contested factual record barred application of an as-applied challenge. *See* Order on Defendants' Motions to Dismiss Under the Supremacy Clause and First Amendment (Chesebro Doc. 124, 10/18/23). To the extent this order suggested that pretrial as-applied challenges are completely foreclosed under Georgia law, it was inaccurate. Instead, the determinative issue in the pretrial context turns on what evidence the trial court can consider. Because former Defendants Chesebro and Powell largely relied on evidence found outside the indictment, their challenges were not yet ripe. *See Hall*, 268 Ga. at 98 (Carley, J., dissenting) ("[T]he majority's consideration of any 'conduct' other than that attributed to [the defendant] in the accusations constitutes the fundamental error in its analysis.").

to support a RICO conspiracy prosecution. *See*, *e.g.*, *Yates v. United States*, 354 U.S. 298, 334 (1957) (overruled on other grounds by *Burks v. United States*, 437 U.S. 1, 18 (1978)).

Nor is a false statement knowingly and willfully made in a matter within a government agency's jurisdiction and which threatens to deceive and harm the government free from restrictions. *Haley*, 289 Ga. at 528 (rejecting facial and as-applied First Amendment challenges to O.C.G.A. § 16-10-20); *United States v. Alvarez*, 567 U.S. 709, 721 (2012) (statutes that prohibit falsely representing that an individual is speaking on behalf of the government or impersonating a government officer "protect the integrity of Government processes" and are distinguishable from laws "merely restricting false speech"). The Court in *Haley* declined to interpret O.C.G.A. § 16-10-20 as a broad criminalization of false statements and held that O.C.G.A. § 16-10-20 is constitutional "when properly construed to require that the defendant make the false statement with knowledge and intent that it may come within the jurisdiction of a state or local government agency[.]" *Haley*, 289 Ga. at 516, 527 ("Accordingly, we hold that OCGA § 16–10–20 requires proof that the defendant knowingly and willfully made a false statement *and* that he knowingly and willfully did so in a matter within the jurisdiction of a state or local department or agency.") (emphasis in original). Viewing the indictment most favorably to the State, the Court finds that First Amendment exclusions are applicable to the conduct charged under the pertinent statutes. *See*, *e.g.*, *id.* at 528 ("§ 16-10-20 may only be applied to conduct that persons of common intelligence would know was wrongful because it could result in harm to the government"); *see also Alvarez*, 567 U.S. at 719 ("The statement must be a knowing or reckless falsehood.").

During oral argument, the Defendants posited that the speech at issue, even if false, was political and that one cannot be prosecuted for falsity alone. However, unlike the statute at issue in

Alvarez, the State's allegations do not suggest that this prosecution comes solely because it believes the speech was inaccurate, and the prosecution does not result in merely restricting false speech. Instead, the indictment avers throughout that the Defendants acted "willfully" and "knowingly," and that they impacted matters of governmental concern. These are not legal conclusions, but issues of fact. The allegations that the Defendants' speech or conduct was carried out with criminal intent are something only a jury can resolve. *See Brown v. State*, 298 Ga. App. 545, 548 (2009) (holding intent "is particularly an issue for the finder of fact"); *Rowan v. State*, 338 Ga. App. 773, 776 (2016) (sufficient evidence existed for the jury to find the defendant acted with intent to defraud and that he knew the signature was forged). Accepting the allegations as true for the purposes of this pretrial challenge, as the Court must, the speech alleged in this indictment is integral to criminal conduct and categorically excluded from First Amendment protections.

To the extent that the alleged acts or speech were directed to public officials, the Court nonetheless determines that this charged conduct does not unconstitutionally burden the right to petition.

> That speech is used as a tool for political ends does not automatically bring it under the protective mantle of the Constitution. For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected. Calculated falsehood falls into that class of utterances which "are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. . . ."

McDonald v. Smith, 472 U.S. 479, 487 (1985) (Brennan, J., concurring) (citing *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942)). The State has alleged more than mere expressions of a political nature. Rather, the indictment charges the Defendants with knowingly and willfully making false statements to public officers and knowingly and willfully filing documents containing

false statements and misrepresentations within the jurisdiction of state departments and agencies. The defense has not presented, nor is the Court able to find, any authority that the speech and conduct alleged is protected political speech. Although the Defendants characterize the relevant speech or actions as petitions to Congress regarding the validity of electors which must be afforded constitutional protection, at this stage the Court must consider the method and manner of the criminal enterprise as alleged in the indictment. Having done so, the Court concludes that the Petition Clause's protections do not extend to the facts presently before the Court. *See McDonald*, 472 U.S. at 485 (finding no absolute immunity under the Petition Clause from damages for libel where petitioner allegedly mailed letters to politicians making libelous, false statements about a candidate for public office).

Facial/Overbreadth Challenges

The Defendants also raise facial challenges to O.C.G.A. § 16-10-20 (false statements) and O.C.G.A. § 16-10-20.1(b)(1) (false filings), arguing that the statutes broadly criminalize all manner of false, fictitious, or fraudulent expressions. "A facial challenge to a legislative Act is, of course, the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid." *Georgia Dep't of Hum. Servs. v. Steiner,* 303 Ga. 890, 899 (2018) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). Overbreadth is a form of facial challenge that gives the challenger standing to argue a statute "prohibits a substantial amount of protected speech" for hypothetical third parties, and first requires the court to construe the challenged statute to identify what the statute covers. *United States v. Williams*, 553 U.S. 285, 292-93 (2008). Next, the court must consider whether the statute "criminalizes a substantial amount of protected expressive activity." *Id.* at 297. To succeed on

such a claim, the Supreme Court has emphasized and "vigorously enforced" the requirement that the statute's overbreadth be "substantial." *Id.* at 292.

Here, Defendant Cheeley argues that together, these statutes broadly criminalize all false statements and false documents made within the jurisdiction of any state department or agency or court. But this reading overstates the scope of conduct prohibited under each statute, and insofar as each statute "reaches *any* speech, it stretches no further than speech integral to unlawful conduct." *United States v. Hansen*, 143 S. Ct. 1932, 1947 (2023) (emphasis in original). Because both §§ 16-10-20 and 16-10-20.1(b) are limited in their reach, neither justifies applying the "strong medicine" of the overbreadth doctrine. *Broadrick v. Oklahoma*, 413 U.S. 601, 613 (1973) ("Facial overbreadth has not been invoked when a limiting construction has been or could be placed on the challenged statute.").

In addition, this Court sees no reason to depart from the Georgia Supreme Court's ruling in *Haley* which denied a similar challenge to O.C.G.A. § 16-10-20. The statute does not blanketly apply to all instances of false, fictitious, or fraudulent speech but rather is limited only to such "knowingly and willfully false statement[s] that [are] made knowingly and willfully in a matter within a government agency's jurisdiction[.]" *Haley*, 289 Ga. at 528. Accordingly, "the State may lawfully punish such a course of potentially deceptive and injurious conduct." *Id.*

The Court's logic in *Haley* applies with equal force to O.C.G.A. § 16-10-20.1(b)(1). O.C.G.A. § 16-10-20.1(b)(1) provides:

> Notwithstanding Code Sections 16-10-20 and 16-10-71, it shall be unlawful for any person to . . . [k]nowingly file, enter, or record any document in a public record or court of this state or of the United States knowing or having reason to know that such document is false or contains a materially false, fictitious, or fraudulent statement or representation.

In the same way that O.C.G.A. § 16-10-20 was not overbroad because it — when properly construed — requires that the defendant knew or intended that his false statement will come to the attention of an agency with authority to act on those statements, O.C.G.A. § 16-10-20.1(b)(1) criminalizes the filing of false documents[10] "in a public record or court of this state or of the United States[.]" Construing the intentionality requirement — knowingly — as applying to the false content of the document in addition to the filing of false documents in a public record or court abrogates any concerns of the statutes broadly criminalizing false speech.

Defendants, relying on *281 Care Committee v. Arneson*, argue that prohibitions on false political speech must be subjected to the highest judicial scrutiny. 766 F.3d 774, 783 (8th Cir. 2014); (Cheeley Doc. 69, 12/18/23). But whereas the challenged statute in *Arneson* criminalized participating in political advertising or campaigning which spread known falsehoods, implicating strict scrutiny, the pertinent statutes at hand, when considered facially, do not aim to regulate "discussion of public issues and debate on the qualifications of candidates[.]" *Arneson*, 766 F.3d at 778-87 (citation omitted) (directly regulating what is said or distributed during an election "goes beyond an attempt to control the process to enhance the fairness overall so as to carefully protect the right to vote").

Further, the statutes do not facially violate the Defendants' freedom of association. Our Supreme Court has upheld legislation impacting the right of association after "[b]alancing governmental interest in protecting the integrity of the democratic process and to insure fair elections against an individual's fundamental rights[.]" *Fortson v. Weeks*, 232 Ga. 472, 479-82

[10] Documents "shall include, but shall not be limited to, liens, encumbrances, documents of title, instruments relating to a security interest in or title to real or personal property, or other records, statements, or representations of fact, law, right, or opinion." O.C.G.A. § 16-10-20.1(a).

(1974) (laws governing campaign contribution disclosures did not violate the freedom of speech nor "fundamental political rights of the people"); *see also United States v. Harriss*, 347 U.S. 612, 626 (1954) (while Lobbying Act at issue might result in some deterrent effect to exercising First Amendment rights, "[t]he hazard of such restraint is too remote to require striking down a statute which on its face is otherwise plainly within the area of congressional power and is designed to safeguard a vital national interest"). Compared to legislation concerning campaign contribution disclosures and lobbying, the statutes at hand only incidentally touch — assuming they do so at all — the Defendants' association rights. Thus, while the State retains its interest preserving the integrity of the presidential electoral process, the risk that doing so will override any implicated rights to association is legally immaterial.

Conclusion

Without foreclosing the ability to raise similar as-applied challenges at the appropriate time after the establishment of a factual record, the Defendants' motions based on First Amendment grounds are denied.

SO ORDERED, this 4th day of April, 2024.

Judge Scott McAfee
Superior Court of Fulton County
Atlanta Judicial Circuit