Supreme Court Case No. _____

Court of Appeals Case Nos. A26A0457, A26A0782

In the Supreme Court State of Georgia

FULTON COUNTY REPUBLICAN PARTY,

Petitioner,

v.

FULTON COUNTY BOARD OF COMMISSIONERS, ROBB PITTS, BRIDGET THORNE, BOB ELLIS, DANA BARRETT, MO IVORY, MARVIN S. ARRINGTON, JR., AND KHADIJAH ABDUR-RAHMAN,

Respondents.

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether the Fulton County Board of Commissioners may indefinitely reject one political party's nominees to the Fulton County Board of Elections despite the Local Act's bipartisan mandate that the Board of Commissioners "shall appoint" members nominated by the chairpersons of each of the two major political parties?

II. Whether the Court of Appeals violated this Court's precedent when it held that a trial court lacks discretion to hold a party in contempt for defying a writ of mandamus if the writ of mandamus is reversed on appeal?

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Fulton County Republican Party (the "Fulton Republicans") respectfully petitions this Court for a writ of certiorari to review the March 20, 2026 decision of the Court of Appeals.[1] This Court has jurisdiction under Article 6, § VI, ¶ V of the Georgia Constitution.

PRELIMINARY STATEMENT

When the Georgia General Assembly created the Fulton County Board of Registration and Elections (the "Election Board"), it mandated bipartisan board membership. The statutory text is unequivocal: two members of the Election Board "shall be appointed" by the Fulton County Board of Commissioners ("BOC") within 30 days "from nominations made by" the chairperson of each of the two major political parties. This Court should grant certiorari because the Court of Appeals' Opinion eviscerates this bipartisan structure and cedes the composition of the Election Board to the partisan discretion of the BOC.

In 2025, the BOC appointed both Democratic nominees to the Election Board, but refused both Republican nominees because a majority of the BOC disagreed with their politics. The trial court saw the violation

[1] The Court of Appeals resolved two related appeals (case numbers A26A0457 and A26A0782) in one decision. This Opinion is attached as Exhibit 1.

clearly and issued a Writ of Mandamus commanding appointment of the Republican nominees. The Court of Appeals *reversed*, holding that the BOC had discretion to reject the qualified Republican nominees—even for political reasons—and could indefinitely reject Republican nominees notwithstanding the 30-day bipartisan appointment mandate. The Court of Appeals further held that even if the General Assembly textually commands an appointment, an appointing authority has a "constitutional prerogative" for discretion in appointments.

The consequences of the Opinion are immediate and statewide. In Fulton County, the board charged with overseeing elections in Georgia's most populous county lacks the bipartisan representation required by the Local Act. Moreover, the Opinion means that there may never be a true bipartisan Election Board. The Opinion permits the BOC to refuse to appoint any nominee who does not meet its political litmus test. Beyond Fulton County, the Court of Appeals' reasoning is broad enough to threaten the bipartisan design of other county election boards, as well as the statewide election board. And, the Court of Appeals' creation of a free-wheeling constitutional appointment prerogative—one the General

Assembly cannot constrain no matter how clearly it commands otherwise—threatens to place legislative directives beyond judicial enforcement.

This Court should grant certiorari and reverse.

STATEMENT OF FACTS

A. The Local Act creating the Election Board mandates bipartisan appointment of political party nominees.

In 1989, the General Assembly created the Fulton County Board of Registration and Elections by local act. 1989 Ga. Laws, p. 4577 (amended by 2019 Ga. Laws, p. 4181, § 2) (the "Local Act"). The Election Board is a five-member body that oversees elections, voter registration, and absentee balloting in Fulton County. Although several amendments have been passed over the intervening decades, one feature has not changed: the mandatory bipartisan Election Board membership.

The Local Act sets out a mandatory bipartisan appointment procedure to ensure bipartisan representation. Two members "shall be appointed" by the BOC to the Election Board "from nominations made by" the majority political party, and two more "shall be appointed" by the BOC "from nominations made by" the minority political party:

> The board shall be composed of five members, each of whom shall be an elector and resident of Fulton County, who shall be appointed in the following manner:
>
> (1) Two members shall be appointed by the governing authority of Fulton County from nominations made by the chairperson of the county executive committee of the political party whose candidates at the last preceding regular general election held for the election of all members of the General Assembly received the largest number of votes in this state for members of the General Assembly;
>
> (2) Two members shall be appointed by the governing authority of Fulton County from nominations made by the chairperson of the county executive committee of the political party whose candidates at the election described in paragraph (1) of this section received the second largest number of such votes; and
>
> (3) One member shall be appointed by the governing authority of Fulton County, which member shall be designated permanent chairperson of the board.

1989 Ga. Laws, p. 4577, as amended by 2019 Ga. Laws, p. 4181 § 2. The BOC has discretion only over the fifth member, who serves as the permanent chairperson. *Id.* § 2(3). From there, the Local Act imposes only three membership qualifications: the nominees must be residents and electors of Fulton County, may not hold elective public office, and may not be candidates for elective office. *Id.* § 2; 1989 Ga. Laws, p. 4578, § 3. Section 4 reinforces the mandatory bipartisan appointment obligation with a hard deadline: appointments "shall be made no later than 30 days preceding

the date at which such member is to take office." 1989 Ga. Laws, p. 4579, § 4.

B. The BOC violates the bipartisan appointment mandate.

In March 2025, the Election Board notified the Fulton County Republican Party that the current Election Board term was ending on June 30, 2025, and requested Republican nominees for the upcoming two-year term. (V2-12.)[2] On May 15, the Fulton Republicans' chairwoman formally submitted the Party's nominees: Julie Adams, a sitting member of the Election Board since February 2024, and Jason Frazier. (V2-12, 25.) Both nominees satisfied every statutory qualification. (V2-13.)

At its May 2025 meeting, the BOC unanimously seated the two Democratic nominees but voted 5–2 to "file"—that is, to table—both Republican nominees. (V2-13–14, 49.) The stated reasons had nothing to do with the statutory qualifications. Instead, the partisan character of the vote was plain. Chairman Pitts declared before the vote on Adams, "I hope that we will not approve this one," and added regarding Frazier, "I would hope we would deny this nomination as well." (V2-13–14.)

[2] Unless otherwise noted, the record documents cited in this petition refer to the record filed in Case No. A26A0457.

Commissioner Arrington was even more explicit. He stated that the "Republican Party ought to take a look at their people and not nominate people that are in [sic] the far right, and nominate people that are in the center." (V2-14.) "[I]f y'all present some people that are in the center," Arrington told the Fulton Republicans, "they can get approved." (*Id.*)

At no point before the June 1, 2025 statutory deadline—or at any time thereafter—did the BOC vote to reject the Republican nominees or request that the Fulton Republicans submit alternative nominees. (V2-15.) The Board simply tabled the nominations and did nothing. The mandatory deadline passed without compliance, and the new term began on July 1, 2025. (*Id.*) The Republican nominees remain unappointed to date.[3]

[3] The BOC has not reappointed, but also has taken no action to remove, one of the Republican nominees who previously served on the Election Board. As of the filing of this Motion, the Election Board only has one of the two Republican members required by the Local Act's bipartisan appointment mandate. If the Court of Appeals' Opinion is not reversed, the BOC may attempt to remove the current Republican member and eliminate all Republican representation on the Election Board.

C. The trial court issues a Writ of Mandamus and later holds the BOC in contempt for violating the Writ.

On June 13, 2025, the Fulton Republicans petitioned the Fulton County Superior Court for a writ of mandamus compelling the BOC to appoint the Republican Nominees. (V2-9.) The trial court issued the Writ of Mandamus on August 4, concluding that the Local Act's directive that the BOC "shall appoint" the nominees left the BOC with no discretion to reject an otherwise qualified nominee. (V2-215, 220–21.)

The Fulton Republicans demanded that the BOC comply with the Writ and appoint the Republican nominees at its next meeting on August 6, 2025. (V2-223–25; V2-235.) Nevertheless, the BOC declared at the meeting that it would not comply with the Writ and would instead "let the judicial process play out." (V2-225.) The Fulton Republicans filed an emergency motion for contempt, and the BOC belatedly asked the trial court to stay the Writ. (V2-223–31, 243–55.)

On August 15, 2025, the trial court denied a stay and explicitly directed the BOC "to comply with [the court's] order at its next regularly scheduled meeting." (V3-321–22.) The same day the BOC filed an emergency motion for supersedeas, which the Court of Appeals denied on August 19, 2025. (V3-315–17; V3-324.)

Despite both the Court of Appeals and the trial court denying a stay, the BOC again violated the Writ by refusing to appoint the Fulton GOP nominees at its August 20, 2025 meeting. (V3-326.) Multiple commissioners openly challenged the trial court's authority and stated their intent to defy the Writ. For example, Commissioner Barrett stated that "[n]o judge can compel any elected official to vote a certain way because we are hired by our constituents and only our constituents can remove us from office. No court, no lawmaker, no political party can compel me to vote any particular way." (V3-326–27.) Similarly, Commissioner Ivory stated that "[n]obody can tell you what or how you should vote." (*Id.*)

On August 27, 2025, the trial court held the BOC in contempt (the "Contempt Order"), finding "beyond a reasonable doubt that the Board of Commissioners has failed to comply with this court's order" and imposed a $10,000-per-day fine, purgeable within two days by appointing the Republican nominees. (V3-552–56.) The trial court also granted the Fulton Republicans' attorney's fees finding the BOC acted in bad faith and caused the Fulton Republicans unnecessary difficulty in the conduct of its litigation. (*Id.* at 555–56.) The BOC filed two separate appeals: Case No. A26A0782 (appealing the Writ of Mandamus) and Case No.

A26A0457 (appealing the Contempt Order). Upon the BOC's request, the trial court issued a supersedeas for its Contempt Order as required by O.C.G.A. § 5-6-13. (V4-610–11.)

D. The Georgia Court of Appeals reverses the Writ of Mandamus and Contempt Order.

On March 20, 2026, a three-judge panel reversed in both cases. The Court of Appeals acknowledged that the Local Act's text is "clear and unambiguous" and that it bars the BOC from appointing anyone not nominated by the relevant party. COA Op. at 9–10. It nonetheless concluded that the word "appoint" carries inherent discretion and that the Commissioners were exercising a "constitutional prerogative." *Id.* at 6, 11.

The Court of Appeals did not analyze the word "shall" and did not address why the Local Act's structure—its eligibility criteria, its hard deadline, and its deliberate bipartisan appointment process—failed to mandate bipartisan appointments. It also concluded that an adequate alternative remedy existed because the Party could submit new nominees, without addressing whether that reasoning would permit the Commissioners to veto nominees indefinitely. *Id.* at 13. As to the Contempt Order, the Court of Appeals held that because the underlying Writ of Mandamus

was reversed, the trial court necessarily abused its discretion to hold the BOC in contempt for defying the Writ. *Id.* at 13.

ARGUMENT

I. The Court of Appeals circumvented the Local Act's bipartisan appointment mandate and erroneously created a new constitutional right to partisan discretion in election board appointments.

County election boards form a critical part of election administration, oversight, and integrity in Georgia with responsibility for registration, qualification, voting, and certification. When the General Assembly created the Fulton County Election Board in 1989, it mandated a bipartisan board for Georgia's most populous county, with a mandate that members would be appointed from the nominations made by each major political party.

This Court should grant certiorari because the Court of Appeals' holding that the BOC may indefinitely reject Republican nominees for their political beliefs is unfaithful to that statutory text and structure. Instead of applying the plain text, the Court of Appeals held that the BOC's "appointment" duty necessarily vests the BOC with broad discretion, and it elevated that perceived discretion to "constitutional prerogative."

The consequences of the Court of Appeals' misinterpretation are immediate and concrete. The Opinion eviscerates the bipartisan design for the Election Board, upends the carefully tuned mandatory bipartisan appointment process in the Local Act, and creates new constitutional dogma unsupported by any constitutional text. Unsurprisingly, this textual departure produces absurd outcomes. According to the Opinion, a majority-controlled BOC can now indefinitely reject the minority party's nominees for any reason—including a partisan reason—and form an Election Board composed solely of members representing one political party. The sweeping nature of the Court of Appeals' Opinion not only compromises the Fulton County Election Board, but also the bipartisanship of election boards across the state, including the statewide election board.

A. The Court of Appeals disregarded the Local Act's bipartisan appointment mandate.

The Local Act does not ask the BOC to consider appointing qualified Republican nominees. It commands the BOC to appoint them. The Local Act mandates bipartisan membership. Two members on the Board "shall be appointed" by the BOC "from nominations made by" each major party—not "may be," but "shall be." The BOC is required to appoint the

Republican nominees 30 days before they are to take office. The Local Act does not permit Republican nominees to be indefinitely "tabled."

The plain text of the statute and its structure confirm that "shall be appointed" does not mean "may be tabled." *First,* under settled Georgia law, "'shall' is generally construed as a word of command" and its "import is mandatory," *Hall Cnty. Bd. of Tax Assessors v. Westrec Props., Inc.*, 303 Ga. 69, 75 (2018) (citation and internal quotation marks omitted); *accord Clark v. State*, 321 Ga. 35, 42 (2025) (citation omitted) ("[T]he term 'shall' is generally construed as mandatory unless there is a contextual reason to think it is merely permissive."); *State v. Collier*, 279 Ga. 316, 317 (2005) (citation modified) ("The word shall is generally construed as a word of command"). Absent a "contextual basis for concluding" otherwise, "the word 'shall'" "function[s] as a mandatory directive." *State v. Islam*, 321 Ga. 30, 32 n.2 (2025).

As the Court of Appeals previously explained, the word "shall" commands action; it is not discretionary. Just last year, it held that Election Board members have a *mandatory* duty to certify election results under the Election Code's "shall" command and no discretion to refuse to certify election results. *Adams v. Fulton County*, 376 Ga. App. 288, 293–94

(2025). "Shall" may not be consistently interpreted as a word of command when it applies to Election Board members' certification duties and as a word conveying discretion when it applies to the BOC's appointment duties.

Second, the structure of the Local Act confirms the mandatory bipartisan appointment obligation at every turn. The text contemplates a bipartisan Election Board to oversee partisan elections. It relies on appointing nominees made by two different political parties to avoid the moral hazard that would be inherent in trusting the partisan BOC to make authentic bipartisan appointments on its own. It requires those bipartisan appointments to be made within 30 days, consistent only with a mandatory appointment obligation. The Local Act gives the BOC discretion over precisely one appointment: the fifth member, who serves as permanent chairperson. That asymmetry is deliberate. The General Assembly knew how to give the BOC discretion when it wanted to. The Local Act draws a sharp contrast between that member and the four party-nominated members. This carefully designed bipartisan structure is eviscerated if the BOC also has discretion to indefinitely table the political parties' nominees. The Local Act's structure makes clear that it

commands the appointment of the political parties' nominees; it does not merely require that nominees originate from a political party.

Indeed, when the General Assembly wants to give a county governing authority discretion to reject party nominees, it says so explicitly. In 2024, it enacted O.C.G.A. § 21-2-40.1, which provides that in counties without established election boards, parties may "submit a list of recommended appointees" and the governing authority "is under no obligation to appoint any person listed on such list." O.C.G.A. § 21-2-40.1(b)(2)(c). Other examples drive the point home. The Pickens County local act expressly builds in a margin of choice among nominees. It calls for a list of four nominations from which the governing authority selects two members. 2021 Ga. Laws, p. 4051–52, § 2(1)–(2). And in Forsyth County, the local act authorizes the governing authority to reject a party nominee outright. 1987 Ga. Laws, p. 5381–82, § 2(1). Any such discretionary language is conspicuously absent from the Local Act, and that absence is conclusive.

Third, the Local Act's 30-day appointment deadline contradicts the Court of Appeals' conclusion that bipartisan appointment is optional. It cannot be squared with the suggestion that the Local Act only "bars the

Commissioners from making appointments of any candidates not nominated by the relevant political party" and that the BOC can indefinitely insist upon new party nominees to consider. *Cf.* COA Op. at 10. Deadlines exist to compel performance. *See Clark*, 321 Ga. at 42. The Local Act does not merely specify that appointments must come from party nominees; it also imposes a hard deadline for bipartisan appointments to be made. In permitting the BOC to indefinitely table the Republican nominees, the Court of Appeals created an extra-textual exception to this textual deadline.

For the same reason, the Court of Appeals' interpretation renders the deadline surplusage. Section 4's 30-day appointment deadline makes sense only if the BOC is obligated to appoint bipartisan nominees. Under foundational principles of statutory construction, every word in a statute must be given meaning, and no provision may be treated as surplusage. *See Deal v. Coleman*, 294 Ga. 170, 172 (2013); *Kennedy v. Carlton*, 294 Ga. 576, 578 (2014). Yet, if appointment is optional, the deadline is inexplicable. Deadlines are the General Assembly's signal that an act is mandatory, not optional. *See Clark*, 321 Ga. at 42. By treating the

appointment as discretionary, the Court of Appeals stripped the deadline of its only purpose.

Fourth, the Court of Appeals' textual infidelity to the carefully crafted mandatory bipartisan appointment process creates irreconcilable practical absurdities. If the Commissioners may indefinitely table qualified Republican nominees, what happens next? The Local Act provides no mechanism to demand new nominees, imposes no obligation on the Fulton Republicans to submit them, and places no limit on the number of rounds of rejection that may occur. At best, the General Assembly's carefully crafted bipartisan structure collapses into an open-ended process of submission and rejection, with no resolution in sight. At worst, as in this case, the BOC simply indefinitely "tables" a party's nominees leaving the Election Board without minority party appointees.

The Court of Appeals' suggestion that the Fulton Republicans can submit new nominees is no answer. At the outset, nothing in the Local Act requires the Fulton Republicans to provide additional nominees, and the BOC has neither rejected the current nominees nor solicited replacement nominees. Regardless, this Court rejected precisely the same suggestion fifty years ago in *Williams v. Cates*, 235 Ga. 651, 651 (1975), when

it construed a predecessor local act with an identical appointment structure. The county commission then made the same argument: it claimed the right to demand replacement nominees so it could choose among them. *Id.* at 651–52. This Court rejected the argument explaining that if the General Assembly had wanted to give the county commission the ability to demand additional nominees, it would have done so.

In any event, there is no reason to believe that the submission of any number of additional Republican nominees would produce a different result. According to the Court of Appeals, the BOC can equally reject any additional nominees for any reason, including a purely partisan reason. In this case, the BOC has already suggested that it would reject any nominees it perceives as being on "the far right," and would only approve nominees that "are in the center." Nothing in the statute suggests that the Fulton Republicans must keep submitting new, less-Republican compromise nominees until it produces nominees with sufficiently inauthentic political beliefs to meet the BOC's partisan litmus test. The General Assembly's full-throated bipartisan design becomes, under the Court of Appeals' logic, entirely subject to the majority's partisan preferences.

Finally, the Court of Appeals' Opinion cannot be reconciled with Section 4 of the Local Act. That section not only provides the 30-day deadline, but also reiterates the bipartisan appointment mandate: "In the event the appointing authority fails to make a regular appointment within the time specified in this section . . . such regular or interim appointment shall be made forthwith by the governing authority." 1989 Ga. Laws, p. 4577, § 4.

Of course, this mandate contradicts the notion that appointment is optional. The Court of Appeals conflated the "appointing authority" and the "governing authority"—holding the BOC was *both*—to accommodate its discretionary interpretation. COA Op. at 8 n.3. That interpretive reverse engineering only produces further textual and practical problems. First, as this Court previously held, the text draws a clear textual line. The "appointing authority" is one body, and the "governing authority" is another. *See Williams*, 235 Ga. at 652 (construing the identical predecessor Local Act and holding that the party chairperson—not the Board of Commissioners—is the "appointing authority" under the statute).

Second, the potential practical consequences of rendering the BOC both the "appointing authority" and the "governing authority" are grave.

Under the COA's interpretation, the BOC may argue that if it declines to make an appointment as the "appointing authority" before the 30-day deadline passes, Section 4 permits it as the "governing authority" to appoint anyone it chooses, unconstrained by the party nomination requirement. In distorting the text to defend its discretionary-appointment interpretation, the Court of Appeals defeats the bipartisan structure altogether. The very mechanism the legislature designed to ensure timely compliance becomes, under the Court of Appeals' reverse-engineered interpretation, a route by which the BOC can avoid the mandatory bipartisan appointment process altogether.

B. The Court of Appeals erroneously created a new constitutional right to discretion in appointments.

The Court of Appeals erroneously held that the word "appoint" inherently contemplates discretion and created a new "constitutional prerogative" for discretion in appointments.

First, the Court of Appeals erroneously held that the word "appoint" contemplates inherent discretion that a legislative command (i.e., "shall be appointed") cannot overcome. Put another way, no matter how clearly the General Assembly commands an appointment, a governing authority remains free to refuse because of "the inherently discretionary nature of

the appointment power." COA Op. at 10–11. That holding has no textual foundation. "Appoint" means to officially choose or designate someone for a position. *See* Black's Law Dictionary (12th ed. 2024) ("To choose or designate (someone) for a position or job, esp. in government."); *Appoint*, Merriam-Webster, https://www.merriam-webster.com/dictionary/appoint (last visited April 1, 2026) ("[T]o name officially"); *Appoint*, Cambridge Dictionary, https://dictionary.cambridge.org/us/dictionary/english/appoint (last visited April 1, 2026) ("[T]o choose someone officially for a job or responsibility."). The word describes the act of placing someone in office. It says nothing about the latitude attending that choice. Whether a particular appointment is constrained or unconstrained depends entirely on the surrounding statutory text, not on the word "appoint" itself.

The only authority the Court of Appeals cited to support this reading proves the opposite. In *Housing Authority of the City of Macon v. Ellis*, 288 Ga. App. 834, 836 (2007), the Court of Appeals found an unconditional appointment power where the relevant statute was entirely *silent* on how appointments must be carried out. The court found broad discretion in the face of legislative silence. *Id.* As explained above in Part I.A,

silence is precisely what is absent here. The Local Act is not silent, but rather mandates bipartisan appointment. *Ellis* is the inverse case.

Not only is there no basis for the Court of Appeals' conclusion that appointments are inherently discretionary, it also makes sense that the General Assembly employed a governmental appointing authority, even for mandatory appointments. Fifty years ago, this Court held that the power to appoint public officials cannot be transferred entirely to a private organization "not in the public domain." *Rogers v. Med. Ass'n of Ga.*, 244 Ga. 151, 153 (1979). The Court instead instructed that the "General Assembly may, within constitutional limitations, establish qualifications for public office and designate a governmental appointing authority." *Id.* at 153–54; *accord Delay v. Sutton*, 304 Ga. 338, 341–42 (2018). That limitation flows from the Georgia Constitution's instruction that public affairs be managed by officials accountable to the people. *See* Ga. Const. art. I, § 2, ¶¶ 1–2. And it works in tandem with the General Assembly's power to define the "powers and limitations" of county governing authorities. *Id.* art. IX, § 1, ¶ 1. The appointive power is, in other words, exactly as broad—and exactly as narrow—as the General Assembly chooses to

make it, so long as a governmental body accountable to the people formally exercises it.

The Local Act follows this constitutional framework. It establishes eligibility criteria and vests political parties with the right to nominate members. But it designates the BOC—an elected governmental body—as the body that formally executes the appointment by notifying the clerk of the Superior Court. The act of formal appointment rests with a government actor, precisely as *Rogers* and *Delay* require.[4]

Second, the Court of Appeals compounded error upon error by creating a new "constitutional" right to discretion in appointments. The Court of Appeals held that when the commissioners refused to appoint the Fulton Republicans' nominees, "they were exercising their constitutional prerogative to exercise their judgment as to these appointments on

[4] The BOC has often argued that if the General Assembly had truly intended mandatory bipartisan appointments, it would have simply allowed the political parties to make appointments to the Election Board directly instead of relying on nominations that the BOC is obligated to appoint. *Rogers* and *Delay* evidence why the General Assembly relied on a government appointing authority, even for a mandatory appointment. Arguably, however, the political parties in Georgia are not purely private organizations in the sense *Rogers* and *Delay* condemned. They are entities recognized and regulated by state law, whose leadership is chosen by voters, and to whom the General Assembly has long entrusted nomination functions of this kind.

behalf of the people who elected them." COA Op. at 11. The Court of Appeals reversed the Writ of Mandamus because it held that "the trial court interfered with the constitutional prerogative of the Commissioners to appoint public officers." COA Op. at 2. Although the scope of this new constitutional right is ill-defined, the Court of Appeals posited that the "power to 'appoint' . . . contemplates the exercise of that well-established power as a discretionary one not subject to direction by the courts in the absence of gross abuse." COA Op. at 6.

The Court of Appeals cited no provision of the Georgia Constitution granting this supposed constitutional right. It instead appeared to distill the "constitutional prerogative" solely from this Court's decisions in *Rogers* and *Delay*.[5] COA Op. 11–12. The Court of Appeals' novel

[5] In a different section of its Opinion, *see* COA Op. at 8–9, the Court of Appeals also cites the home rule provisions of the Georgia Constitution, *see* Ga. Const. art. IX, § 2, ¶ 1(a). To whatever extent the Court of Appeals relied on the home rule provisions to recognize a constitutional prerogative for discretionary appointments, its reliance was equally misplaced. The Georgia Constitution only grants governing authorities "legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government *for which no provision has been made by general law and which is not inconsistent with this Constitution or any local law applicable thereto*." Ga. Const. art. IX, § 2, ¶ 1(a) (emphasis added). Home rule does not authorize a governing authority to disregard a Local Act.

constitutional prerogative finds no support in either case. Both cases addressed a categorically different constitutional problem, statutes that transferred the appointment power entirely to private organizations with no public accountability. *See Rogers*, 244 Ga. at 153–54; *Delay*, 304 Ga. at 341–42. The animating concern in both cases was that those entities "do not answer to the people as required by our Constitution." *Delay*, 304 Ga. at 342 (quoting *Rogers*, 244 Ga. at 154). Both cases resolved only the threshold question of private delegation. Neither speaks to what constraints the *General Assembly* may impose on a *governmental appointing authority*. And neither case holds that a governmental body's exercise of appointment power created by the General Assembly may not be legislatively constrained. To the contrary, *Rogers* said expressly that the General Assembly may "establish qualifications for public office and designate a governmental appointing authority." 244 Ga. at 153–54. That is a statement of legislative power, not a limit on it.

In sum, the constitutional prerogative the Court of Appeals announced finds no support in the text of the Georgia Constitution, in this Court's precedents, or in any other authority. "When the fundamental law has not limited, either in terms or by necessary implication, the

general powers conferred upon the legislature," courts "cannot declare a limitation under the notion of having discovered something in the spirit of the constitution which is not even mentioned in the instrument." *Park v. Candler*, 114 Ga. 466, 40 S.E. 523, 526 (1902) (quotation omitted). But by declaring a new constitutional prerogative—unmoored from any provision of the Georgia Constitution, much less its "language, history, and context," *see Elliott v. State*, 305 Ga. 179, 188 (2019) (quotation omitted)—the Court of Appeals did exactly that, inserting "provisions into the Constitution where none exist." *Henderson v. Maddox*, 227 Ga. 195, 196–97 (1971). The Local Act's mandatory command is constitutional, and the Court of Appeals erred in holding otherwise by creating a constitutional prerogative to appoint, with no clear textual basis, that limits the General Assembly's legislative powers.

C. The Court of Appeals' Opinion warrants review because its consequences are immediate, statewide, and far-reaching.

This Petition satisfies this Court's standard for certiorari. First, and most immediately, the Court of Appeals' Opinion presents a question of great public importance that is already producing concrete harm. Its ruling means that the Fulton County Election Board—the body charged with administering and overseeing elections in Georgia's most populous

county—may never function as the bipartisan body that the General Assembly designed. The appointment deadlines imposed by the Local Act have already been violated, and the term has begun (and may soon pass) without the Republican appointments.

This violation will also persist. A majority of the BOC's members have made clear that they will apply the same non-statutory political criteria to any future nominees the Fulton Republicans submit. The question this case presents is thus neither abstract nor speculative. It is live, consequential, and will reoccur with every appointment cycle until this Court resolves it.

Moreover, the reach of the Court of Appeals' decision extends beyond Fulton County. Many county election boards share the same or similar appointment processes with the Local Act. For example, in DeKalb County the election board is likewise composed of bipartisan nominees appointed by the Chief Judge of the Superior Court. *See* 2003 Ga. Laws, p. 4200, as amended by 2019 Ga. Laws, p. 4188, § 2. The Georgia State Election Board is composed of bipartisan party nominees appointed by the Governor. O.C.G.A. § 21-2-30(c). Under the Court of Appeals' reasoning, the appointing authorities in these counties and the Governor are

likewise authorized to indefinitely reject one political party's nominees. This Court should take the opportunity now to correct the Court of Appeals' error before it creates further mischief in other Georgia election boards. That risk is especially acute in the election context. Federal courts hearing election cases in Georgia must interpret state law, and they will look to Court of Appeals' Opinion for guidance even if erroneous.

The Court of Appeals' Opinion also creates interpretive inconsistency that only this Court can resolve. By converting a mandatory appointment obligation into a discretionary one without a limiting principle, the Court of Appeals has left state and federal courts without reliable guidance on when "shall" in a Georgia statute means what it says. The Court of Appeals' Opinion opens the door to further erosion of the mandatory term "shall" whenever it may seem convenient or advisable to prefer a discretionary interpretation. If "shall" can be read permissively, the General Assembly's mandatory directives throughout the Georgia Code become vulnerable to the same erosion. That textual inconsistency also infringes upon the General Assembly's legislative power. If the judiciary can freely reinterpret a mandatory statutory obligation as a discretionary one, the General Assembly's ability to legislate mandatory action—

particularly executive action—is curtailed. And, private and governmental actors will be incentivized to push the bounds of the General Assembly's mandatory commands if they can always present a good faith argument that a directive was actually discretionary.

Finally, the constitutional stakes of the Court of Appeals' decision warrant this Court's intervention. The Court of Appeals did not merely misread a local act. Instead, it announced a freestanding constitutional right: government appointing authorities have a "constitutional prerogative" that the General Assembly cannot constrain, no matter how clearly it commands otherwise. The construction of the Georgia Constitution is ultimately a matter for this Court. *Elliott*, 305 Ga. at 187. This new constitutional doctrine has no basis in this Court's precedents or the Georgia Constitution's text. This Court should resolve whether that doctrine exists.

In sum, this Court's review is needed now. The questions presented are not abstract: the appointment deadlines the General Assembly imposed have already been violated, and the Fulton Republicans and citizens of Fulton County are currently being deprived of the bipartisan representation to which they are entitled. The uncertainty created by the

Court of Appeals' decision will compound with each election cycle and risks compromising the bipartisan design for other election boards outside of Fulton County. Only this Court can resolve the conflict between the Court of Appeals' holding and the plain text of the Local Act and reaffirm the General Assembly's bipartisan appointment mandate.

II. The Court of Appeals' Opinion contradicts this Court's precedent that defying a writ of mandamus constitutes contempt.

This Court should grant certiorari to reaffirm that a writ of mandamus is a binding order that must be obeyed barring a stay. The Court of Appeals' subsequent reversal cannot shield the BOC from contempt for defying the Writ. The Court of Appeals' Opinion upends two essential principles established by this Court: (1) a writ of mandamus is "binding" upon issuance absent a stay and (2) a pending appeal "does not impair or affect" its validity. *Smith v. Lott*, 156 Ga. 590, 119 S.E. 400, 401 (1923). A writ of mandamus must be obeyed even pending appeal, and a trial court properly holds a party in contempt for violating the writ notwithstanding that the writ may be reversed on appeal. *See id.*

Contrary to these principles, the Court of Appeals held that the Contempt Order could not survive reversal of the underlying Writ. In doing so, the Court of Appeals endorsed disobeying putatively incorrect

writs: if the writ is ultimately reversed on appeal, the contempt is purged. This Court should intervene because this precedent encourages litigants to violate court orders and undermines trial court authority.

By the BOC's own admission, it willfully disregarded the trial court's Writ of Mandamus even after the trial court and Court of Appeals had denied its requests for a stay. The BOC concedes that it took "no further action" after the trial court issued the Writ, and the record evidence and the BOC's admissions establish that the BOC willfully violated the Writ of Mandamus. (V3-316; V3-359–61; V4-728–30; V4-777; V4-781; V4-790–91.)

This record and this Court's precedents permit only one conclusion: the trial court did not abuse its discretion when it held the BOC in contempt for defying the Writ. The Court of Appeals reversed the trial court's Contempt Order, however, solely because it reversed the Writ of Mandamus. COA Op. at 13. Contrary to this Court's precedent, the Court of Appeals reasoned that "[i]t follows from [that reversal] that . . . [the trial court's] order holding the Commissioners in contempt for violating that writ must also be reversed." *Id.* The Court of Appeals relied upon *Atlanta Journal-Constitution v. Jewell*, 251 Ga. App. 808, 809 (2001), wherein the

Court of Appeals held that a "determination that these underlying orders are erroneous and must be vacated also has the effect of dissolving the civil contempt order which is based upon the violation of these discovery orders."[6]

The Court of Appeals' conclusion directly contradicts this Court's binding precedents. Absent a stay, a writ of mandamus must be obeyed notwithstanding an appeal; when a party violates the writ, it is properly held in contempt. "[T]he disobedience of an unsuperseded order within the jurisdiction of a court is a contempt of court, ***even though the order is erroneous***." *Bo Fancy Prods., Inc. v. Rabun Cnty. Bd. of Comm'rs*, 267 Ga. 341, 345 (1996) (quotation omitted) (emphasis added); *see also Bankers Life & Cas. Co. v. Crawley*, 209 Ga. 274, 275 (1952) (the Georgia Supreme Court "has repeatedly held that one may be punished as for contempt for refusal to obey the order of the court ***notwithstanding that***

[6] *Jewell* addressed a contempt order indefinitely incarcerating two reporters for their failure to comply with a discovery order. 251 Ga. App. at 808. The Court of Appeals held that it was "*dissolving* the civil contempt order," *id.* at 809 (emphasis added), not that it was *reversing* the contempt order or that the trial court had abused its discretion in entering the contempt order. *Jewell* is best read as applying the uncontroversial proposition that once an order is reversed a party cannot be subject to further contempt for violating the reversed writ.

upon a review the order there disobeyed is, by the reviewing court, reversed.") (emphasis added); *Pearson v. George*, 211 Ga. 18, 18 (1954) ("[I]f the court has jurisdiction to make the order, it must be obeyed ***however wrong it may be***.") (emphasis added).

This Court should grant certiorari and reverse before the Court of Appeals' jurisprudence further diverges from this Court's precedent. This Court should reaffirm government officials' obligations to comply with writs of mandamus, even when they disagree. As this Court previously explained, if a writ is not "obeyed promptly and completely, the object of the writ is defeated, the authority of the judiciary is defied, and the power of the judge is discredited." *Cravey*, 209 Ga. at 277.

Timely compliance is essential because writs of mandamus often compel government officials to perform time-sensitive functions, as in this case. The Court of Appeals' Opinion teaches disobedient government officials that—so long as they believe they are correct—they need not comply with a writ of mandamus pending an appeal. Of course, most government officials defending against a petition for mandamus likely believe they are correct. And, because Georgia law grants mandatory supersedeas for contempt orders, O.C.G.A. § 5-6-13, the potential

consequences of being wrong are mitigated. Left unaddressed, the Court of Appeals' Opinion will embolden government officials to disobey writs of mandamus and will significantly curtail the effectiveness of the judiciary's primary (and often exclusive) tool for compelling government officials to perform their official duties.

Government officials' defiance of binding court orders undermines the authority of the trial court and normalizes violation of court orders. The damage to public respect for court orders is especially acute since writs of mandamus often implicate respected government actors and issues of significant public concern. In this case, the BOC did not just refuse to comply with the trial court's writ; several of its members publicly assaulted the trial court's authority. For example, Commissioner Barrett publicly stated that "despite the judge's orders . . . I have free will and I will not do it ever." (V3-350.) Commissioner Ivory likewise stated on Instagram that "I'm built for this … my vote today not to appoint the two Republican nominees . . . is my standing on my principles . . . I'm going to do what is right, and nobody can force me to vote yes on something that I have the discretion . . . to make a decision for myself[.]" (*Id.*).

In holding that the trial court abused its discretion, the Court of Appeals effectively endorses the commissioners' defiance of the trial court. The Court of Appeals implicitly holds that the trial court did not have the right to enforce its own order and should not have held the BOC in contempt for its defiance. Under the Court of Appeals' Opinion, a trial court's writ of mandamus amounts to little more than an unenforceable advisory opinion until it is affirmed on appeal. This Court should grant certiorari and reverse to preserve the effectiveness of writs of mandamus and the authority of the judiciary.

CONCLUSION

This Petition presents substantial questions of statutory and constitutional interpretation that are immediately and critically important to ensuring bipartisan election administration and oversight. This Court should grant certiorari and reverse.

This submission does not exceed the word-count limit imposed by Rule 20.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of April, 2026, I served counsel for Respondents with a copy of the foregoing **PETITION FOR A WRIT OF CERTIORARI** by U.S. Mail as follows:

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This 9th day of April, 2026.

/s/ Justin P. Gunter
Justin P. Gunter

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Exhibit 1

FIRST DIVISION
BARNES, P. J.,
MARKLE and HODGES, JJ.

March 20, 2026

In the Court of Appeals of Georgia

A26A0782, A26A0457. FULTON COUNTY BOARD OF COMMISSIONERS v. FULTON COUNTY REPUBLICAN PARTY (two cases).

BARNES, Presiding Judge.

These companion appeals arise from the trial court's grant of a writ of mandamus ordering the Fulton County Board of Commissioners ("the Commissioners") to seat Jason Frazier and Julie Adams, who had been duly nominated by the Fulton County Republican Party ("the Party") for two-year terms on the county's Board of Registration and Elections ("the BRE"). In Case No. A26A0782, the Commissioners argue that the trial court erred when it issued the writ, thereby directing the outcome of the Commissioners' vote and mandating the seating of Frazier and Adams. In Case No. A26A0457, the Commissioners argue that the trial

court erred when it held them in contempt for not seating Frazier and Adams. Because the trial court interfered with the constitutional prerogative of the Commissioners to appoint public officers, we agree and reverse in both cases.[1]

"In every case where a person is charged with contempt of court for alleged violations of a court's order, the legal correctness of the underlying order may be challenged on appeal." *Atlanta Journal-Constitution v. Jewell*, 251 Ga. App. 808, 809 (1) (555 SE2d 175) (2002). "The grant or denial of mandamus relief . . . lies largely in the discretion of the presiding judge. This Court will not interfere with a trial court's decision granting mandamus relief absent a showing that the court manifestly abused its discretion." (Citation modified.) *Burke County v. Askin*, 294 Ga. 634, 636-37 (2) (755 SE2d 747) (2014) (citation modified). But "[w]here the trial court reviews an official's exercise of discretion . . . the correct standard of review on appeal with respect to the mandamus order [is] whether there is any evidence supporting the decision of the local official, not whether there is any evidence supporting the decision of the superior court." *Gonzalez v. Miller*, 327 Ga. App. 264, 264 n. 4 (903 SE2d 920) (2024) (citation modified); see also *Burke County*, 294 Ga. at 637 (2), n. 4. As to the

[1] The Commissioners' motion to expedite Case No. A26A0457 is denied.

contempt finding, which was based on an analysis of the requirements set out in the local law at issue, we review the trial court's conclusion de novo. See *Vaughn v. Vaughn*, 365 Ga. App. 195, (198) (1) (877 SE2d 860) (2022) ("where a contempt action turns on the meaning of terms [in a statute or ordinance], construction of those terms is a question of law that is subject to de novo review on appeal.").

The relevant facts are not in dispute. Under OCGA § 21-2-40 (b), the General Assembly is empowered to create "a board of elections and registration" for any county. In 2019, the General Assembly amended an earlier local act creating a "board of elections and registration for Fulton County," as follows:

> The board shall be composed of five members, each of whom shall be an elector and resident of Fulton County, who *shall be appointed in the following manner*:
>
> (1) Two members *shall be appointed* by the governing authority of Fulton County *from nominations made by the chairperson of the county executive committee of the political party whose candidates* at the last preceding regular general election held for the election of all members of the General Assembly *received the largest number of votes* in this state . . . ;
>
> (2) Two members *shall be appointed* by the governing authority of Fulton County *from nominations made by the chairperson of the county executive*

> *committee of the political party whose candidates . . . received the second largest number of such votes*; and
>
> (3) One member shall be appointed by the governing authority of Fulton County, which member shall be designated permanent chairperson of the board.

2019 Ga. L. 4181, § 1 (emphasis supplied), amending 1989 Ga. L. 4577. Section 4 of the same local law, unchanged since 1989, provides in relevant part:

> The appointment of each member [of the BRE] shall be made no later than 30 days preceding the date at which each member is to take office by notifying the clerk of the Superior Court of Fulton County in writing of the name and address of the person appointed. . . . In the event the appointing authority fails to make a regular appointment within the time specified in this section or fails to make an interim appointment to fill a vacancy within 90 days after the creation of such vacancy, such regular or interim appointment shall be made forthwith by the governing authority.

1989 Ga. L. 4577.

On March 21, 2025, the BRE requested that the Party submit two nominees. On May 15, the Party provided notice of its nomination of Adams and Frazier to the clerk of the Commissioners, including biographies of both. On May 21, the Commissioners

met and considered the BRE nominees named by both political parties. The Commissioners voted to seat the two Democratic nominees, but voted to "file" – that is, to table – the nominations of Adams and Frazier by a vote of five to two. According to the transcript of the May 21 meeting, some Commissioners declined to appoint Adams because of her refusal to certify the 2024 election results as well as her involvement in lawsuits challenging those results. Some Commissioners also declined to appoint Frazier because of his alleged involvement in filing registration challenges to Fulton County voters.[2]

On June 13, 2025, the Party filed a verified petition for a writ of mandamus asking the trial court to order the Commissioners to appoint its nominees to the BRE. Both sides stipulated to the admissibility and authenticity of the transcript of the May 21, 2025 hearing before the Commissioners. After oral argument, the trial court granted a writ ordering the Commissioners to appoint Adams and Frazier to the BRE. The trial court found that the local law's instruction that the Commissioners "shall" appoint the nominees of each part was "mandatory" rather than "merely directory"

[2] According to the transcript of the hearing, the Party had nominated Frazier in 2023. Though the parties disagree on some details of this incident, it appears that after the Commission rejected Frazier and the Party filed a lawsuit, Frazier's nomination was withdrawn and the lawsuit was dismissed without prejudice.

and that the Commissioners as a whole "do[] not have discretion to disapprove an otherwise qualified nominee."

When the Commissioners took no further action on the nominations, the Party filed a motion for contempt. After a hearing on the contempt motion was scheduled, the Commissioners filed papers including a motion to stay and a notice of appeal seeking immediate review in the Supreme Court of Georgia. Our Supreme Court transferred these motions to this Court, which denied a stay on August 19, 2025. A second contempt hearing was held on August 27, 2025, at the conclusion of which the trial court entered an order finding some Commissioners in civil contempt, including an ongoing fine of $10,000 per day, which they could purge by appointing Frazier and Adams within two days. The Commissioners filed a motion for supersedeas, which was granted, and these appeals followed.

1. The first question before us is whether the local law's provision that two BRE members "*shall* be appointed by the governing authority of Fulton County from nominations made by" the leadership of the county Republican Party bars the Commissioners from declining to make such an appointment. (Emphasis supplied.) We conclude that when the local law speaks of the Commissioners' power to

"appoint," it contemplates the exercise of that well-established power as a discretionary one not subject to direction by the courts in the absence of gross abuse, which cannot be found here.

> Mandamus is an extraordinary remedy to compel a public officer to perform a required duty when there is no other adequate legal remedy. The writ of mandamus is properly issued only if (1) no other adequate legal remedy is available to effectuate the relief sought; and (2) the applicant has a clear legal right to such relief. Further, for mandamus to issue, the law must not only authorize the act to be done, but must require its performance. Where performance is required by law, a clear legal right to relief will exist either where the official or agency fails entirely to act or where, in taking such required action, the official or agency commits a gross abuse of discretion. Mandamus shall not lie as to a public officer who has an absolute discretion to act or not to act unless there is a gross abuse of such discretion. However, mandamus shall not be confined to the enforcement of mere ministerial duties. A gross abuse of discretion occurs where an official performs a discretionary duty in a manner that is arbitrary, capricious, and unreasonable.

Love v. Fulton County Bd. of Tax Assessors, 311 Ga. 682, 692-693 (3) (a) (859 SE2d 33) (2021) (citation modified), disapproved on other grounds, *Bray v. Watkins*, 317 Ga. 703, 704-705 (895 SE2d 282) (2023); see also *Dunn v. City of Stonecrest*, 368 Ga. App. 736, 744 (2) (890 SE2d 781)(2023) ("[W]here the applicable law vests the official or

agency with discretion with regard to whether action is required in a particular circumstance, mandamus will not lie, because there is no clear legal right to the performance of such an act.") (citation modified). "[T]he burden is upon the party seeking mandamus to show the existence of such a duty." *Forsyth County v. White*, 272 Ga. 619, 620 (2) (532 SE2d 392) (2000).

As a preliminary matter, there is no dispute that the Board of Commissioners of Fulton County is what Georgia law, including the local law, calls the "governing authority" of that county.[3] OCGA § 36-5-22.1 (a) (5) thus provides that "[t]he governing authority of each county has original and exclusive jurisdiction" over matters including "[t]he filling of all vacancies in county offices unless some other body or official is empowered by law to so fill such vacancy[.]" See also *Krieger v. Walton Cty. Bd. of Comm'rs*, 271 Ga. 791, 792-793 (1) (524 SE2d 461) (1999) (Art. IX, Sec. II, Par. I of the Georgia Constitution of 1983 "provides for home rule for counties," including "the personnel subject to the jurisdiction of the county governing authority"; a board of commissioners had the right to amend a local act

[3] In the local law's terms, the Board of Commissioners is thus both the "appointing authority" and the "governing authority." 1989 Ga. L. 4577.

such that it, and not the chairperson, had the authority to hire, supervise and discharge county personnel) (quotation marks omitted).

It has long been the law in Georgia that "[w]here an act is within the power of the county commissioners, the manner of doing it must be largely left to their discretion, and that discretion must be a broad one." *Moore v. Maudlin*, 199 Ga. 780, 782 (1) (35 SE2d 511) (1945). "There should be no interference had" by any body, including the courts of this State, "unless it is clear and manifest that [the county commissioners] are abusing the discretion vested in them by law." Id. at 782-783 (1) (direction and control of county property was delegated to the commissioners and within their discretion to manage such that the trial court did not err in denying a motion for new trial concerning a petition for mandamus); see also *Lindsay v. Guhl*, 237 Ga. 567, 570-574 (I), (II) (229 SE2d 354) (1976) (no error in denying a writ of mandamus and an interlocutory injunction when a county board of commissioners was acting within its authority and did not abuse its discretion in selecting a waste disposal site).

As we consider the local law's command that the members of the BOE "shall be appointed" by the Commissioners, 2019 Ga. L. 4181, § 1, "we must presume that

the General Assembly meant what it said and said what it meant." *Deal v. Coleman*, 294 Ga. 170, 172 (751 SE2d 337) (2013) (citation modified).

> To that end, we must afford the statutory text its plain and ordinary meaning, we must view the statutory text in the context in which it appears, and we must read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English would. . . . [I]f the statutory text is clear and unambiguous, we attribute to the statute its plain meaning, and our search for statutory meaning is at an end.

Id. at 172-173 (citation modified). There is nothing ambiguous about the local law: it simply requires that the Commissioners "shall" appoint BRE members "from nominations made by the chairperson of the county executive committee of the political party whose candidates at the last preceding regular general election held for the election of all members of the General Assembly" received the "largest" and the "second largest number of votes in this state[.]"

The local law thus bars the Commissioners from making appointments of any candidates not nominated by the relevant political party, but it also uses the longstanding and well-understood term "appoint" for the power the Commissioners must exercise. When the General Assembly used these unambiguous terms, we presume that it did so with the full knowledge of their history, including the inherently

discretionary nature of the appointment power. As we held in *Housing Authority of City of Macon v. Ellis*, 288 Ga. App. 834 (655 SE2d 621) (2007), a city mayor who is granted the authority to make an appointment to the board of a city housing authority without first submitting his choice to the city council was exercising a statutory power that was "unconditional." Id. at 836. As here, the statute at issue provided that the mayor "shall appoint" a member of the local housing authority, with "[t]his appointment power [being] unconditional." Id. at 836. As in section 4 of the local law before us, moreover, another section of the housing authority statute "merely explains what occurs" when the appointing authority "fails to make appointments[.]" Id.

Some of the Commissioners concluded that Frazier and Adams should not serve on the BRE. In doing so, they were exercising their constitutional prerogative to exercise their judgment as to these appointments on behalf of the people who elected them. In *Rogers v. Med. Ass'n of Ga.*, 244 Ga. 151 (259 SE2d 85) (1979), our Supreme Court reversed a writ requiring the Governor to accept recommendations from a private party to fill vacancies on the State Board of Medical Examiners, as follows:

> Fundamental principles embodied in our constitution dictate that the people control their government. "All government, of right, originates

> with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and at all times, amenable to them." [See Ga. Const. of 1983, Art. I, Sec. II, Par. I.] "The people of this State have the inherent, sole and exclusive right of regulating their internal government[.] " [See Ga. Const. of 1983, Art. I, Sec. II, Par. II.] This is accomplished through elected representatives to whom is delegated, subject to constitutional limitations, the power to regulate and administer public affairs, including the power to provide for the selection of public officers. These constitutional provisions mandate that public affairs shall be managed by public officials who are accountable to the people. *As important as any other governmental power is the power to appoint public officials*. . . . The General Assembly may, within constitutional limitations, establish qualifications for public office and designate a governmental appointing authority. But *it cannot delegate the appointive power to a private organization*. Such an organization, no matter how responsible, is not in the public domain and is not accountable to the people as our constitution requires[.]

Id. at 153-154 (2) (citation modified); see also *Delay v. Sutton*, 304 Ga. 338, 341-342 (818 SE2d 659) (2018) (affirming a writ barring the delegation of the power to appoint members of a county Board of Ethics to a private organization).

Here, as in *Ellis* and *Rogers,* we cannot authorize judicial interference with the Commissioners' exercise of their appointment power when they did not grossly abuse

their discretion in refusing to seat the Party's nominees to the BRE. Nor can we say that there is no remedy for the Commissioners' refusal to make these appointments when the Party can, as in the past, submit new nominees to the Commissioners. Because the Commissioners were acting within their own lawful and discretionary authority when they declined to seat the BRE nominees at issue, we reverse the trial court's grant of a writ of mandamus as an abuse of that court's discretion. See *Madison v. Old 41 Farm, LLC*, 370 Ga. App. 172, 178-179 (1) (b) (894 SE2d 232) (2023) (reversing trial court's grant of a writ of mandamus when the city manager had not grossly abused her own discretion in denying a request for a favorable sewer availability letter).

2. It follows from our conclusion that the trial court abused its discretion when it issued the writ of mandamus that its order holding the Commissioners in contempt for violating that writ must also be reversed. *Jewell*, 251 Ga. App. at 809 (1) ("Our determination that these underlying orders are erroneous and must be vacated also has the effect of dissolving the civil contempt order which is based upon the violation of" those orders).

Judgments reversed. Markle and Hodges, JJ., concur.