



June 5, 2021

VIA EMAIL — david@gagop.org

David Shafer
Chairman
The Georgia Republican Party

VIA EMAIL — stewart@gagop.org

Stewart Bragg
Executive Director
The Georgia Republican Party

RE: Stephen Fowler's Exclusion from Georgia Republican Convention

Dear Mr. Shafer & Mr. Bragg:

On June 4, 2021, Stephen Fowler, Georgia Public Broadcasting (GPB)'s primary political correspondent, was excluded from attending and reporting on the 2021 Georgia Republican Party State Convention ("the Convention") at the Jekyll Island Convention Center. Barring Mr. Fowler entry while allowing other reporters to attend and engage in newsgathering raises significant free speech and equal protection concerns under the First and Fourteenth Amendments to the U.S. Constitution.

On the morning of June 4th, Mr. Fowler arrived at the Jekyll Island Convention Center for press credentialing. While the GOP's bylaws state that their conventions shall be open to the public¹, Mr. Fowler was informed that only a select group of targeted media had been invited and that he was not on the list. He was asked to leave the Convention Center, first by a staffer and then by Executive Director Stewart Bragg. Meanwhile, reporters from other media entities were granted entrance, including from the *Atlanta Journal-Constitution*, Atlanta's WABE, and members of the Georgia Press Association.

The First Amendment Clinic and other signatories of this letter are concerned that Mr. Fowler's exclusion is based on his past critical coverage of the GOP and former President Donald Trump. In January 2021, Mr. Fowler broke the story at the local level of President Trump's telephone call to Georgia Secretary of State Brad Raffensperger, urging him to overturn the state's election results. Mr. Fowler also reported on the Georgia GOP's perpetuation of false claims of voter fraud for weeks following the presidential election, and the day before the Convention started, reported on its pro-Trump orientation. However, the First Amendment prohibits government officials from discriminating against private individuals, which includes members of the press, based on their viewpoint. *See Pleasant Grove City v. Sumnum*, 555 U.S.

¹ See GA GOP Rule 9.10, available at: <https://gagop.org/wp-content/uploads/2021/04/Georgia-Republican-Party-Inc.-Rules-As-Adopted-June-17-2020-BJVver3.pdf>

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460, 469-70 (2009); *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 812-13 (1985).

Moreover, the Georgia GOP Convention is an event of intense newsworthiness. It is where the party selects its leadership and shapes its platform for the next two years. It involves speeches by the Governor and by Republican candidates for federal and state offices. These are matters of core public concern that the party's own rules declare to be open for public observation. Yet Mr. Fowler has been shut out, requiring that he report on them from the periphery.

Such discriminatory exclusion runs counter to constitutional guarantees of free speech and free press because "once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable." *American Broadcasting Companies, Inc. ("ABC") v. Cuomo*, 570 F.2d 1080, 1083 (2d Cir. 1977) (holding that ABC journalists could not be excluded from post-election activities at campaign headquarters where other members of the press were granted access). See also *Sherrill v. Knight*, 569 F.2d 124, 129 (D.C. Cir. 1977) (where White House press facilities had been made publicly available as a source of information for reporters, the White House could not exclude a reporter arbitrarily or for less than compelling reasons); *Cable News Network, Inc. v. American Broadcasting Companies, Inc.*, 518 F.Supp. 1238, 1245 (N.D. Ga. 1981) (enjoining the White House staff from limiting access to certain media while excluding others); *Westinghouse Broadcasting Co., Inc. v. Dukakis*, 409 F.Supp. 895, 896 (D.Mass. 1976) (public officials may not selectively exclude one news organization from public meetings and press conferences absent a compelling government interest).

We therefore urge the Georgia GOP immediately to grant Mr. Fowler full journalistic access to the Convention taking place inside the Jekyll Island Convention Center.

Sincerely,

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