

SUPREME COURT OF NORTH CAROLINA

TELIA KIVETT; WANDA NELSON
FOWLER; the REPUBLICAN
NATIONAL COMMITTEE and the
NORTH CAROLINA REPUBLICAN
PARTY,

Plaintiffs-Petitioners,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, ALAN HIRSCH, JEFF
CARMON, KEVIN N. LEWIS, SIOBHAN
O'DUFFY MILLEN, STACY "FOUR"
EGGERS IV, in Official Capacity as
Members of NCSBE, and KAREN
BRINSON BELL, in Official Capacity as
Executive Director of NCSBE,

Defendants-Respondents,

DEMOCRATIC NATIONAL
COMMITTEE,

Defendant-Intervenor-
Respondent.

From Wake County
24CV031557-910

COA P24-735

**THE DEMOCRATIC NATIONAL COMMITTEE'S RESPONSE TO
PLAINTIFFS' PETITION FOR WRIT OF SUPERSEDEAS**

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**THE DEMOCRATIC NATIONAL COMMITTEE'S RESPONSE TO
PLAINTIFFS' PETITION FOR WRIT OF SUPERSEDEAS**

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Petitioners make a truly remarkable request: they ask this Court to enter a mandatory injunction at the writ stage of this appeal without the benefit of a factual record, merits briefing, oral argument, or time for considered deliberation. Appellate courts rightly limit the availability of such extraordinary relief to the rarest of circumstances: when there is a “near certainty” the appellant will prevail on appeal and the request is not merely a substitute for the appeal itself. Petitioners fail on both counts, by a wide margin.

Even more remarkable is the timing of Petitioners’ request: with mere hours left before election day. The mandatory injunction Petitioners seek—the same one properly rejected by both the trial court after a lengthy hearing and a unanimous panel of the Court of Appeals—comes far too late and would disrupt the administration of ongoing elections throughout our State. Absentee ballots were sent out 42 days ago, thousands of military and overseas ballots have already been cast, early in-person voting began 18 days ago and ended this past weekend, and election day is tomorrow.

Further underscoring the untimely nature of Petitioners’ request is that they challenge a law that is over a decade old. Petitioners seek to disenfranchise an entire class of lawful voters who registered in reliance on the plain terms of North Carolina legislation that has been in place *since 2011*—legislation that is presumptively constitutional, was passed with overwhelming (indeed unanimous) bipartisan support, and has applied consistently to every election since its enactment without objection from Petitioners or anyone else. Worse, Petitioners seek to rewrite these

rules without notice to the affected voters or an opportunity for them to confirm their status—or, as the trial court noted, even a “scintilla of substantive evidence” to support Petitioners’ case.

Make no mistake about whose votes would be ensnared in the chaos Petitioners invite: members of military families and other U.S. citizens living overseas born of North Carolinians, the very citizens whose franchise the statute in question was meant to protect. To be sure, Petitioners profess that their extraordinary request would not affect military members or their families. That claim is false—*every* ballot cast by a military spouse or child born outside the United States who so indicated on their voter’s application would be affected by Petitioners’ requested relief. County boards of elections would have to cull those ballots from reams of other absentee ballots, and the ballots would not be counted unless and until some unnamed persons through some unspecified process on an unknown timetable presented unspecified, heightened evidence of those voters’ bona fides—all conditions to which no other class of voter is subject.

Petitioners therefore seek an outcome that is as offensive as it is unwarranted. Indeed, it has prompted an amicus brief to the Court of Appeals and a proposed amicus brief to this Court from a nonpartisan organization that advocates for voting accessibility for military and overseas voters. The impact of Petitioners’ ill-timed and ill-considered request on military members and their families, highlighted in the organization’s amicus brief, drives home why two North Carolina tribunals have

already rejected it. This Court should do the same, for any of multiple independent reasons.

First, there are several procedural bars to Petitioners' request. The Court should not countenance Petitioners' misuse of the writ-petition process, which is intended to preserve the status quo pending a determination of the merits of an appeal, as a short cut to a victory on the merits of their appeal. Petitioners have the temerity to claim that the mandatory injunction they request would preserve the status quo, even as it would totally upend the current state of affairs. Any suggestion that such a destabilizing order would preserve the status quo is untenable.

Second, Petitioners cannot overcome their prejudicial delay in bringing this action. Petitioners could not explain to the trial court or the Court of Appeals, and did not explain to this Court, why they waited 13 years to challenge the constitutionality of N.C. Gen. Stat. § 163-258.2(1)(e), much less why they waited until after the November 2024 general election had begun and thousands of military and overseas votes had already been cast in reliance on procedures Defendants have faithfully and consistently followed since 2011. That unexplained and prejudicial delay is fatal.

Third, Petitioners throughout this proceeding have refused to acknowledge that the statute they challenge *expressly allows* voters they unfairly impugn as "Never Residents" to vote in North Carolina if North Carolina was the last place one of their parents was eligible to vote before their service took them overseas. N.C. Gen.

Stat. § 163-258.2(1)(e).¹ Disregarding this operative statutory text, Petitioners argue on the one hand that “Defendants are already constitutionally prohibited from allowing [so-called] Never Residents to vote in North Carolina’s elections” while at the same time conceding that a subset of those voters, including children of military servicemembers, *can* vote in state elections. Pet. p. 5 n.1, p.17. Petitioners have not and cannot reconcile these conflicting positions, most especially because the General Assembly did not distinguish between the children of military families and the children of other North Carolinians whose work or service takes them abroad. Thus, by conceding that some voters born outside the United States and meeting the requirements of § 163-258.2(1)(e) can vote without violating the constitution, Petitioners have conceded away their entire claim.

Fourth, the balance of equities tips sharply against Petitioners. Petitioners ask the Court to impose an unspecified, heightened set of qualification standards that do not appear in § 163-258.2(1)(e) on all voters whose registration applications indicated they have never lived in North Carolina. They give no insight—none—into what the extra-statutory process they invite would look like or on what basis the ballots of some Registered Voters would be rejected while others would be accepted. Much less do they offer evidence that (as they allege) Defendants could “readily” or “easily” conduct the scrutiny Petitioners demand. In fact, as Defendants demonstrated to the trial court and the Court of Appeals, timely compliance with the mandatory

¹ The lawfully registered voters Petitioners dismissively label “Never Residents” are referred to herein with the more accurate label “Registered Voters.”

injunction requested would be exceedingly burdensome, if not impossible. *See* Aff. of Adam Steele (attachment to Defendants' Opposition to Petition). Nor have Petitioners adduced *any* evidence that even a single unqualified voter has cast a ballot in this or any other election since 2011; instead, their claimed harm rests on supposed "risk" and "red flags." Ultimately, Petitioners' counsel admitted that they "simply don't know" who their claim would affect, conceding that "this is all very speculative and hypothetical." But the General Assembly has put in place a procedure to challenge any actual voters Petitioners can prove are unqualified to vote. The availability of that remedy further precludes the extraordinary relief they seek.

In short, the petition represents an unwarranted effort to disrupt an ongoing election by throwing countless voters' duly cast ballots into question with no actual evidence of any problem with them. Petitioners could have raised their complaint with the plain language of UMOVA years or months ago, but inexplicably did not. Their effort at this late hour to leverage their belated, evidence-free challenge into a change in the established administration of votes cast by military and overseas voters should be rejected.

RESPONSE TO PETITIONERS' STATEMENT OF FACTS

Although Petitioners characterize their grievances as being with the Board's "implementation" and "utilization" of UMOVA, their arguments make clear that they in fact challenge the statute itself. That puts squarely at issue the constitutional validity of North Carolina's voting regime for military and overseas voters, which the

General Assembly unanimously passed in 2011. A summary of the relevant statutory provisions, the related facts, and the procedural history of this case follows.

A. Congress Enacts And Amends UOCAVA.

In 1986, Congress enacted, and President Ronald Reagan signed, the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), Pub. L. 99–410, 100 Stat. 924 (1986), to “consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas.” UOCAVA was amended in 2010 to establish voter-registration and absentee-ballot procedures for military and overseas voters, procedures that states must follow in all federal (but not state or local) elections. Military and Overseas Voter Empowerment Act (“MOVE Act”), Pub. L. 111–84, 123 Stat. 2190, 2318–35 (2010).²

UOCAVA mandates particular registration and voting procedures for “absent uniformed services voters” and “overseas voters,” including persons who (1) reside outside the United States and are qualified to vote in the last place where they were domiciled before leaving the country, or (2) reside outside the United States and (but for such residence) would be qualified to vote in the last place where they were domiciled before leaving the country. *See* 52 U.S.C. § 20310(1), (5). More specifically, UOCAVA requires that states allow these voters to register and apply for an absentee ballot using the Federal Post Card Application or a Federal Write-In Absentee Ballot.

² This brief refers to UOCAVA as amended by the MOVE Act simply as UOCAVA.

Id. §§ 20301(b)(2), (3), 20302(a)(3), (4), 20303(a). It also requires states to accept these voters' registration and ballots by electronic means. *Id.* § 20302(a)(6), (e), (f).

B. The General Assembly Enacts UMOVA.

On 29 March 2011, House Bill 514 (which became the Uniform Military and Overseas Voters Act, or “UMOVA”) was introduced in the General Assembly. *House Bill 514*, North Carolina General Assembly.³ Both houses passed UMOVA without a single nay vote. *Id.* The bill was signed into law on 20 June 2011, and went into effect 1 January 2012. UMOVA, SL 2011-182, N.C. Sess. Laws 687--97 (2011).

UMOVA implements and expands upon UOCAVA by extending the latter's protections to state and local elections. Like UOCAVA, UMOVA applies to military and overseas voters. N.C. Gen. Stat. § 163-258.2(1). Among the military and overseas voters it covers are those (1) who are born outside the United States; (2) who have not previously lived in the United States; (3) who are 18 years old, a U.S. citizen, and not a convicted felon; (4) who have not previously registered to vote in any other state; and (5) for whom the last place where the person's parent or legal guardian was or would have been eligible to vote before leaving the United States was in North Carolina. *Id.* § 163-258.2(1)(e); *see also* N.C. Const. art. VI, §§ 1, 2. State law allows these voters to register at “the address of the last place of residence in this state of the parent or legal guardian of the voter.” N.C. Gen. Stat. § 163-258.5. UMOVA therefore ensures that otherwise eligible children of military servicepeople and other

³ <https://www.ncleg.gov/BillLookup/2011/H514> (visited 1 November 2024).

U.S. citizens living abroad will not lose their right to vote in North Carolina simply because their parents left the state before they were born.⁴

State law grants UMOVA voters the rights of UOCAVA voters. Hence, UMOVA voters are entitled to register and vote in the 2024 general election using “military-overseas ballots,” and are entitled to use the Federal Post Card Application and Federal Write-In Absentee Ballot. *Id.* §§ 163-258.2(3), 163-258.6(a), (b), 163-258.7(a), (b), (d), 163-258.11. They are also permitted to both register to vote and to cast their ballots electronically. *Id.* §§ 163-258.4(c), (d), 163-258.6(c), 163-258.9, 163-258.15. And they may request a military-overseas ballot until 5:00 p.m. the day before election day, and submit their ballots for mailing, electronic transmission, or other authorized means of delivery before 12:01 a.m. local time on election day. *Id.* §§ 163-258.8, 163-258.10. Military-overseas ballots are counted if delivered to the appropriate county board of elections by the close of business on the business day before the county canvass meeting. *Id.* § 163-258.12.

UMOVA applies to any general election for federal or state office. N.C. Gen. Stat. § 163-258.3(1). In the many election cycles since UMOVA was enacted in 2011, thousands upon thousands of military and overseas voters—including U.S. citizens who have never lived in North Carolina but whose parent(s) had—have registered

⁴ UMOVA also covers certain individuals who have lived in and then left the United States. N.C. Gen. Stat. § 163-258.2(1)(c), (d). Petitioners did not and do not challenge those provisions even though they do not explain how their reading of the North Carolina Constitution’s residence requirement would not equally affect voters who once lived in North Carolina but moved overseas.

and voted pursuant to the statute. Petitioners raised no issue with this settled process until four weeks ago.

C. UMOVA Voters Begin Receiving And Casting Ballots In The 2024 General Election.

The 2024 general election began in North Carolina on September 20, when county boards of elections began transmitting military-overseas ballots to UMOVA voters. App. 2-4. Since that time, over 3.8 million voters have cast ballots in our state. By October 2, the day Petitioners filed this lawsuit, 853 military and 4,998 overseas voters had already voted. App. 6. Those numbers had grown to 1,694 military and 8,049 overseas voters by October 11, the day Petitioners moved for a preliminary injunction. App. 11. As of October 23, the date Petitioners filed their petition and motion in the Court of Appeals, 3,521 military and 12,972 overseas voters cast their ballots. App. 16. And, as of November 2, 4,440,598 North Carolinians have cast their ballots in the election, including 7,020 military and 18,025 overseas voters. App. 125.

D. Petitioners' Request For Emergency Relief Is Denied By The Trial Court And The Court Of Appeals.

The matter came on for hearing before the Honorable John M. Smith on October 21 on Petitioners' motion for preliminary injunction, which relied entirely on the allegations of their complaint (composed almost entirely of legal conclusions). Petitioners, in other words, submitted no evidence—no affidavits, testimony, or exhibits—with their motion or at the hearing. Many of Petitioners' key allegations, moreover, were made “upon information and belief.” Compl. ¶¶ 49, 53, 78. Thus, Petitioners' extraordinary request that the trial court, then the Court of Appeals, and now this Court disrupt *the ongoing election* by changing established election rules so

as to disenfranchise voters rested (and rests) entirely on the unsupported allegations of the complaint.

At the hearing, Petitioners announced that their motion was limited to their first claim for relief: a challenge to the constitutionality of N.C. Gen. Stat. § 163-258.2(1)(e). *See* App. 97-98 (abandoning their second claim for relief for purposes of the motion). Petitioners also conceded on the record that this statute is facially constitutional because there are scenarios in which it may be applied constitutionally—a concession that, as explained below, defeats Petitioners’ claim entirely. App. 61, 66-67, 101. Petitioners did not present evidence of “a single specific incident” where the harm they alleged had actually occurred. *See* App. 58-62. Nor did Petitioners present any such facts—or any facts at all beyond the complaint and its attachments—to the Court of Appeals or to this Court in conjunction with their writ petitions.

The trial court concluded it could not “treat an entire group of citizens differently based upon unsupported and speculative allegations for which there is not even a scintilla of substantive evidence.” *See* Pet. Ex. 4 (Order Denying Plaintiffs’ Motion for Preliminary Injunction (“Order”)) p. 4, ¶ 10; *id.* p. 4, ¶ 3. It also concluded that Petitioners (1) were not likely to succeed on the merits of their claim that adult children of non-military North Carolina residents born outside of the United States who have not lived in the state cannot register to vote in North Carolina under the narrow circumstances prescribed by statute, (*id.* p. 3, ¶ 6; *id.* p. 4, ¶ 2), and (2) failed

to show any likelihood of irreparable harm absent the relief sought (*id.* p. 3–4, ¶¶ 7–11; *id.* p. 4, ¶ 1).

Petitioners appealed, and they asked the Court of Appeals to issue a writ of supersedeas to (1) stay the order denying their motion for preliminary injunction (a stay that would have no effect) and (2) enter the very mandatory injunction the trial court had denied and that is the subject of Petitioners’ pending appeal. In addition to intervenor-defendants’ opposition, the Court of Appeals received (over Petitioners’ objection) an amicus brief from the Secure Families Initiative (“SFI”). SFI is a nonpartisan, nonprofit organization that advocates for voting accessibility for military and overseas voters; its brief outlined the harm that Petitioners’ requested relief would visit on such voters. A unanimous panel of the Court of Appeals denied Petitioners’ petition and motion.

On 1 November 2024, Petitioners filed their Petition for Writ of Supersedeas and for Discretionary Review in this Court. Petitioners’ filing does not include a motion for temporary stay or motion for temporary injunction. SFI intends once again to move for leave to file an amicus brief to this Court.

REASONS WHY THE WRIT OF SUPERSEDEAS SHOULD NOT ISSUE

Intervenor-defendant Democratic National Committee (“DNC”) agrees with Petitioners that the stakes of their Petition could not be higher. But what Petitioners do not acknowledge is that the standard they must meet for a writ of supersedeas is exceedingly high as well. Nor do they acknowledge that the standard for the remedy they seek—a mandatory preliminary injunction pending appeal—is even higher. This

Court has explained that supersedeas “is only granted in case of necessity.” *McArthur v. Commonwealth Land & Timber Co.*, 164 N.C. 383, 384 (1913). Injunctions pending appeal, too, are an “extraordinary” remedy. *Nken v. Holder*, 556 U.S. 418, 428 (2009). As demonstrated below, the petition here fails to meet these exacting standards on a host of grounds.

I. THE PETITION VIOLATES THE COURT’S PROCEDURES.

The petition should be denied on procedural grounds under Rule 23 of the North Carolina Rules of Appellate Procedure, for several reasons. *First*, Petitioners are not actually seeking a stay of the trial court’s order; they are asking this Court—by writ of supersedeas and associated mandatory injunction—to *reverse* the trial court’s order outright, i.e., to resolve their appeal. That is not the purpose (or even the proper function) of supersedeas. *Second*, Petitioners failed to seek a stay in the trial court or show it was impracticable to do so.

A. Petitioners Are Asking This Court To Reverse—Not Stay—The Trial Court’s Order.

Unlike their petition in the Court of Appeals, Petitioners do not move this Court for a temporary stay or an injunction pending appeal. Instead, they ask this Court to issue a writ of supersedeas that is, in substance, a mandatory injunction pending appeal. *See* Pet. 13. Petitioners also assert that the applicable standard for the relief they seek is a “reasonable likelihood of success on the merits.” Pet. 11.

Petitioners ignore the true purpose and nature of a writ of supersedeas and disregard the exacting standard for obtaining the distinct, extraordinary relief they seek here.⁵

Under North Carolina law, a writ of supersedeas is issued “to stay the execution or enforcement of any . . . order . . . when an appeal has been taken . . . to obtain review of the . . . order.” N.C. R. App. P. 23(a)(1); *see also, e.g., City of New Bern v. Walker*, 255 N.C. 355, 356 (1961). Put another way, “supersedeas may issue only in the exercise of, and as ancillary to, the revising power of an appellate court; *its office is to preserve the status quo pending the exercise of appellate jurisdiction.*” *Craver v. Craver*, 298 N.C. 231, 237-238 (1979) (emphasis added).

Petitioners are not seeking a *stay* of the order on appeal; rather, they seek an order (1) *reversing* the trial court’s denial of the mandatory preliminary injunction they requested, (2) *granting* the motion that was denied at the trial court level (and by the Court of Appeals), and (3) *entering* the mandatory preliminary injunction sought below, thereby giving them a win on the merits of their appeal. But “[i]t is a rare case in which one may obtain a preliminary injunction for the asking, particularly pending appeal.” *Benoit v. Gardner*, 345 F.2d 792, 793 (1st Cir. 1965) (per curiam).

Unless an appellant can demonstrate to the court on such an emergency motion as this that there is great likelihood, *approaching near certainty*, that he will prevail when his case finally comes to be heard on the merits, he does not meet the

⁵ North Carolina appellate courts have not addressed the scope of their authority to issue mandatory injunctions pending appeal. N.C. R. Civ. P. 62(f). However, federal appellate courts have addressed the scope of this authority under Fed. R. Civ. P. 62(g), the analogous provision under the Federal Rules of Civil Procedure.

standard which all courts recognize must be reached to warrant the entering of an emergency order of this kind.

Ogden v. Dep't of Transp., 430 F.2d 660, 661 (6th Cir. 1970) (emphasis added) (citing *Greene v. Fair*, 314 F.2d 200, 202 (5th Cir. 1963) (per curiam)). And importantly, such a request for relief may not substitute for an appeal on the merits. *Greene*, 314 F.2d at 202. In other words, “[t]hese remedies should be resorted to only where appeal is a clearly inadequate remedy.” *Ex parte Fahey*, 332 U.S. 258, 260 (1947).

Substituting for an appeal, however, is precisely how Petitioners seek to use a writ of supersedeas here. An appeal requires “the furnishing of the transcript of the record to the appellate judges, a full briefing by the appellant, with an opportunity for response to be made by the appellee, and oral argument after consideration of the records and briefs by the Court.” *Greene*, 314 F.2d at 202. Petitioners ask this Court to grant them relief in the absence of all (indeed, any) of these procedures.

As discussed below, Petitioners cannot credibly claim they are seeking an order preserving the status quo in this case. The status quo was established in the wake of UMOVA’s enactment in 2011, which has governed voting by military and overseas voters in North Carolina elections for more than a decade. The mandatory injunction Petitioners seek would upend and destabilize the sound administration of an ongoing election. Preserving the status quo pending appeal therefore counsels against, not in favor, of supersedeas as Petitioners ask for it here. *See* N.C. R. App. P. 23(a)(1); *City of New Bern*, 255 N.C. at 356; *Craver*, 298 N.C. at 237-38.

In this posture, moreover, Petitioners have the burden of showing “a great likelihood, approaching near certainty,” that UMOVA is unconstitutional. *Ogden*, 430

F.2d at 661. But “[e]nactments of the General Assembly are presumed to be constitutional,” *State v. Hilton*, 378 N.C. 692, 699 (2021), and Petitioners have already conceded they cannot overcome that presumption, by admitting that the legislation is constitutional in at least some circumstances. App. 101.⁶

B. The Petition Is Barred By Petitioners’ Failure To Follow The Required Procedure For Seeking A Writ Of Supersedeas.

The appellate rules require a party petitioning for a writ of supersedeas to show that either (1) a stay was sought in the court to which issuance of the writ is sought, or (2) extraordinary circumstances made it impracticable to do so. N.C. R. App. P. 23(a)(1), (c); *see also Rodriguez v. Sampson Cnty. Mem’l Hosp., Inc.*, 322 S.E.2d 559 (N.C. 1984) (mem); *Johnson v. McMillan*, 182 N.C. App. 766 (2007) (unpublished). These rules “are mandatory and not directory.” *State v. Hart*, 361 N.C. 309, 311 (2007) (citation omitted). They have been adopted after reasoned determination that they are necessary, and that it is “equally necessary to enforce

⁶ Below, Petitioners offered no explanation for how § 163.258.2 could be constitutionally applied to allow certain voters born and living outside the United States to vote in North Carolina elections but not others. Nor did Petitioners explain how, under the reading of the constitution’s residency requirement they advance, *any* military or overseas voter could vote in North Carolina state and local elections. Although Petitioners strenuously avoided conceding this before the trial court or in their appellate filings, their position that military servicemembers and their spouses and dependents may vote in North Carolina state and local elections (App. 57, 59, 60, 66-67, 70, 101) must rest on the proposition that those voters are domiciled in North Carolina despite living abroad (and perhaps in the case of some spouses and dependents, despite having never lived in North Carolina) and therefore are North Carolina residents. There is no basis on which to rule that some overseas voters falling within one or more subsections of N.C. Gen. Stat. § 163.258.2 are legally domiciled in North Carolina but other voters are not.

them and to enforce them uniformly.” *Capps v. NW Sign Indus. of N.C., Inc.*, 186 N.C. App. 616, 619 (2007) (quoting *Pruitt v. Wood*, 199 N.C. 788, 789-90 (1930)).

Here, Petitioners did not move for a stay of the trial court’s order after it denied from the bench their motion for preliminary injunction. Nor have Petitioners offered any extraordinary circumstances that made it impracticable for them to seek such a stay then and there, or to move for a stay after the hearing. Having foregone these options, without any credible explanation, they by rule cannot now obtain a writ of supersedeas in any form or scope.

II. PETITIONERS ARE NOT LIKELY TO SUCCEED ON THE MERITS.

The petition should also be denied because Petitioners cannot show the requisite likelihood of success needed to succeed on appeal. To begin with, Petitioners’ claim is manifestly untimely—they brought it more than a decade after UMOVA was adopted and in the midst of the 2024 general election. In addition, Petitioners’ claim—a facial constitutional challenge to UMOVA—fails because Petitioners conceded in the trial court that § 163-258.2(1)(e) is not unconstitutional in all its applications. The decisions below also align with recent decisions of courts in Pennsylvania and Michigan, which have likewise rejected similar, belated requests for mandatory injunctions that would harm military and overseas voters. *See Guy Reschenthaler v. Schmidt*, 2024 WL 4608582, at *1 (M.D. Pa. Oct. 29, 2024) (granting motion to dismiss); *RNC v. Benson*, No. 24-000165-MZ (Mich. Ct. Cl. Oct. 21, 2024) (granting motion for summary disposition).

A. Petitioners' Claim Is Barred By Laches.

“A party is guilty of laches if he has failed to assert an equitable right for such time as materially prejudices the adverse party.” *Franklin Cnty. v. Burdick*, 103 N.C. App. 496, 498 (1991). Laches applies even in cases asserting that a law is unconstitutional or otherwise invalid; the doctrine does not “address the merits or validity of plaintiff’s claims,” but “serves to deny the guilty party the relief afforded by equity.” *Cannon v. City of Durham*, 120 N.C. App. 612, 615 (1995); *see also id.* (noting that prior courts had “applied the doctrine of laches to a claim that North Carolina passed a constitutional amendment which violated the United States Constitution” and holding that “the doctrine of laches applies to any challenge to an action by the State of North Carolina, or any of its municipalities”).

For laches to be applied, the defendant must show that (1) the plaintiff’s delay resulted in some change in the respective rights of the parties, (2) the delay is unreasonable and harmful, and (3) the plaintiff knew or should have known of the earlier grounds for the claim. *N.C. State Bar v. Gilbert*, 189 N.C. App. 320, 329 (2008). These elements are met here.

With respect to the first, UMOVA was enacted in 2011. Thus, military and overseas voters have relied on this law to register and vote for over a decade. Indeed, since UMOVA became effective on 1 January 2012, an increasing number of military and overseas voters have cast ballots in six prior statewide general elections. Below are the military and overseas votes cast in prior presidential elections in North Carolina:

General Election (Year)	Military Votes	Overseas Votes
2012	7,877	7,700
2016	6,297	10,881
2020	11,234	16,046

App. 21, 34, 47. As noted, 7,020 military and 18,025 overseas voters have already cast ballots in the 2024 general election. App. 125.

If Petitioners had timely (and successfully) challenged UMOVA voters' eligibility to vote, the voters they seek to disenfranchise would have had an opportunity to seek redress. But Petitioners waited more than a decade—until October 2024—to sue. That unexplained delay is directly responsible for threatening voters' franchise, leaving voters insufficient time to ensure their voice is heard.

With respect to the second laches element, Petitioners' delay is both unreasonable and harmful. It is unreasonable because UMOVA was enacted over a decade ago and nothing stopped Petitioners (who were well aware of what the law allowed) from bringing their claims any time in the past 13 years. And the delay is harmful because at least 7,020 military and 18,025 overseas voters have already cast ballots in this election, with election day just hours away. *See* App. 125. Indeed, the time to begin counting these ballots is nearly at hand, and Defendants have demonstrated that it would be exceedingly burdensome to comply with the onerous tasks Petitioners would impose in time to meet the hard deadlines for completing the

administration of this election.⁷ See Aff. of Adam Steele (attachment to Defendants' Opposition to Petition).

Finally, with respect to the third laches element, Petitioners have known about the grounds for their claims since UMOVA became law. After all, UMOVA was unanimously passed by both houses of the General Assembly (when each was controlled by members of Petitioners' party), and Petitioners have actively campaigned for UMOVA voters' support in election after election. See, e.g., *Are you an American Living Abroad? Your Vote Matters!*, Republicans Overseas, <https://republicansoverseas.com/> (last visited 1 November 2024). In contrast, while Petitioners have been aware of these grounds for over a decade, neither the DNC nor UMOVA voters had any notice that Petitioners would seek to upset established election law and disenfranchise UMOVA voters under the theories Petitioners now espouse—and certainly not within weeks of election day and after UMOVA voters have already started to vote.

Petitioners' request for relief in the ongoing election presents a textbook case for the application of laches. Petitioners do not argue otherwise anywhere in their Petition. Equity cannot and should not allow Petitioners to ambush a strategically targeted subset of voters after many have already cast their ballots.

⁷ Many of those voters, who would be disenfranchised without recourse if Petitioners' requested relief were granted, have cast or will cast ballots for Democratic candidates. The harm thus affects both the voters and the DNC.

B. Petitioners' Claims Also Are Barred By The *Purcell* Principle.

Separately but relatedly, Petitioners' request to change state election law in the middle of the 2024 general election is barred by the principle articulated by the U.S. Supreme Court in *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), and its progeny. Those cases hold that "courts should ordinarily not alter the election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 424 (2020) (per curiam) (citing *Purcell*). That is because such changes can "result in voter confusion," *Purcell*, 549 U.S. at 4. Petitioners simply ignore this demonstrated flaw in their Petition.

North Carolina courts have embraced the *Purcell* principle as a matter of state law. For example, in *Pender County v. Bartlett*, this Court concluded that a house district was unconstitutionally drawn under Article II, § 3(3) of the North Carolina constitution. 361 N.C. 491, 493 (2007), *aff'd sub nom. Bartlett v. Strickland*, 556 U.S. 1 (2009). Nonetheless, the Court explained that it was required to "consider the proximity of a forthcoming election" when determining whether to grant equitable relief. 361 N.C. at 510. Ultimately, the Court concluded that, because the district could not be redrawn until "after the closing period for filing for elective office," and candidates were "preparing for the . . . election in reliance upon the districts as presently drawn," Petitioners were not entitled to relief until after the election. *Id.*

The same principles govern here. As noted, military and overseas ballots were sent out weeks ago. Military and overseas voters, who have come to rely on UMOVA's processes and many of whom have already returned completed ballots in the current election, would be left questioning what they need to do to ensure their votes are

counted. Indeed, SFI's amicus brief below described the many barriers that already complicate ballot access for military and overseas voters, and it illustrated how the simultaneously over- and under-inclusive relief Petitioners seek would impose even greater burdens on those U.S. citizens' ability to vote.

Election officials, for their part, would have to scramble to upend the regime they have been implementing for a decade (and no doubt been preparing for months to implement in the ongoing election) and replace it with Petitioners' vague, undefined proposal. It is the equivalent of requiring a football team to implement an entirely new offense during halftime of the Super Bowl. The affidavit Defendants submitted to the Court of Appeals addresses this, documenting the substantial burden of the relief Petitioners seek. In contrast, Petitioners have offered *no* facts—at any stage of this proceeding—in support of their blithe assertion (*see* Pet. 2, 7, 11, 14, 15) that Defendants could “readily” or “easily” identify and segregate thousands of already-processed ballots in the manner Petitioners request.

In short, *Purcell* confirms that this Court should deny Petitioners' belated attempt to cast doubt on the integrity of the upcoming election. Petitioners offer no argument to this Court why *Purcell* does not apply here.

C. Petitioners' First Claim Is A Facial Challenge To The Constitutionality Of § 163-258.2(1)(e), Which Petitioners Concede Is Facially Constitutional.

If the Court reaches the merits, then the petition should be denied because Petitioners are bringing a facial challenge, one they have already acknowledged fails.

“[A] court is not restricted per se by a party’s categorization of its challenge as facial or as-applied and may conduct its own review to determine whether the party’s challenge is facial or as-applied.” *Kelly v. State*, 286 N.C. App. 23, 31–32 (2022). In other words, “when courts distinguish between facial and as-applied challenges, the ‘label is not what matters.’” *Singleton v. N.C. Dep’t of Health & Hum. Servs.*, 2024 WL 4524680, at *1 (N.C. Oct. 18, 2024) (per curiam) (quoting *John Doe No. 1 v. Reed*, 561 U.S. 186, 194 (2010)).

And “when the ‘plaintiffs’ claim and the relief that would follow’ could ‘reach beyond the particular circumstances of these plaintiffs,’ then that claim becomes ‘a facial challenge to the extent of that reach.’” *Singleton*, 2024 WL 4524680, at *1 (quoting *Reed*, 561 U.S. at 194); *see also id.* (holding that plaintiffs’ complaint “contains allegations that, if proven, could render the Certificate of Need law unconstitutional in all its applications”). Relatedly, “[f]acial attacks . . . are not dependent on the facts surrounding any particular” controversy. *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 133 n.10 (1992).

Despite Petitioners’ efforts at creative pleading, their first cause of action is unquestionably a facial challenge to the provision of UMOVA at issue. They allege that § 163-258.2(1)(e) “violates Article VI, § 2 of the North Carolina Constitution.” *See Compl.* ¶¶ 1–3, 5–6, 29, 31–43, 76–78, 81, 84.a., 84.b. And their claim is premised on a legal, rather than factual, argument. Indeed, they offer *no* factual allegations about how UMOVA applies to any particular voter, nor cite anything about the Board’s “implementation” or “utilization” of UMOVA other than its administration of

North Carolina elections in accordance with UMOVA's plain language. The remedy Petitioners seek, moreover, is facial: a declaration that the law is unconstitutional and an injunction of § 163-258.2(1)(e) in its entirety, requiring the State Board to (1) refuse to count the ballots of *any* overseas voters registered to vote under § 163-258.2(1)(e), and (2) prevent prospective overseas voters from registering to vote under that same provision. *See* Compl. ¶¶ 84.a., 84.b., 84.c., 84.d., 85.a., 85.b., 85.c., 85.d., 85.e., 85.f., & pp. 22–23.

Petitioners attempt to obscure the facial nature of their claim by repeatedly saying their claim is “as-applied” to *them* because it “dilutes” their votes or somehow harms their organizational missions. *See* Compl. ¶¶ 7, 52, 79, 80. Putting aside that, as explained, labeling is not what matters, this argument misconceives the nature of an “as-applied” challenge. Such a challenge focuses on the statute’s specific application to the parties in a particular case rather than its application to others. *Singleton*, 2024 WL 4524680, at *1; *Town of Beech Mountain v. Genesis Wildlife Sanctuary, Inc.*, 247 N.C. App. 444, 460 (2016), *aff’d*, 369 N.C. 722 (2017). There is nothing specific about Petitioners’ claim; they claim that if *any* Registered Voters vote (unless they are children of military personnel), then Petitioners are purportedly harmed through vote dilution. But that supposed harm (if it existed) would be shared by *every* voter in *every* election. And the category of voters Petitioners seek to disenfranchise includes all U.S. citizens living abroad who report that they “have never lived in the United States.” Mot. ¶ 4, 40(c). In other words, Petitioners claim

that the votes of *all* eligible North Carolina voters are diluted by counting the votes of those they claim are ineligible. That is a facial challenge.

Petitioners' repeated attempts to blame the State Board for its "implementation" of N.C. Gen. Stat. § 163-258.2(1)(e) does not alter that conclusion. *See* Compl. ¶¶ 44–50. Referring to "implementation" of a statute is not enough to convert a facial challenge into an as-applied one. *See Kelly*, 286 N.C. App. at 34. And to be clear, the State Board is strictly complying with UMOVA's unambiguous provisions. In fact, Petitioners tacitly admit not only that the State Board's duties "necessarily entail" compliance with N.C. Gen. Stat. § 163-258.2(1)(e), but also that the purported conflict is between the statute and Article VI, § 2(1) of the North Carolina Constitution. *See* Compl. ¶¶ 51, 78, 84.a., 84.b.

Finally, at the hearing before the trial court, Petitioners' counsel *conceded* that § 163-258.2(1)(e) is facially constitutional. App. 61, 66-67, 101. Because Petitioners seek facial relief impacting the franchise of military and overseas voters not joined in this lawsuit, while at the same time admitting the statute in question is constitutional in certain circumstances, they cannot show a likelihood of success on the merits. Indeed, their claim necessarily fails.

D. Petitioners Are Not Likely To Show That N.C. Gen. Stat. § 163-258.2(1)(e) Is Unconstitutional As Applied.

Even if Petitioners' first cause of action could properly be construed as an as-applied challenge to UMOVA, they still could not show the requisite likelihood of success. Petitioners' claim is not "as applied" to them or any other party in this case.

Rather, the statute at issue is applied to Registered Voters born abroad to North Carolinians.

Under North Carolina law, there are circumstances in which “persons who have never lived in the United States, let alone in North Carolina,” Compl. ¶ 43, may nevertheless “reside” in North Carolina for purposes of Article VI, §2 of the North Carolina Constitution. That is because “living” and “residing” in North Carolina are distinct legal concepts. “Residence as used in Article VI of the North Carolina Constitution . . . mean[s] domicile.” *Hall v. Wake Cnty. Bd. of Elections*, 280 N.C. 600, 605 (1972), *modified by Lloyd v. Babb*, 296 N.C. 416 (1979); *accord Owens v. Chaplin*, 228 N.C. 705, 708–09 (1948). And “domicile” does not mean “actual resident”—or “setting foot” in North Carolina—as Petitioners disingenuously suggest. *See* Compl. ¶¶ 6, 34, 48-49, p.22 ¶ 1.b.

Precisely speaking, Residence and Domicile are not convertible terms. A person may have his residence in one place and his domicile in another. Residence simply indicates a person’s actual place of abode, whether permanent or temporary. Domicile denotes one’s permanent, established home as distinguished from a temporary, although actual, place of residence.

Hall, 280 N.C. at 605. Furthermore, a “domicile once acquired is presumed to continue until it is shown to have changed,” and the burden rests on Petitioners to show such a change. *Reynolds v. Lloyd Cotton Mills*, 177 N.C. 412, 416 (1919). “As a general rule the domicile of every person at his birth is the domicile of the person on whom he is legally dependent, . . . an unemancipated infant, being non sui juris, cannot of his own volition select, acquire, or change his domicile.” *Thayer v. Thayer*, 187 N.C. 573, 574 (1924).

Taking all this law together, “it is entirely logical that on occasion, a child’s domicile . . . will be in a place where the child has never been.” *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). For example—and of particular relevance here—a child born abroad to North Carolina service members is a North Carolina domiciliary (even if she has never “set foot on U.S. soil”) and remains one unless and until she abandons her domicile by being physically present at a new residence with the intent to stay there *indefinitely*. Given that service members and their families are frequently reassigned, such a child might not establish a permanent residence before turning 18 and, accordingly, would be allowed to vote under § 163-258.2(1)(e) fully consistent with the residency requirement of Article VI, § 2(1) of the North Carolina Constitution.

Recognizing that the law of domicile thoroughly undermines their claim, Petitioners artfully avoid using the term, even while tacitly conceding its applicability by citing *Hall*. (See Pet. 12-13). Petitioners also speculate that a Registered Voter’s domicile could change for a variety of reasons. (Pet. 12). However, Petitioners’ arguments—which they are obligated to *prove* not merely *allege*—are fact-bound arguments specific to the circumstances of each voter. See *Reynolds*, 177 N.C. at 416. As the trial court correctly observed, Petitioners simply have not carried their burden with respect to any Registered Voter, let alone all of them. See Pet. Ex. 4, Order, p. 4, ¶ 10; *id.* p. 4, ¶ 3.

Second, even if Petitioners’ proposed definition of “residence” were the law, their claims would *still* fail. The North Carolina Constitution allows the General

Assembly to reduce the state's residency requirement. Specifically, Article VI, § 2(2) recognizes the General Assembly's authority to "*reduce* the time of residence for persons voting in presidential elections." (emphasis added). Courts "look to the plain meaning of the [word] to ascertain its intent," *Town of Boone v. State*, 369 N.C. 126, 132–33 (2016), and the plain meaning of "reduce" is "to diminish in size, amount, extent, or number." *Webster's Third New International Dictionary* 1905 (2002). The General Assembly did just that in § 163-258.2(1)(e), reducing (from 30 days to 0) the time of residence required to vote for President and Vice-President for children of North Carolinians born outside the United States who meet all other voter-eligibility requirements in the state and have not previously registered to vote in any other state.

Petitioners offer no other construction of this term, and argue without citation that the General Assembly does not possess this power. (Pet. 11-12). Petitioners' argument on this point is meritless—the General Assembly's acts are lawful unless forbidden by the provisions of the North Carolina Constitution. *Harper v. Hall*, 384 N.C. 292, 297–98 (2023). Here, the General Assembly lawfully passed N.C. Gen. Stat. § 163-258.2(1)(e), reducing (from 30 days to 0 days) the time of residence required to vote for President and Vice-President for children of North Carolinians born outside the United States who meet all other voter-eligibility requirements in the state and have not previously registered to vote in any other state.

Petitioners thus have failed to show that they have any likelihood of succeeding on the merits of their appeal, much less the requisite “near certain” showing that they are likely to succeed.

III. THE BALANCE OF HARMS AND PUBLIC INTEREST FAVOR DENIAL OF ANY WRIT OF SUPERSEDEAS.

The balance of harms and the public interest also weigh against issuance of a writ of supersedeas and associated request for a mandatory injunction. *See Nken*, 556 U.S. at 434. With respect to the former, Petitioners will suffer no cognizable injury if denied the extraordinary remedy they seek, while many third parties would likely be harmed by the mandatory injunction sought by Petitioners, via the loss of their fundamental right to vote. As to the latter, the public has a compelling interest in protecting the right to vote and ensuring the orderly administration of elections in North Carolina.

A. Denying The Petition Will Preserve The Status Quo And Cause No Irreparable Injury.

Petitioners have not proved they would likely suffer any cognizable harm from allowing UMOVA voters to cast their ballots, let alone the serious irreparable harm required for mandatory preliminary relief.

In the lower courts, Petitioners claimed that allowing UMOVA voters to cast their ballots “dilutes” Petitioners’ votes. *See* Compl. ¶¶ 7, 52, 79, 80. Now, Petitioners avoid any mention of their vote dilution theory to this Court, *see* Pet. 13-16, presumably because the DNC has shown that their asserted claim of “vote dilution” cannot satisfy their showing of irreparable harm. In *Harper v. Hall*, 384 N.C. 292 (2023), this Court rejected a claim of vote dilution and held that such a claim only lies

where one voter's vote does not "have the same weight" as another voter's vote. *Id.* at 364; see also *State ex rel. Martin v. Preston*, 325 N.C. 438, 455 (1989) ("[O]nce the right to vote is conferred, the *equal right* to vote is a fundamental right." (emphasis added)).

Petitioners do not and cannot allege that their votes are being weighed differently at all, which is the essence of a vote-dilution claim. Petitioners' first claim alleges UMOVA voters' allegedly unlawful votes will dilute Petitioners' lawful ones. But this type of generalized grievance would affect all voters equally and thus is not the type of "personal, direct and irreparable injury" required to obtain declaratory or injunctive relief. See, e.g., *American Equitable Assur. Co. of N.Y. v. Gold*, 248 N.C. 288, 292 (1958); *Leonard v. Maxwell*, 216 N.C. 89, 97 (1939).⁸

In addition to not alleging an injury cognizable under North Carolina law, the trial court correctly concluded that Petitioners did not present "any evidence of even a single specific instance of any registrant unlawfully availing themselves" of N.C. Gen. Stat. § 163-258.2(1)(e). Order pp. 2–3, ¶ 4. The untimeliness of their lawsuit

⁸ Petitioners' reliance upon *James v. Bartlett*, 359 N.C. 260 (2005) is misplaced. To begin with, the *James* case is an election protest brought by two candidates who lost their respective races and challenged out-of-precinct voting. *James*, 359 N.C. at 262-263 & nn. 1-2. In that case, the Court held that the State Board "improperly counted provisional ballots cast outside voters' precincts of residence on election day in the 2004 general election" contrary to state statutory law and the State Board's own regulations. *Id.* at 268-270. This case is distinguishable in that (1) Petitioners are not candidates bringing an election protest, (2) the State Board is following UMOVA and its own regulations by allowing military and overseas voters to vote under N.C. Gen. Stat. § 163-258.2(1)(e.), and (3) Petitioners' assertions that military and overseas voters will "determine[] an election's outcome" are speculative.

further demonstrates that Petitioners' alleged injuries do not constitute serious irreparable harm. If the alleged harm were truly severe (or cognizable at all), Petitioners would not have waited 13 years to seek redress.

The trial court repeatedly pressed Petitioners' counsel to identify any *actual* harm Petitioners would suffer absent the requested relief, but Petitioners could identify no such harm. App. 111 ("I'm just simply unaware of an instance" of even a single person voting unlawfully since 2011, "and that's the purpose of discovery here."). In fact, Petitioners' counsel tellingly admitted that Petitioners moved for preliminary injunctive relief because "we just simply don't know." App. 73. He even admitted that "this is all very speculative and hypothetical." App. 116. That falls woefully short of Petitioners' required showing of irreparable harm and cannot support entry of a mandatory injunction changing election rules and processes in the midst of an ongoing election.

B. A Writ Of Supersedeas Would Irreparably Harm The DNC And The Military And Overseas Voters It Represents, Highlighting Why Denying The Petition Is In The Public Interest.

Weighed against the "potential harm to the defendant," *Williams v. Greene*, 36 N.C. App. 80, 86 (1978), whatever theoretical, potential harm Petitioners have claimed is trivial and insufficient to warrant last-minute changes to election rules. "[P]rotect[ing] voters from interference . . . in the voting process" is the bedrock of our free elections. *Harper*, 384 N.C. at 361. "By definition, '[t]he public interest . . . favors permitting as many qualified voters to vote as possible.'" *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). And "[t]he right to vote includes the right to have the ballot counted." *Reynolds v. Sims*, 377 U.S. 533, 555

n.29 (1964). Indeed, “the right to have one’s vote counted has the same dignity as the right to put a ballot in a box.” *Gray v. Sanders*, 372 U.S. 368, 380 (1963).

Petitioners readily admit they seek to take away this right from UMOVA voters. *See* App. 103-05. As noted, 7,020 military and 18,025 overseas voters have already cast their ballots. App. 125. The General Assembly—without a single nay vote—unanimously conferred upon UMOVA voters the right to vote, and subsequently taking away “one of the most cherished rights in our system of government,” *Blankenship v. Bartlett*, 363 N.C. 518, 522 (2009), without notice and a meaningful opportunity for those voters to be heard, would violate the Fourteenth Amendment’s Due Process Clause, *see* U.S. Const. amend. XIV, and North Carolina’s Free Elections and Law of the Land Clauses, N.C. Const. art. I, §§ 10, 19. *See Swaringen v. Poplin*, 191 S.E. 746, 747 (N.C. 1937) (“A free ballot and a fair count must be held inviolable to preserve our democracy.”). It is assuredly not in the public interest for declaratory and injunctive relief to issue against voters without them first being joined in this lawsuit and being provided notice and an opportunity to be heard. N.C. Gen. Stat. § 1-260 (“When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceedings.”).

The balance of equities and public interest weigh heavily in favor of the DNC, Defendants, and all military and overseas voters. Petitioners repeatedly assert, without evidentiary support, that the relief they seek is “simple” and “narrow,” and

could be “readily” and “easily” complied with. Pet. 2, 5, 7, 9, 11, 14, 15. The former assertion is belied by Petitioners’ own concessions in the lower courts. They ask the Court to “segregate” Registered Voters’ ballots “pending confirmation of the individual’s qualifications to vote.” App. 56-57, 72-73. Although Petitioners try to explain away their relief as a “check,” while giving no explanation of how that “check” would be implemented, their relief sought is in fact to disenfranchise Registered Voters qualified to vote under N.C. Gen. Stat. § 163-258.2(1)(e). *See* App. 68, 103 (stating that Registered Voters should be allowed to vote if they fall under another unspecified provision of UMOVA). Petitioners’ request is neither “simple” or “narrow.”

With respect to Petitioners’ latter contention, the petition is replete with unsubstantiated assertions about what the State Board can and cannot do and who is or may be voting—assertions that lack any record citation. *See* Pet. 3, 4, 5, 7, 14. In fact, as the State Board demonstrated to the trial court and the Court of Appeals, timely compliance with the mandatory injunction would be exceedingly burdensome, if not impossible. *See* Aff. of Adam Steele (attachment to Defendants’ Opposition to Petition). And Petitioners concede they do not even know who they are seeking to disenfranchise. Pet. 13. The Court should reject Petitioners’ attempt to shift their statutory burden to prove voters are ineligible (*see* N.C. Gen. Stat. § 163-89(c)) onto nonparty, legally registered voters by requiring them to prove, under a *presumptively constitutional* state law, that they are entitled to vote.

CONCLUSION

The petition and associated request for a mandatory injunction should be denied in their entirety.

Respectfully submitted this the 4th day of November, 2024.

Electronically Submitted

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N.C. R. App. P. 33(b) Certification. I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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CERTIFICATE OF SERVICE

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This the 4th day of November, 2024.

Electronically Submitted
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NORTH CAROLINA COURT OF APPEALS

REPUBLICAN NATIONAL
COMMITTEE and NORTH CAROLINA
REPUBLICAN PARTY,

Petitioners-Petitioners,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, ALAN HIRSCH, JEFF
CARMON, KEVIN N. LEWIS, SIOBHAN
O'DUFFY MILLEN, STACY "FOUR"
EGGERS IV, in Official Capacity as
Members of NCSBE, and KAREN
BRINSON BELL, in Official Capacity as
Executive Director of NCSBE,

Defendants-Respondents,

DEMOCRATIC NATIONAL
COMMITTEE,

Defendant-Intervenor-
Respondent.

From Wake County
24CV031557-910

COA P24-735

APPENDIX

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EXHIBIT A

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Absentee Ballots Go Out to Military and Overseas Voters on Sept. 20, All Other Voters Who Requested Them on Sept. 24

A new schedule for absentee ballot distribution was released by the State Board Friday.

RALEIGH, N.C.

All 100 county boards of elections must send absentee ballots to eligible military and overseas citizens who requested them for the 2024 general election on Friday, Sept. 20, under a new schedule released by the State Board of Elections.

The Board also set Sept. 24 as the date to start sending absentee ballots to other voters who have requested ballots by mail, including those who use the Visually Impaired Portal (VIP) to request and return their ballots.

This schedule ensures that North Carolina will meet the federal law requirement to distribute ballots to voters under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) by the 45th day before the election — Sept. 21.

County boards were prepared to send absentee ballots out on Sept. 6, the deadline for absentee ballots to be sent under state law. However, rulings by the N.C. Court of Appeals and N.C. Supreme Court required election officials to remove the We The People party line from the presidential contest on the ballot, including the party's presidential nominee, Robert F. Kennedy Jr., and vice-presidential nominee, Nicole Shanahan.

In North Carolina, any registered voter can vote an absentee ballot, after submitting a request for the ballot. Voters can request their absentee ballot at votebymail.ncsbe.gov (<https://votebymail.ncsbe.gov/app/home>). The deadline for absentee requests is Oct. 29. However, election officials urge voters who wish to vote by mail to request their ballot soon, so it can be completed and returned to the voter's county board of elections by 7:30 p.m. Election Day — Nov. 5.

Through Thursday, more than 166,000 voters — including more than 13,600 military and overseas voters — have requested ballots in North Carolina.

During the past week, State Board staff, county boards of elections staff, and voting system and printing vendors have worked to code, design, proof, and print new ballots without the We The People party line. Staff have worked to devise contingency plans to ensure that ballots could be delivered as soon as practicable.

Due to the timelines for the printing, delivery, and assembly of all absentee ballots in every county, the State Board concluded that the only way to meet the federal deadline for military and overseas citizens was to establish separate dates for distributing absentee ballots.

Election officials will first focus on distributing the military and overseas citizen ballots, which is a smaller group of ballots. Currently, about 8% of 2024 absentee requests are from military and overseas citizen voters.

State Board staff have arranged for special on-demand ballot printers to be positioned around the state to fulfill any orders for military and overseas citizen ballots for counties whose orders from their print vendors will not arrive in time for those ballots to be prepared for mailing by next Friday. These special printers can print any ballot style approved for use in the state. There are nearly 2,350 different ballot styles statewide for this election.

Meanwhile, staff will work over the weekend and through next week to prepare the [online military/overseas voter services portal](https://votebymail.ncsbe.gov/app/uocava) (<https://votebymail.ncsbe.gov/app/uocava>) for electronic delivery and return of ballots available for military and overseas citizen voters. Nearly 90% of military and overseas citizen voters opt for this electronic ballot delivery feature.

This plan allows time for the much larger orders of absentee ballots for all other voters to be printed and delivered to the county boards in time for counties to prepare their outgoing absentee ballot packages for mailing on Sept. 24.

“This schedule is only possible because of the hard work of elections professionals across this state that will continue throughout the next week,” said Karen Brinson Bell, executive director of the State Board of Elections. **“Because of them, we expect to meet the federal deadline for ballot delivery, and**

North Carolinians can finally start voting in this important election.”

The State Board has received many questions about the statewide cost of reprinting ballots. Preliminary estimates show the costs vary widely by county, depending on how many ballots must be reprinted and other factors. Estimates range from a few thousand dollars in some smaller counties to \$18,000 in Caldwell County, \$55,100 in Durham County and \$300,000 in Wake County, home to the most registered voters in the state.

2024 General Election Dates and Deadlines

Here are key dates and deadlines for the 2024 general election in North Carolina:

- **Sept. 20:** Ballots distributed to military and overseas citizen voters who have requested them.
- **Sept. 24:** Absentee ballots distributed to all other voters who have requested them.
- **Oct. 11:** Voter registration deadline (5 p.m.).*
- **Oct. 17:** In-person early voting begins; same-day registration available.
- **Oct. 29:** Absentee ballot request deadline (5 p.m.).*
- **Nov. 2:** In-person early voting ends (3 p.m.).
- **Nov. 5:** General Election Day.
- **Nov. 5:** Absentee ballot return deadline (7:30 p.m.).*

**Voter registration and absentee voting deadlines are different for [military and overseas citizen voters \(/voting/military-and-overseas-voting\)](#).*

Related Topics:

- [Laws/litigation](#)
([/press-release-terms/lawslitigation](#))
- [Required by law](#)
([/press-release-terms/required-law](#))
- [Vote by mail](#)
([/press-release-terms/vote-mail](#))

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EXHIBIT B

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N.C. Absentee & Early Voting Statistics for the 2024 General Election

Published 10/03/2024; Ballots cast through 10/02/2024

General Statistics

Total Ballots Cast	11,892
Total Eligible Voters*	7,707,248
Turnout	0.15%

Total Ballots Cast (Absentee/Early Voting)

In-Person Early Voting	0
Civilian (Mail)	6,041
Military (Mail)	853
Overseas (Mail)	4,998
Total	11,892

Comparison to 2020 & 2016 General Elections

Total ballots cast this time in 2020 & 2016

Numbers with 33 days remaining until Election Day

	2020*	2016
Early Voting	0	0
Civilian, Military, & Overseas	321,348	20,211
Total	321,348	20,211

(Total number of accepted ballots cast)

* The 2020 election was conducted during the COVID-19 pandemic, resulting in a significant increase in voting by mail.

Registration Statistics by Party

		%
Democratic	2,421,317	31.42%
Republican	2,297,883	29.81%
Unaffiliated	2,912,864	37.79%
Libertarian	49,761	0.65%
Green	3,152	0.04%
No Labels	20,982	0.27%
Constitution	278	0.00%
We The People	776	0.01%
Justice For All	235	0.00%
Total	7,707,248	

Ballots Cast by Party

		Turnout*	Proportion**
Democratic	5,018	0.21%	42.20%
Republican	2,471	0.11%	20.78%
Unaffiliated	4,295	0.15%	36.12%
Libertarian	41	0.08%	0.34%
Green	12	0.38%	0.10%
No Labels	54	0.26%	0.45%
Constitution	1	0.00%	0.01%
We The People	0	0.00%	0.00%
Justice For All	0	0.00%	0.00%
Total	11,892		

Registration Statistics by Race

		%
White	4,941,995	64.12%
Black	1,522,027	19.75%
Other	1,243,226	16.13%
Total	7,707,248	

Ballots Cast by Race

		Turnout*	Proportion**
White	8,014	0.16%	67.39%
Black	883	0.06%	7.43%
Other	2,995	0.24%	25.18%
Total	11,892		

Registration Statistics by Ethnicity

		%
Hispanic or Latino	316,778	4.11%
Not Hispanic or Not Latino	5,145,004	66.76%
Undesignated	2,245,466	29.13%
Total	7,707,248	

Ballots Cast by Ethnicity

		Turnout*	Proportion**
Hispanic or Latino	274	0.09%	2.30%
Not Hispanic or Not Latino	7,214	0.14%	60.66%
Undesignated	4,404	0.20%	37.03%
Total	11,892		

Registration Statistics by Gender

		%
Female	3,810,080	49.44%
Male	3,246,825	42.13%
Undesignated	650,343	8.44%
Total	7,707,248	

Ballots Cast by Gender

		Turnout*	Proportion**
Female	5,425	0.14%	45.62%
Male	5,194	0.16%	43.68%
Undesignated	1,273	0.20%	10.70%
Total	11,892		

* Turnout = Ballots Cast per Demographic / Registered Voter Count for that Demographic

** Proportion = Ballots Cast per Demographic / Total Ballots Cast

Data Sources: absentee_counts_state_20241105.csv, absentee_20201103.zip

Ballots Cast by County

County	In-Person	Mail			Total
	EARLY VOTING	CIVILIAN	MILITARY	OVERSEAS	
ALAMANCE	0	129	3	30	162
ALEXANDER	0	9	0	9	18
ALLEGHANY	0	14	0	2	16
ANSON	0	4	0	0	4
ASHE	0	4	4	3	11
AVERY	0	0	0	3	3
BEAUFORT	0	26	0	6	32
BERTIE	0	4	0	0	4
BLADEN	0	5	1	0	6
BRUNSWICK	0	235	14	50	299
BUNCOMBE	0	22	17	300	339
BURKE	0	15	7	19	41
CABARRUS	0	270	8	38	316
CALDWELL	0	31	7	14	52
CAMDEN	0	6	3	4	13
CARTERET	0	37	10	28	75
CASWELL	0	7	1	1	9
CATAWBA	0	58	20	63	141
CHATHAM	0	89	3	50	142
CHEROKEE	0	13	1	2	16
CHOWAN	0	9	1	2	12
CLAY	0	8	0	4	12
CLEVELAND	0	0	0	2	2
COLUMBUS	0	21	2	2	25
CRAVEN	0	74	4	5	83
CUMBERLAND	0	151	137	111	399
CURRITUCK	0	16	3	4	23
DARE	0	15	6	42	63
DAVIDSON	0	160	9	29	198
DAVIE	0	54	2	21	77
DUPLIN	0	29	5	3	37
DURHAM	0	231	9	457	697
EDGECOMBE	0	3	0	2	5
FORSYTH	0	448	15	136	599
FRANKLIN	0	75	1	15	91
GASTON	0	57	7	39	103
GATES	0	5	1	2	8
GRAHAM	0	11	0	0	11
GRANVILLE	0	47	1	0	48
GREENE	0	50	2	1	53
GUILFORD	0	619	16	201	836

HALIFAX	0	9	1	0	10
HARNETT	0	88	55	34	177
HAYWOOD	0	0	0	0	0
HENDERSON	0	0	3	71	74
HERTFORD	0	0	0	0	0
HOKE	0	15	0	0	15
HYDE	0	0	0	0	0
IREDELL	0	170	9	63	242
JACKSON	0	17	0	22	39
JOHNSTON	0	73	1	8	82
JONES	0	3	0	1	4
LEE	0	90	10	28	128
LENOIR	0	27	2	2	31
LINCOLN	0	89	6	14	109
MACON	0	49	1	9	59
MADISON	0	0	1	5	6
MARTIN	0	5	0	2	7
MCDOWELL	0	1	1	5	7
MECKLENBURG	0	654	53	712	1,419
MITCHELL	0	0	0	1	1
MONTGOMERY	0	7	0	1	8
MOORE	0	146	45	40	231
NASH	0	48	4	10	62
NEW HANOVER	0	11	28	197	236
NORTHAMPTON	0	6	0	0	6
ONSLow	0	44	95	43	182
ORANGE	0	115	16	453	584
PAMLICO	0	9	0	3	12
PASQUOTANK	0	24	7	1	32
PENDER	0	12	5	3	20
PERQUIMANS	0	1	0	0	1
PERSON	0	30	3	3	36
PITT	0	29	13	31	73
POLK	0	0	1	9	10
RANDOLPH	0	63	4	12	79
RICHMOND	0	6	0	1	7
ROBESON	0	28	0	1	29
ROCKINGHAM	0	36	0	2	38
ROWAN	0	126	4	37	167
RUTHERFORD	0	11	2	13	26
SAMPSON	0	0	0	0	0
SCOTLAND	0	48	2	3	53
STANLY	0	40	4	7	51
STOKES	0	34	4	10	48
SURRY	0	49	5	12	66
SWAIN	0	2	3	1	6
TRANSYLVANIA	0	0	2	23	25

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TYRRELL	0	0	0	0	0
UNION	0	48	14	105	167
VANCE	0	17	0	1	18
WAKE	0	540	95	1,236	1,871
WARREN	0	6	2	0	8
WASHINGTON	0	0	0	1	1
WATAUGA	0	0	2	24	26
WAYNE	0	53	26	15	94
WILKES	0	43	2	13	58
WILSON	0	24	1	5	30
YADKIN	0	34	1	5	40
YANCEY	0	0	0	0	0
Total	0	6,041	853	4,998	11,892

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EXHIBIT C

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N.C. Absentee & Early Voting Statistics for the 2024 General Election

Published 10/12/2024; Ballots cast through 10/11/2024

General Statistics

Total Ballots Cast	48,880
Total Eligible Voters*	7,740,986
Turnout	0.63%

Total Ballots Cast (Absentee/Early Voting)

In-Person Early Voting	0
Civilian (Mail)	39,137
Military (Mail)	1,694
Overseas (Mail)	8,049
Total	48,880

Comparison to 2020 & 2016 General Elections

Total ballots cast this time in 2020 & 2016

Numbers with 24 days remaining until Election Day

	2020*	2016
Early Voting	0	0
Civilian, Military, & Overseas	475,637	39,598
<i>(Total number of accepted ballots cast)</i>	475,637	39,598

* The 2020 election was conducted during the COVID-19 pandemic, resulting in a significant increase in voting by mail.

Registration Statistics by Party

		%
Democratic	2,426,944	31.35%
Republican	2,309,294	29.83%
Unaffiliated	2,927,579	37.82%
Libertarian	49,833	0.64%
Green	3,294	0.04%
No Labels	22,372	0.29%
Constitution	362	0.00%
We The People	987	0.01%
Justice For All	321	0.00%
Total	7,740,986	

Ballots Cast by Party

		Turnout*	Proportion**
Democratic	18,254	0.75%	37.34%
Republican	13,190	0.57%	26.98%
Unaffiliated	17,113	0.58%	35.01%
Libertarian	144	0.29%	0.29%
Green	29	0.88%	0.06%
No Labels	142	0.63%	0.29%
Constitution	4	0.00%	0.01%
We The People	2	0.00%	0.00%
Justice For All	2	0.00%	0.00%
Total	48,880		

Registration Statistics by Race

		%
White	4,957,873	64.05%
Black	1,526,228	19.72%
Other	1,256,885	16.24%
Total	7,740,986	

Ballots Cast by Race

		Turnout*	Proportion**
White	36,359	0.73%	74.38%
Black	3,969	0.26%	8.12%
Other	8,552	0.68%	17.50%
Total	48,880		

Registration Statistics by Ethnicity

		%
Hispanic or Latino	319,085	4.12%
Not Hispanic or Not Latino	5,147,325	66.49%
Undesignated	2,274,576	29.38%
Total	7,740,986	

Ballots Cast by Ethnicity

		Turnout*	Proportion**
Hispanic or Latino	985	0.31%	2.02%
Not Hispanic or Not Latino	32,227	0.63%	65.93%
Undesignated	15,668	0.69%	32.05%
Total	48,880		

Registration Statistics by Gender

		%
Female	3,822,131	49.38%
Male	3,257,231	42.08%
Undesignated	661,624	8.55%
Total	7,740,986	

Ballots Cast by Gender

		Turnout*	Proportion**
Female	24,502	0.64%	50.13%
Male	20,304	0.62%	41.54%
Undesignated	4,074	0.62%	8.33%
Total	48,880		

* Turnout = Ballots Cast per Demographic / Registered Voter Count for that Demographic

** Proportion = Ballots Cast per Demographic / Total Ballots Cast

Data Sources: absentee_counts_state_20241105.csv, absentee_20201103.zip

Ballots Cast by County

County	In-Person	Mail			Total
	EARLY VOTING	CIVILIAN	MILITARY	OVERSEAS	
ALAMANCE	0	757	8	64	829
ALEXANDER	0	57	2	19	78
ALLEGHANY	0	32	2	6	40
ANSON	0	24	0	1	25
ASHE	0	81	4	14	99
AVERY	0	19	0	5	24
BEAUFORT	0	163	2	14	179
BERTIE	0	12	0	0	12
BLADEN	0	48	2	1	51
BRUNSWICK	0	1,507	20	79	1,606
BUNCOMBE	0	374	28	435	837
BURKE	0	98	11	42	151
CABARRUS	0	1,191	21	70	1,282
CALDWELL	0	236	13	17	266
CAMDEN	0	19	4	6	29
CARTERET	0	284	18	52	354
CASWELL	0	37	1	1	39
CATAWBA	0	560	28	93	681
CHATHAM	0	632	5	79	716
CHEROKEE	0	121	1	10	132
CHOWAN	0	31	2	3	36
CLAY	0	54	0	5	59
CLEVELAND	0	203	7	21	231
COLUMBUS	0	159	2	8	169
CRAVEN	0	378	31	36	445
CUMBERLAND	0	752	259	177	1,188
CURRITUCK	0	108	17	6	131
DARE	0	188	13	64	265
DAVIDSON	0	693	19	55	767
DAVIE	0	204	3	30	237
DUPLIN	0	114	10	5	129
DURHAM	0	1,408	25	694	2,127
EDGECOMBE	0	50	0	7	57
FORSYTH	0	2,165	25	242	2,432
FRANKLIN	0	252	7	25	284
GASTON	0	521	14	75	610
GATES	0	17	1	3	21
GRAHAM	0	33	0	0	33
GRANVILLE	0	178	1	11	190
GREENE	0	104	2	1	107

GUILFORD	0	2,140	38	329	2,507
HALIFAX	0	59	2	3	64
HARNETT	0	437	100	61	598
HAYWOOD	0	231	5	45	281
HENDERSON	0	513	7	109	629
HERTFORD	0	9	0	0	9
HOKE	0	69	0	0	69
HYDE	0	3	0	2	5
IREDELL	0	924	16	98	1,038
JACKSON	0	167	1	26	194
JOHNSTON	0	912	23	45	980
JONES	0	19	0	1	20
LEE	0	267	19	40	326
LENOIR	0	126	6	7	139
LINCOLN	0	338	12	29	379
MACON	0	222	1	12	235
MADISON	0	17	3	11	31
MARTIN	0	49	0	2	51
MCDOWELL	0	88	1	7	96
MECKLENBURG	0	4,306	105	1,274	5,685
MITCHELL	0	20	0	2	22
MONTGOMERY	0	29	0	3	32
MOORE	0	752	100	84	936
NASH	0	224	6	11	241
NEW HANOVER	0	1,075	42	270	1,387
NORTHAMPTON	0	18	2	3	23
ONSLow	0	378	212	74	664
ORANGE	0	668	25	697	1,390
PAMLICO	0	56	0	3	59
PASQUOTANK	0	83	9	2	94
PENDER	0	62	9	5	76
PERQUIMANS	0	32	2	1	35
PERSON	0	116	6	7	129
PITT	0	366	16	62	444
POLK	0	76	2	22	100
RANDOLPH	0	413	14	26	453
RICHMOND	0	63	1	1	65
ROBESON	0	115	1	2	118
ROCKINGHAM	0	268	1	7	276
ROWAN	0	435	10	50	495
RUTHERFORD	0	140	1	21	162
SAMPSON	0	30	2	2	34
SCOTLAND	0	105	3	4	112
STANLY	0	166	6	8	180
STOKES	0	98	5	11	114
SURRY	0	330	10	16	356

SWAIN	0	35	5	1	41
TRANSYLVANIA	0	110	6	41	157
TYRRELL	0	0	0	0	0
UNION	0	868	25	143	1,036
VANCE	0	86	0	3	89
WAKE	0	6,170	155	1,767	8,092
WARREN	0	29	3	2	34
WASHINGTON	0	10	0	2	12
WATAUGA	0	152	3	57	212
WAYNE	0	225	53	28	306
WILKES	0	275	8	18	301
WILSON	0	151	2	8	161
YADKIN	0	129	2	8	139
YANCEY	0	19	0	0	19
Total	0	39,137	1,694	8,049	48,880

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EXHIBIT D

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N.C. Absentee & Early Voting Statistics for the 2024 General Election

Published 10/24/2024; Ballots cast through 10/23/2024

General Statistics

Total Ballots Cast	2,008,166
Total Eligible Voters*	7,799,160
Turnout	25.75%

Total Ballots Cast (Absentee/Early Voting)

In-Person Early Voting	1,887,783
Civilian (Mail)	103,890
Military (Mail)	3,521
Overseas (Mail)	12,972
Total	2,008,166

Comparison to 2020 & 2016 General Elections

Total ballots cast this time in 2020 & 2016

Numbers with 12 days remaining until Election Day

	2020*	2016
Early Voting	1,761,368	883,718
Civilian, Military, & Overseas	714,257	88,907
Total	2,475,625	972,625

* The 2020 election was conducted during the COVID-19 pandemic, resulting in a significant increase in voting by mail. Absentee voting started later in 2024 due to a court decision requiring the removal of a candidate's name from the ballot

Registration Statistics by Party

		%
Democratic	2,439,944	31.28%
Republican	2,326,576	29.83%
Unaffiliated	2,952,539	37.86%
Libertarian	49,890	0.64%
Green	3,530	0.05%
No Labels	24,540	0.31%
Constitution	460	0.01%
We The People	1,245	0.02%
Justice For All	436	0.01%
Total	7,799,160	

Ballots Cast by Party

		Turnout*	Proportion**
Democratic	683,265	28.00%	34.02%
Republican	686,628	29.51%	34.19%
Unaffiliated	628,183	21.28%	31.28%
Libertarian	6,095	12.22%	0.30%
Green	559	15.84%	0.03%
No Labels	3,076	12.53%	0.15%
Constitution	103	0.00%	0.01%
We The People	201	0.00%	0.01%
Justice For All	56	0.00%	0.00%
Total	2,008,166		

Registration Statistics by Race

		%
White	4,978,652	63.84%
Black	1,534,831	19.68%
Other	1,285,677	16.48%
Total	7,799,160	

Ballots Cast by Race

		Turnout*	Proportion**
White	1,437,196	28.87%	71.57%
Black	358,880	23.38%	17.87%
Other	212,090	16.50%	10.56%
Total	2,008,166		

Registration Statistics by Ethnicity

		%
Hispanic or Latino	323,241	4.14%
Not Hispanic or Not Latino	5,154,275	66.09%
Undesignated	2,321,644	29.77%
Total	7,799,160	

Ballots Cast by Ethnicity

		Turnout*	Proportion**
Hispanic or Latino	42,464	13.14%	2.11%
Not Hispanic or Not Latino	1,454,640	28.22%	72.44%
Undesignated	511,062	22.01%	25.45%
Total	2,008,166		

Registration Statistics by Gender

		%
Female	3,841,735	49.26%
Male	3,274,436	41.98%
Undesignated	682,989	8.76%
Total	7,799,160	

Ballots Cast by Gender

		Turnout*	Proportion**
Female	1,045,333	27.21%	52.05%
Male	848,418	25.91%	42.25%
Undesignated	114,415	16.75%	5.70%
Total	2,008,166		

* Turnout = Ballots Cast per Demographic / Registered Voter Count for that Demographic

** Proportion = Ballots Cast per Demographic / Total Ballots Cast

Data Sources: absentee_counts_state_20241105.csv, absentee_20201103.zip

Ballots Cast by County

County	In-Person	Mail			Total
	EARLY VOTING	CIVILIAN	MILITARY	OVERSEAS	
ALAMANCE	26,042	1,683	24	110	27,859
ALEXANDER	8,161	176	8	27	8,372
ALLEGHANY	2,476	100	3	13	2,592
ANSON	3,382	93	0	4	3,479
ASHE	5,122	237	9	24	5,392
AVERY	2,735	134	1	11	2,881
BEAUFORT	8,640	303	8	24	8,975
BERTIE	3,409	45	0	0	3,454
BLADEN	6,404	156	6	5	6,571
BRUNSWICK	42,123	3,549	43	148	45,863
BUNCOMBE	46,404	3,121	60	743	50,328
BURKE	16,867	497	22	55	17,451
CABARRUS	34,126	3,031	43	129	37,329
CALDWELL	17,087	711	21	38	17,857
CAMDEN	1,993	68	17	8	2,086
CARTERET	19,037	732	44	82	19,895
CASWELL	3,692	134	2	5	3,833
CATAWBA	32,713	1,645	44	127	34,529
CHATHAM	22,243	1,506	13	146	23,908
CHEROKEE	5,517	335	2	19	5,874
CHOWAN	2,921	103	3	8	3,035
CLAY	3,107	171	1	10	3,289
CLEVELAND	18,986	615	21	35	19,657
COLUMBUS	8,559	348	3	11	8,921
CRAVEN	20,304	915	61	71	21,351
CUMBERLAND	44,819	1,627	450	246	47,142
CURRITUCK	4,077	264	29	11	4,381
DARE	7,988	550	27	85	8,650
DAVIDSON	29,355	1,473	43	85	30,956
DAVIE	9,919	491	6	36	10,452
DUPLIN	7,558	222	14	13	7,807
DURHAM	69,448	3,433	47	1,119	74,047
EDGECOMBE	9,150	173	2	10	9,335
FORSYTH	71,611	5,386	69	447	77,513
FRANKLIN	15,725	692	15	39	16,471
GASTON	38,874	1,511	39	112	40,536
GATES	1,580	43	2	6	1,631
GRAHAM	1,533	76	2	4	1,615
GRANVILLE	12,868	445	5	30	13,348
GREENE	2,863	158	5	2	3,028
GUILFORD	96,065	5,154	94	612	101,925

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HALIFAX	7,741	167	6	5	7,919
HARNETT	21,978	1,233	214	97	23,522
HAYWOOD	13,148	758	16	67	13,989
HENDERSON	21,136	1,505	16	164	22,821
HERTFORD	3,237	69	0	1	3,307
HOKE	7,815	205	11	10	8,041
HYDE	332	31	2	4	369
IREDELL	35,407	2,415	32	151	38,005
JACKSON	7,728	386	3	38	8,155
JOHNSTON	42,767	2,267	41	75	45,150
JONES	1,741	69	6	4	1,820
LEE	11,274	592	43	55	11,964
LENOIR	11,036	324	14	19	11,393
LINCOLN	20,709	894	23	48	21,674
MACON	8,067	479	5	26	8,577
MADISON	4,330	170	8	16	4,524
MARTIN	3,449	126	3	3	3,581
MCDOWELL	7,699	282	7	11	7,999
MECKLENBURG	177,286	13,871	221	2,014	193,392
MITCHELL	3,077	100	1	5	3,183
MONTGOMERY	4,247	125	0	5	4,377
MOORE	18,296	1,816	212	157	20,481
NASH	20,649	514	14	25	21,202
NEW HANOVER	38,745	3,003	70	371	42,189
NORTHAMPTON	3,124	56	3	6	3,189
ONSLow	26,916	1,176	456	128	28,676
ORANGE	33,320	1,939	49	1,064	36,372
PAMLICO	2,954	182	0	10	3,146
PASQUOTANK	7,287	212	14	9	7,522
PENDER	13,515	150	16	8	13,689
PERQUIMANS	2,254	70	3	1	2,328
PERSON	7,465	284	9	11	7,769
PITT	30,975	884	36	136	32,031
POLK	5,273	317	9	44	5,643
RANDOLPH	26,406	1,121	24	47	27,598
RICHMOND	6,275	179	6	4	6,464
ROBESON	13,713	386	7	7	14,113
ROCKINGHAM	18,839	633	7	24	19,503
ROWAN	23,758	1,281	30	73	25,142
RUTHERFORD	10,330	477	3	37	10,847
SAMPSON	8,375	165	4	2	8,546
SCOTLAND	5,469	216	6	9	5,700
STANLY	13,044	471	8	17	13,540
STOKES	9,804	315	11	23	10,153
SURRY	12,760	776	17	27	13,580
SWAIN	2,295	74	6	7	2,382
TRANSYLVANIA	8,328	416	11	75	8,830

TYRRELL	509	0	0	0	509
UNION	47,810	2,017	55	224	50,106
VANCE	7,087	223	1	3	7,314
WAKE	190,020	13,520	303	2,638	206,481
WARREN	3,464	133	4	7	3,608
WASHINGTON	2,238	45	2	2	2,287
WATAUGA	11,926	446	9	96	12,477
WAYNE	21,475	656	104	57	22,292
WILKES	10,263	673	11	27	10,974
WILSON	14,117	459	15	26	14,617
YADKIN	5,369	306	3	12	5,690
YANCEY	3,649	124	3	20	3,796
Total	1,887,783	103,890	3,521	12,972	2,008,166

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RETRIEVED FROM DEMOCRACYDOCKET.COM

2012 General Election Absentee Stats for 11/06/2012

updated: 12/4/2012 10:00am

TOTAL Returned Ballots:

ONESTOP	2,556,228
CIVILIAN	202,789
MILITARY	7,877
OVERSEAS	7,700
TOTAL:	2,774,594

Total Requested Ballots:

2,824,380

Based on Total # of Registered by Party:

Turnout Dem:	1,317,822	45.9%
Turnout Rep:	874,205	42.6%
Turnout Una:	576,273	33.8%
Turnout Lib:	6,294	32.6%

Based on Total # of Registered by Race:

Turnout White:	1,870,724	39.6%
Turnout Black:	757,427	50.7%
Turnout Other:	146,443	34.3%

Total Absentee Ballots Cast:	2,774,594
Total Registered Voters:	6,649,188
Turnout:	41.7%

Based on Votes Cast:

Turnout Dem:	47.5%
Turnout Rep:	31.5%
Turnout Una:	20.8%
Turnout Lib:	0.23%

Registered Dem:	2,870,693
Registered Rep:	2,052,250
Registered Una:	1,706,924
Registered Lib:	19,321

Registered White:	4,728,843
Registered Black:	1,492,831
Registered Other:	427,514

av_type	party_cd	gender	race	total_count
CIVILIAN	DEM	FEMALE	ASIAN	295
CIVILIAN	DEM	FEMALE	BLACK or AFRICAN AMERICAN	8854
CIVILIAN	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	128
CIVILIAN	DEM	FEMALE	OTHER	356
CIVILIAN	DEM	FEMALE	TWO or MORE RACES	184
CIVILIAN	DEM	FEMALE	UNDESIGNATED	431
CIVILIAN	DEM	FEMALE	WHITE	25464
CIVILIAN	DEM	MALE	ASIAN	185
CIVILIAN	DEM	MALE	BLACK or AFRICAN AMERICAN	4956
CIVILIAN	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	96
CIVILIAN	DEM	MALE	OTHER	256
CIVILIAN	DEM	MALE	TWO or MORE RACES	101
CIVILIAN	DEM	MALE	UNDESIGNATED	263
CIVILIAN	DEM	MALE	WHITE	14337
CIVILIAN	DEM	UNDESIGNATED	ASIAN	6
CIVILIAN	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	93
CIVILIAN	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	2
CIVILIAN	DEM	UNDESIGNATED	OTHER	4
CIVILIAN	DEM	UNDESIGNATED	TWO or MORE RACES	5
CIVILIAN	DEM	UNDESIGNATED	UNDESIGNATED	291
CIVILIAN	DEM	UNDESIGNATED	WHITE	129
CIVILIAN	LIB	FEMALE	ASIAN	4
CIVILIAN	LIB	FEMALE	BLACK or AFRICAN AMERICAN	5
CIVILIAN	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	LIB	FEMALE	OTHER	4
CIVILIAN	LIB	FEMALE	TWO or MORE RACES	4
CIVILIAN	LIB	FEMALE	UNDESIGNATED	7
CIVILIAN	LIB	FEMALE	WHITE	158
CIVILIAN	LIB	MALE	ASIAN	2
CIVILIAN	LIB	MALE	BLACK or AFRICAN AMERICAN	4

CIVILIAN	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	LIB	MALE	OTHER	5
CIVILIAN	LIB	MALE	TWO or MORE RACES	1
CIVILIAN	LIB	MALE	UNDESIGNATED	4
CIVILIAN	LIB	MALE	WHITE	189
CIVILIAN	LIB	UNDESIGNATED	ASIAN	0
CIVILIAN	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
CIVILIAN	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	LIB	UNDESIGNATED	OTHER	0
CIVILIAN	LIB	UNDESIGNATED	TWO or MORE RACES	0
CIVILIAN	LIB	UNDESIGNATED	UNDESIGNATED	4
CIVILIAN	LIB	UNDESIGNATED	WHITE	2
CIVILIAN	REP	FEMALE	ASIAN	306
CIVILIAN	REP	FEMALE	BLACK or AFRICAN AMERICAN	157
CIVILIAN	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	102
CIVILIAN	REP	FEMALE	OTHER	429
CIVILIAN	REP	FEMALE	TWO or MORE RACES	103
CIVILIAN	REP	FEMALE	UNDESIGNATED	380
CIVILIAN	REP	FEMALE	WHITE	56506
CIVILIAN	REP	MALE	ASIAN	202
CIVILIAN	REP	MALE	BLACK or AFRICAN AMERICAN	189
CIVILIAN	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	78
CIVILIAN	REP	MALE	OTHER	317
CIVILIAN	REP	MALE	TWO or MORE RACES	88
CIVILIAN	REP	MALE	UNDESIGNATED	315
CIVILIAN	REP	MALE	WHITE	43575
CIVILIAN	REP	UNDESIGNATED	ASIAN	7
CIVILIAN	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	2
CIVILIAN	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	2
CIVILIAN	REP	UNDESIGNATED	OTHER	5
CIVILIAN	REP	UNDESIGNATED	TWO or MORE RACES	3
CIVILIAN	REP	UNDESIGNATED	UNDESIGNATED	362

CIVILIAN	REP	UNDESIGNATED	WHITE	421
CIVILIAN	UNA	FEMALE	ASIAN	418
CIVILIAN	UNA	FEMALE	BLACK or AFRICAN AMERICAN	974
CIVILIAN	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	54
CIVILIAN	UNA	FEMALE	OTHER	372
CIVILIAN	UNA	FEMALE	TWO or MORE RACES	144
CIVILIAN	UNA	FEMALE	UNDESIGNATED	441
CIVILIAN	UNA	FEMALE	WHITE	20074
CIVILIAN	UNA	MALE	ASIAN	339
CIVILIAN	UNA	MALE	BLACK or AFRICAN AMERICAN	847
CIVILIAN	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	56
CIVILIAN	UNA	MALE	OTHER	334
CIVILIAN	UNA	MALE	TWO or MORE RACES	125
CIVILIAN	UNA	MALE	UNDESIGNATED	384
CIVILIAN	UNA	MALE	WHITE	17123
CIVILIAN	UNA	UNDESIGNATED	ASIAN	12
CIVILIAN	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	19
CIVILIAN	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	UNA	UNDESIGNATED	OTHER	2
CIVILIAN	UNA	UNDESIGNATED	TWO or MORE RACES	2
CIVILIAN	UNA	UNDESIGNATED	UNDESIGNATED	490
CIVILIAN	UNA	UNDESIGNATED	WHITE	201
MILITARY	DEM	FEMALE	ASIAN	7
MILITARY	DEM	FEMALE	BLACK or AFRICAN AMERICAN	810
MILITARY	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	6
MILITARY	DEM	FEMALE	OTHER	44
MILITARY	DEM	FEMALE	TWO or MORE RACES	26
MILITARY	DEM	FEMALE	UNDESIGNATED	65
MILITARY	DEM	FEMALE	WHITE	257
MILITARY	DEM	MALE	ASIAN	5
MILITARY	DEM	MALE	BLACK or AFRICAN AMERICAN	746
MILITARY	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	8

MILITARY	DEM	MALE	OTHER	43
MILITARY	DEM	MALE	TWO or MORE RACES	19
MILITARY	DEM	MALE	UNDESIGNATED	64
MILITARY	DEM	MALE	WHITE	267
MILITARY	DEM	UNDESIGNATED	ASIAN	0
MILITARY	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	21
MILITARY	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	DEM	UNDESIGNATED	OTHER	0
MILITARY	DEM	UNDESIGNATED	TWO or MORE RACES	1
MILITARY	DEM	UNDESIGNATED	UNDESIGNATED	38
MILITARY	DEM	UNDESIGNATED	WHITE	5
MILITARY	LIB	FEMALE	ASIAN	0
MILITARY	LIB	FEMALE	BLACK or AFRICAN AMERICAN	1
MILITARY	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	LIB	FEMALE	OTHER	2
MILITARY	LIB	FEMALE	TWO or MORE RACES	1
MILITARY	LIB	FEMALE	UNDESIGNATED	1
MILITARY	LIB	FEMALE	WHITE	13
MILITARY	LIB	MALE	ASIAN	0
MILITARY	LIB	MALE	BLACK or AFRICAN AMERICAN	1
MILITARY	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	LIB	MALE	OTHER	3
MILITARY	LIB	MALE	TWO or MORE RACES	0
MILITARY	LIB	MALE	UNDESIGNATED	4
MILITARY	LIB	MALE	WHITE	35
MILITARY	LIB	UNDESIGNATED	ASIAN	0
MILITARY	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
MILITARY	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	LIB	UNDESIGNATED	OTHER	0
MILITARY	LIB	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	LIB	UNDESIGNATED	UNDESIGNATED	1
MILITARY	LIB	UNDESIGNATED	WHITE	0

MILITARY	REP	FEMALE	ASIAN	12
MILITARY	REP	FEMALE	BLACK or AFRICAN AMERICAN	19
MILITARY	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	7
MILITARY	REP	FEMALE	OTHER	33
MILITARY	REP	FEMALE	TWO or MORE RACES	11
MILITARY	REP	FEMALE	UNDESIGNATED	50
MILITARY	REP	FEMALE	WHITE	983
MILITARY	REP	MALE	ASIAN	16
MILITARY	REP	MALE	BLACK or AFRICAN AMERICAN	34
MILITARY	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	12
MILITARY	REP	MALE	OTHER	44
MILITARY	REP	MALE	TWO or MORE RACES	21
MILITARY	REP	MALE	UNDESIGNATED	92
MILITARY	REP	MALE	WHITE	1843
MILITARY	REP	UNDESIGNATED	ASIAN	0
MILITARY	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	1
MILITARY	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	REP	UNDESIGNATED	OTHER	1
MILITARY	REP	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	REP	UNDESIGNATED	UNDESIGNATED	28
MILITARY	REP	UNDESIGNATED	WHITE	16
MILITARY	UNA	FEMALE	ASIAN	5
MILITARY	UNA	FEMALE	BLACK or AFRICAN AMERICAN	151
MILITARY	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	2
MILITARY	UNA	FEMALE	OTHER	22
MILITARY	UNA	FEMALE	TWO or MORE RACES	11
MILITARY	UNA	FEMALE	UNDESIGNATED	71
MILITARY	UNA	FEMALE	WHITE	486
MILITARY	UNA	MALE	ASIAN	12
MILITARY	UNA	MALE	BLACK or AFRICAN AMERICAN	255
MILITARY	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	11
MILITARY	UNA	MALE	OTHER	63

MILITARY	UNA	MALE	TWO or MORE RACES	19
MILITARY	UNA	MALE	UNDESIGNATED	117
MILITARY	UNA	MALE	WHITE	876
MILITARY	UNA	UNDESIGNATED	ASIAN	0
MILITARY	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	11
MILITARY	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	UNA	UNDESIGNATED	OTHER	0
MILITARY	UNA	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	UNA	UNDESIGNATED	UNDESIGNATED	37
MILITARY	UNA	UNDESIGNATED	WHITE	11
ONE-STOP	DEM	FEMALE	ASIAN	4413
ONE-STOP	DEM	FEMALE	BLACK or AFRICAN AMERICAN	409053
ONE-STOP	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	4374
ONE-STOP	DEM	FEMALE	OTHER	9785
ONE-STOP	DEM	FEMALE	TWO or MORE RACES	4836
ONE-STOP	DEM	FEMALE	UNDESIGNATED	11135
ONE-STOP	DEM	FEMALE	WHITE	318886
ONE-STOP	DEM	MALE	ASIAN	3029
ONE-STOP	DEM	MALE	BLACK or AFRICAN AMERICAN	243558
ONE-STOP	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	2725
ONE-STOP	DEM	MALE	OTHER	6503
ONE-STOP	DEM	MALE	TWO or MORE RACES	2414
ONE-STOP	DEM	MALE	UNDESIGNATED	7618
ONE-STOP	DEM	MALE	WHITE	215395
ONE-STOP	DEM	UNDESIGNATED	ASIAN	129
ONE-STOP	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	3932
ONE-STOP	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	22
ONE-STOP	DEM	UNDESIGNATED	OTHER	123
ONE-STOP	DEM	UNDESIGNATED	TWO or MORE RACES	106
ONE-STOP	DEM	UNDESIGNATED	UNDESIGNATED	5989
ONE-STOP	DEM	UNDESIGNATED	WHITE	1587
ONE-STOP	LIB	FEMALE	ASIAN	46

ONE-STOP	LIB	FEMALE	BLACK or AFRICAN AMERICAN	326
ONE-STOP	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	15
ONE-STOP	LIB	FEMALE	OTHER	81
ONE-STOP	LIB	FEMALE	TWO or MORE RACES	67
ONE-STOP	LIB	FEMALE	UNDESIGNATED	91
ONE-STOP	LIB	FEMALE	WHITE	1756
ONE-STOP	LIB	MALE	ASIAN	44
ONE-STOP	LIB	MALE	BLACK or AFRICAN AMERICAN	295
ONE-STOP	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	11
ONE-STOP	LIB	MALE	OTHER	91
ONE-STOP	LIB	MALE	TWO or MORE RACES	51
ONE-STOP	LIB	MALE	UNDESIGNATED	132
ONE-STOP	LIB	MALE	WHITE	2713
ONE-STOP	LIB	UNDESIGNATED	ASIAN	0
ONE-STOP	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	3
ONE-STOP	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
ONE-STOP	LIB	UNDESIGNATED	OTHER	1
ONE-STOP	LIB	UNDESIGNATED	TWO or MORE RACES	0
ONE-STOP	LIB	UNDESIGNATED	UNDESIGNATED	62
ONE-STOP	LIB	UNDESIGNATED	WHITE	19
ONE-STOP	REP	FEMALE	ASIAN	1795
ONE-STOP	REP	FEMALE	BLACK or AFRICAN AMERICAN	5371
ONE-STOP	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	899
ONE-STOP	REP	FEMALE	OTHER	3110
ONE-STOP	REP	FEMALE	TWO or MORE RACES	655
ONE-STOP	REP	FEMALE	UNDESIGNATED	2984
ONE-STOP	REP	FEMALE	WHITE	380403
ONE-STOP	REP	MALE	ASIAN	1229
ONE-STOP	REP	MALE	BLACK or AFRICAN AMERICAN	5099
ONE-STOP	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	816
ONE-STOP	REP	MALE	OTHER	2819
ONE-STOP	REP	MALE	TWO or MORE RACES	697

ONE-STOP	REP	MALE	UNDESIGNATED	3134
ONE-STOP	REP	MALE	WHITE	351906
ONE-STOP	REP	UNDESIGNATED	ASIAN	33
ONE-STOP	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	58
ONE-STOP	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	15
ONE-STOP	REP	UNDESIGNATED	OTHER	29
ONE-STOP	REP	UNDESIGNATED	TWO or MORE RACES	12
ONE-STOP	REP	UNDESIGNATED	UNDESIGNATED	2359
ONE-STOP	REP	UNDESIGNATED	WHITE	2260
ONE-STOP	UNA	FEMALE	ASIAN	4944
ONE-STOP	UNA	FEMALE	BLACK or AFRICAN AMERICAN	37356
ONE-STOP	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	1084
ONE-STOP	UNA	FEMALE	OTHER	5994
ONE-STOP	UNA	FEMALE	TWO or MORE RACES	2183
ONE-STOP	UNA	FEMALE	UNDESIGNATED	7788
ONE-STOP	UNA	FEMALE	WHITE	207147
ONE-STOP	UNA	MALE	ASIAN	4477
ONE-STOP	UNA	MALE	BLACK or AFRICAN AMERICAN	32787
ONE-STOP	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	1010
ONE-STOP	UNA	MALE	OTHER	5881
ONE-STOP	UNA	MALE	TWO or MORE RACES	1840
ONE-STOP	UNA	MALE	UNDESIGNATED	6899
ONE-STOP	UNA	MALE	WHITE	198357
ONE-STOP	UNA	UNDESIGNATED	ASIAN	137
ONE-STOP	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	683
ONE-STOP	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	14
ONE-STOP	UNA	UNDESIGNATED	OTHER	76
ONE-STOP	UNA	UNDESIGNATED	TWO or MORE RACES	60
ONE-STOP	UNA	UNDESIGNATED	UNDESIGNATED	8778
ONE-STOP	UNA	UNDESIGNATED	WHITE	1634
OVERSEAS	DEM	FEMALE	ASIAN	45
OVERSEAS	DEM	FEMALE	BLACK or AFRICAN AMERICAN	260

OVERSEAS	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	6
OVERSEAS	DEM	FEMALE	OTHER	55
OVERSEAS	DEM	FEMALE	TWO or MORE RACES	29
OVERSEAS	DEM	FEMALE	UNDESIGNATED	135
OVERSEAS	DEM	FEMALE	WHITE	1320
OVERSEAS	DEM	MALE	ASIAN	30
OVERSEAS	DEM	MALE	BLACK or AFRICAN AMERICAN	275
OVERSEAS	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	5
OVERSEAS	DEM	MALE	OTHER	46
OVERSEAS	DEM	MALE	TWO or MORE RACES	20
OVERSEAS	DEM	MALE	UNDESIGNATED	94
OVERSEAS	DEM	MALE	WHITE	861
OVERSEAS	DEM	UNDESIGNATED	ASIAN	2
OVERSEAS	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	10
OVERSEAS	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	DEM	UNDESIGNATED	OTHER	5
OVERSEAS	DEM	UNDESIGNATED	TWO or MORE RACES	2
OVERSEAS	DEM	UNDESIGNATED	UNDESIGNATED	62
OVERSEAS	DEM	UNDESIGNATED	WHITE	80
OVERSEAS	LIB	FEMALE	ASIAN	1
OVERSEAS	LIB	FEMALE	BLACK or AFRICAN AMERICAN	1
OVERSEAS	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	FEMALE	OTHER	0
OVERSEAS	LIB	FEMALE	TWO or MORE RACES	0
OVERSEAS	LIB	FEMALE	UNDESIGNATED	0
OVERSEAS	LIB	FEMALE	WHITE	10
OVERSEAS	LIB	MALE	ASIAN	0
OVERSEAS	LIB	MALE	BLACK or AFRICAN AMERICAN	0
OVERSEAS	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	MALE	OTHER	0
OVERSEAS	LIB	MALE	TWO or MORE RACES	0
OVERSEAS	LIB	MALE	UNDESIGNATED	3
OVERSEAS	LIB	MALE	WHITE	18

OVERSEAS	LIB	UNDESIGNATED	ASIAN	0
OVERSEAS	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
OVERSEAS	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	UNDESIGNATED	OTHER	0
OVERSEAS	LIB	UNDESIGNATED	TWO or MORE RACES	0
OVERSEAS	LIB	UNDESIGNATED	UNDESIGNATED	2
OVERSEAS	LIB	UNDESIGNATED	WHITE	0
OVERSEAS	REP	FEMALE	ASIAN	16
OVERSEAS	REP	FEMALE	BLACK or AFRICAN AMERICAN	4
OVERSEAS	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	1
OVERSEAS	REP	FEMALE	OTHER	20
OVERSEAS	REP	FEMALE	TWO or MORE RACES	7
OVERSEAS	REP	FEMALE	UNDESIGNATED	29
OVERSEAS	REP	FEMALE	WHITE	678
OVERSEAS	REP	MALE	ASIAN	8
OVERSEAS	REP	MALE	BLACK or AFRICAN AMERICAN	15
OVERSEAS	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	5
OVERSEAS	REP	MALE	OTHER	26
OVERSEAS	REP	MALE	TWO or MORE RACES	7
OVERSEAS	REP	MALE	UNDESIGNATED	29
OVERSEAS	REP	MALE	WHITE	870
OVERSEAS	REP	UNDESIGNATED	ASIAN	0
OVERSEAS	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
OVERSEAS	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	REP	UNDESIGNATED	OTHER	1
OVERSEAS	REP	UNDESIGNATED	TWO or MORE RACES	0
OVERSEAS	REP	UNDESIGNATED	UNDESIGNATED	21
OVERSEAS	REP	UNDESIGNATED	WHITE	13
OVERSEAS	UNA	FEMALE	ASIAN	44
OVERSEAS	UNA	FEMALE	BLACK or AFRICAN AMERICAN	74
OVERSEAS	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	2
OVERSEAS	UNA	FEMALE	OTHER	46
OVERSEAS	UNA	FEMALE	TWO or MORE RACES	16
OVERSEAS	UNA	FEMALE	UNDESIGNATED	127
OVERSEAS	UNA	FEMALE	WHITE	868
OVERSEAS	UNA	MALE	ASIAN	32
OVERSEAS	UNA	MALE	BLACK or AFRICAN AMERICAN	112

OVERSEAS	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	1
OVERSEAS	UNA	MALE	OTHER	59
OVERSEAS	UNA	MALE	TWO or MORE RACES	15
OVERSEAS	UNA	MALE	UNDESIGNATED	126
OVERSEAS	UNA	MALE	WHITE	930
OVERSEAS	UNA	UNDESIGNATED	ASIAN	2
OVERSEAS	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	5
OVERSEAS	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	UNA	UNDESIGNATED	OTHER	1
OVERSEAS	UNA	UNDESIGNATED	TWO or MORE RACES	1
OVERSEAS	UNA	UNDESIGNATED	UNDESIGNATED	70
OVERSEAS	UNA	UNDESIGNATED	WHITE	42

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RETRIEVED FROM DEMOCRACYDOCKET.COM

2016 General Election Absentee Stats for 11/08/2016

updated: 11/28/2016 9:00am

TOTAL Returned Ballots:

ONESTOP	2,955,155
CIVILIAN	174,389
MILITARY	6,297
OVERSEAS	10,881
TOTAL:	3,146,722

Total Requested Ballots:

3,193,805

Based on Total # of Registered by Party:

Turnout Dem:	1,308,920	47.9%
Turnout Rep:	1,003,927	48.1%
Turnout Una:	823,776	39.9%
Turnout Lib:	10,099	31.2%

Based on Total # of Registered by Race:

Turnout White:	2,225,845	46.4%
Turnout Black:	696,351	45.3%
Turnout Other:	224,526	38.6%

Total Absentee Ballots Cast:	3,146,722
Total Registered Voters:	6,918,150
Turnout:	45.5%

Based on Votes Cast:

Turnout Dem:	41.6%
Turnout Rep:	31.9%
Turnout Una:	26.2%
Turnout Lib:	0.32%

Registered Dem:	2,733,188
Registered Rep:	2,086,942
Registered Una:	2,065,687
Registered Lib:	32,333

Registered White:	4,799,695
Registered Black:	1,536,117
Registered Other:	582,338

av_type	party_cd	gender	race	total_count
CIVILIAN	DEM	FEMALE	ASIAN	520
CIVILIAN	DEM	FEMALE	BLACK or AFRICAN AMERICAN	8701
CIVILIAN	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	134
CIVILIAN	DEM	FEMALE	OTHER	440
CIVILIAN	DEM	FEMALE	TWO or MORE RACES	210
CIVILIAN	DEM	FEMALE	UNDESIGNATED	488
CIVILIAN	DEM	FEMALE	WHITE	24109
CIVILIAN	DEM	MALE	ASIAN	280
CIVILIAN	DEM	MALE	BLACK or AFRICAN AMERICAN	4694
CIVILIAN	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	93
CIVILIAN	DEM	MALE	OTHER	321
CIVILIAN	DEM	MALE	TWO or MORE RACES	127
CIVILIAN	DEM	MALE	UNDESIGNATED	247
CIVILIAN	DEM	MALE	WHITE	12488
CIVILIAN	DEM	UNDESIGNATED	ASIAN	22
CIVILIAN	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	116
CIVILIAN	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	1
CIVILIAN	DEM	UNDESIGNATED	OTHER	3
CIVILIAN	DEM	UNDESIGNATED	TWO or MORE RACES	6
CIVILIAN	DEM	UNDESIGNATED	UNDESIGNATED	316
CIVILIAN	DEM	UNDESIGNATED	WHITE	280
CIVILIAN	LIB	FEMALE	ASIAN	6
CIVILIAN	LIB	FEMALE	BLACK or AFRICAN AMERICAN	12
CIVILIAN	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	2
CIVILIAN	LIB	FEMALE	OTHER	5
CIVILIAN	LIB	FEMALE	TWO or MORE RACES	6
CIVILIAN	LIB	FEMALE	UNDESIGNATED	4
CIVILIAN	LIB	FEMALE	WHITE	179
CIVILIAN	LIB	MALE	ASIAN	6
CIVILIAN	LIB	MALE	BLACK or AFRICAN AMERICAN	13

CIVILIAN	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	LIB	MALE	OTHER	8
CIVILIAN	LIB	MALE	TWO or MORE RACES	2
CIVILIAN	LIB	MALE	UNDESIGNATED	7
CIVILIAN	LIB	MALE	WHITE	272
CIVILIAN	LIB	UNDESIGNATED	ASIAN	0
CIVILIAN	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
CIVILIAN	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	LIB	UNDESIGNATED	OTHER	0
CIVILIAN	LIB	UNDESIGNATED	TWO or MORE RACES	0
CIVILIAN	LIB	UNDESIGNATED	UNDESIGNATED	9
CIVILIAN	LIB	UNDESIGNATED	WHITE	10
CIVILIAN	REP	FEMALE	ASIAN	256
CIVILIAN	REP	FEMALE	BLACK or AFRICAN AMERICAN	178
CIVILIAN	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	75
CIVILIAN	REP	FEMALE	OTHER	315
CIVILIAN	REP	FEMALE	TWO or MORE RACES	87
CIVILIAN	REP	FEMALE	UNDESIGNATED	360
CIVILIAN	REP	FEMALE	WHITE	39205
CIVILIAN	REP	MALE	ASIAN	172
CIVILIAN	REP	MALE	BLACK or AFRICAN AMERICAN	167
CIVILIAN	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	71
CIVILIAN	REP	MALE	OTHER	264
CIVILIAN	REP	MALE	TWO or MORE RACES	83
CIVILIAN	REP	MALE	UNDESIGNATED	270
CIVILIAN	REP	MALE	WHITE	29400
CIVILIAN	REP	UNDESIGNATED	ASIAN	8
CIVILIAN	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	3
CIVILIAN	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	REP	UNDESIGNATED	OTHER	6
CIVILIAN	REP	UNDESIGNATED	TWO or MORE RACES	5
CIVILIAN	REP	UNDESIGNATED	UNDESIGNATED	299

CIVILIAN	REP	UNDESIGNATED	WHITE	491
CIVILIAN	UNA	FEMALE	ASIAN	686
CIVILIAN	UNA	FEMALE	BLACK or AFRICAN AMERICAN	1144
CIVILIAN	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	76
CIVILIAN	UNA	FEMALE	OTHER	489
CIVILIAN	UNA	FEMALE	TWO or MORE RACES	225
CIVILIAN	UNA	FEMALE	UNDESIGNATED	595
CIVILIAN	UNA	FEMALE	WHITE	22839
CIVILIAN	UNA	MALE	ASIAN	501
CIVILIAN	UNA	MALE	BLACK or AFRICAN AMERICAN	904
CIVILIAN	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	70
CIVILIAN	UNA	MALE	OTHER	428
CIVILIAN	UNA	MALE	TWO or MORE RACES	147
CIVILIAN	UNA	MALE	UNDESIGNATED	462
CIVILIAN	UNA	MALE	WHITE	18516
CIVILIAN	UNA	UNDESIGNATED	ASIAN	38
CIVILIAN	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	27
CIVILIAN	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
CIVILIAN	UNA	UNDESIGNATED	OTHER	11
CIVILIAN	UNA	UNDESIGNATED	TWO or MORE RACES	6
CIVILIAN	UNA	UNDESIGNATED	UNDESIGNATED	978
CIVILIAN	UNA	UNDESIGNATED	WHITE	395
MILITARY	DEM	FEMALE	ASIAN	13
MILITARY	DEM	FEMALE	BLACK or AFRICAN AMERICAN	473
MILITARY	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	6
MILITARY	DEM	FEMALE	OTHER	28
MILITARY	DEM	FEMALE	TWO or MORE RACES	22
MILITARY	DEM	FEMALE	UNDESIGNATED	78
MILITARY	DEM	FEMALE	WHITE	285
MILITARY	DEM	MALE	ASIAN	9
MILITARY	DEM	MALE	BLACK or AFRICAN AMERICAN	382
MILITARY	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	5

MILITARY	DEM	MALE	OTHER	22
MILITARY	DEM	MALE	TWO or MORE RACES	13
MILITARY	DEM	MALE	UNDESIGNATED	60
MILITARY	DEM	MALE	WHITE	231
MILITARY	DEM	UNDESIGNATED	ASIAN	0
MILITARY	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	10
MILITARY	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	DEM	UNDESIGNATED	OTHER	0
MILITARY	DEM	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	DEM	UNDESIGNATED	UNDESIGNATED	32
MILITARY	DEM	UNDESIGNATED	WHITE	5
MILITARY	LIB	FEMALE	ASIAN	0
MILITARY	LIB	FEMALE	BLACK or AFRICAN AMERICAN	1
MILITARY	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	LIB	FEMALE	OTHER	0
MILITARY	LIB	FEMALE	TWO or MORE RACES	0
MILITARY	LIB	FEMALE	UNDESIGNATED	3
MILITARY	LIB	FEMALE	WHITE	30
MILITARY	LIB	MALE	ASIAN	0
MILITARY	LIB	MALE	BLACK or AFRICAN AMERICAN	1
MILITARY	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	3
MILITARY	LIB	MALE	OTHER	5
MILITARY	LIB	MALE	TWO or MORE RACES	2
MILITARY	LIB	MALE	UNDESIGNATED	8
MILITARY	LIB	MALE	WHITE	53
MILITARY	LIB	UNDESIGNATED	ASIAN	0
MILITARY	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
MILITARY	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	LIB	UNDESIGNATED	OTHER	0
MILITARY	LIB	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	LIB	UNDESIGNATED	UNDESIGNATED	6
MILITARY	LIB	UNDESIGNATED	WHITE	1

MILITARY	REP	FEMALE	ASIAN	8
MILITARY	REP	FEMALE	BLACK or AFRICAN AMERICAN	11
MILITARY	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	6
MILITARY	REP	FEMALE	OTHER	20
MILITARY	REP	FEMALE	TWO or MORE RACES	13
MILITARY	REP	FEMALE	UNDESIGNATED	56
MILITARY	REP	FEMALE	WHITE	922
MILITARY	REP	MALE	ASIAN	11
MILITARY	REP	MALE	BLACK or AFRICAN AMERICAN	17
MILITARY	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	5
MILITARY	REP	MALE	OTHER	31
MILITARY	REP	MALE	TWO or MORE RACES	8
MILITARY	REP	MALE	UNDESIGNATED	104
MILITARY	REP	MALE	WHITE	1375
MILITARY	REP	UNDESIGNATED	ASIAN	1
MILITARY	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	2
MILITARY	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	REP	UNDESIGNATED	OTHER	1
MILITARY	REP	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	REP	UNDESIGNATED	UNDESIGNATED	42
MILITARY	REP	UNDESIGNATED	WHITE	21
MILITARY	UNA	FEMALE	ASIAN	10
MILITARY	UNA	FEMALE	BLACK or AFRICAN AMERICAN	107
MILITARY	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	5
MILITARY	UNA	FEMALE	OTHER	40
MILITARY	UNA	FEMALE	TWO or MORE RACES	11
MILITARY	UNA	FEMALE	UNDESIGNATED	86
MILITARY	UNA	FEMALE	WHITE	481
MILITARY	UNA	MALE	ASIAN	21
MILITARY	UNA	MALE	BLACK or AFRICAN AMERICAN	150
MILITARY	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	11
MILITARY	UNA	MALE	OTHER	41

MILITARY	UNA	MALE	TWO or MORE RACES	11
MILITARY	UNA	MALE	UNDESIGNATED	113
MILITARY	UNA	MALE	WHITE	700
MILITARY	UNA	UNDESIGNATED	ASIAN	0
MILITARY	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	4
MILITARY	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
MILITARY	UNA	UNDESIGNATED	OTHER	1
MILITARY	UNA	UNDESIGNATED	TWO or MORE RACES	0
MILITARY	UNA	UNDESIGNATED	UNDESIGNATED	49
MILITARY	UNA	UNDESIGNATED	WHITE	15
ONE-STOP	DEM	FEMALE	ASIAN	6900
ONE-STOP	DEM	FEMALE	BLACK or AFRICAN AMERICAN	376050
ONE-STOP	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	4560
ONE-STOP	DEM	FEMALE	OTHER	14627
ONE-STOP	DEM	FEMALE	TWO or MORE RACES	5295
ONE-STOP	DEM	FEMALE	UNDESIGNATED	12617
ONE-STOP	DEM	FEMALE	WHITE	348343
ONE-STOP	DEM	MALE	ASIAN	4559
ONE-STOP	DEM	MALE	BLACK or AFRICAN AMERICAN	208400
ONE-STOP	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	2733
ONE-STOP	DEM	MALE	OTHER	9351
ONE-STOP	DEM	MALE	TWO or MORE RACES	2592
ONE-STOP	DEM	MALE	UNDESIGNATED	7866
ONE-STOP	DEM	MALE	WHITE	225174
ONE-STOP	DEM	UNDESIGNATED	ASIAN	324
ONE-STOP	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	5279
ONE-STOP	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	44
ONE-STOP	DEM	UNDESIGNATED	OTHER	219
ONE-STOP	DEM	UNDESIGNATED	TWO or MORE RACES	201
ONE-STOP	DEM	UNDESIGNATED	UNDESIGNATED	10237
ONE-STOP	DEM	UNDESIGNATED	WHITE	3503
ONE-STOP	LIB	FEMALE	ASIAN	82

ONE-STOP	LIB	FEMALE	BLACK or AFRICAN AMERICAN	397
ONE-STOP	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	23
ONE-STOP	LIB	FEMALE	OTHER	163
ONE-STOP	LIB	FEMALE	TWO or MORE RACES	87
ONE-STOP	LIB	FEMALE	UNDESIGNATED	124
ONE-STOP	LIB	FEMALE	WHITE	2910
ONE-STOP	LIB	MALE	ASIAN	61
ONE-STOP	LIB	MALE	BLACK or AFRICAN AMERICAN	312
ONE-STOP	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	25
ONE-STOP	LIB	MALE	OTHER	170
ONE-STOP	LIB	MALE	TWO or MORE RACES	77
ONE-STOP	LIB	MALE	UNDESIGNATED	162
ONE-STOP	LIB	MALE	WHITE	4512
ONE-STOP	LIB	UNDESIGNATED	ASIAN	0
ONE-STOP	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	8
ONE-STOP	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
ONE-STOP	LIB	UNDESIGNATED	OTHER	1
ONE-STOP	LIB	UNDESIGNATED	TWO or MORE RACES	7
ONE-STOP	LIB	UNDESIGNATED	UNDESIGNATED	186
ONE-STOP	LIB	UNDESIGNATED	WHITE	76
ONE-STOP	REP	FEMALE	ASIAN	2605
ONE-STOP	REP	FEMALE	BLACK or AFRICAN AMERICAN	4882
ONE-STOP	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	1347
ONE-STOP	REP	FEMALE	OTHER	4462
ONE-STOP	REP	FEMALE	TWO or MORE RACES	887
ONE-STOP	REP	FEMALE	UNDESIGNATED	4678
ONE-STOP	REP	FEMALE	WHITE	45882
ONE-STOP	REP	MALE	ASIAN	1835
ONE-STOP	REP	MALE	BLACK or AFRICAN AMERICAN	4868
ONE-STOP	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	1293
ONE-STOP	REP	MALE	OTHER	4066
ONE-STOP	REP	MALE	TWO or MORE RACES	948

ONE-STOP	REP	MALE	UNDESIGNATED	4770
ONE-STOP	REP	MALE	WHITE	420370
ONE-STOP	REP	UNDESIGNATED	ASIAN	71
ONE-STOP	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	83
ONE-STOP	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	32
ONE-STOP	REP	UNDESIGNATED	OTHER	55
ONE-STOP	REP	UNDESIGNATED	TWO or MORE RACES	36
ONE-STOP	REP	UNDESIGNATED	UNDESIGNATED	6842
ONE-STOP	REP	UNDESIGNATED	WHITE	4764
ONE-STOP	UNA	FEMALE	ASIAN	8545
ONE-STOP	UNA	FEMALE	BLACK or AFRICAN AMERICAN	42137
ONE-STOP	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	1795
ONE-STOP	UNA	FEMALE	OTHER	10416
ONE-STOP	UNA	FEMALE	TWO or MORE RACES	3357
ONE-STOP	UNA	FEMALE	UNDESIGNATED	11933
ONE-STOP	UNA	FEMALE	WHITE	308150
ONE-STOP	UNA	MALE	ASIAN	7594
ONE-STOP	UNA	MALE	BLACK or AFRICAN AMERICAN	35029
ONE-STOP	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	1538
ONE-STOP	UNA	MALE	OTHER	9420
ONE-STOP	UNA	MALE	TWO or MORE RACES	2741
ONE-STOP	UNA	MALE	UNDESIGNATED	10036
ONE-STOP	UNA	MALE	WHITE	285110
ONE-STOP	UNA	UNDESIGNATED	ASIAN	361
ONE-STOP	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	1150
ONE-STOP	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	38
ONE-STOP	UNA	UNDESIGNATED	OTHER	183
ONE-STOP	UNA	UNDESIGNATED	TWO or MORE RACES	131
ONE-STOP	UNA	UNDESIGNATED	UNDESIGNATED	25283
ONE-STOP	UNA	UNDESIGNATED	WHITE	4175
OVERSEAS	DEM	FEMALE	ASIAN	83
OVERSEAS	DEM	FEMALE	BLACK or AFRICAN AMERICAN	260

OVERSEAS	DEM	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	9
OVERSEAS	DEM	FEMALE	OTHER	68
OVERSEAS	DEM	FEMALE	TWO or MORE RACES	57
OVERSEAS	DEM	FEMALE	UNDESIGNATED	397
OVERSEAS	DEM	FEMALE	WHITE	1949
OVERSEAS	DEM	MALE	ASIAN	53
OVERSEAS	DEM	MALE	BLACK or AFRICAN AMERICAN	209
OVERSEAS	DEM	MALE	INDIAN AMERICAN or ALASKA NATIVE	2
OVERSEAS	DEM	MALE	OTHER	44
OVERSEAS	DEM	MALE	TWO or MORE RACES	27
OVERSEAS	DEM	MALE	UNDESIGNATED	248
OVERSEAS	DEM	MALE	WHITE	1218
OVERSEAS	DEM	UNDESIGNATED	ASIAN	3
OVERSEAS	DEM	UNDESIGNATED	BLACK or AFRICAN AMERICAN	7
OVERSEAS	DEM	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	DEM	UNDESIGNATED	OTHER	3
OVERSEAS	DEM	UNDESIGNATED	TWO or MORE RACES	2
OVERSEAS	DEM	UNDESIGNATED	UNDESIGNATED	87
OVERSEAS	DEM	UNDESIGNATED	WHITE	50
OVERSEAS	LIB	FEMALE	ASIAN	2
OVERSEAS	LIB	FEMALE	BLACK or AFRICAN AMERICAN	1
OVERSEAS	LIB	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	FEMALE	OTHER	0
OVERSEAS	LIB	FEMALE	TWO or MORE RACES	1
OVERSEAS	LIB	FEMALE	UNDESIGNATED	3
OVERSEAS	LIB	FEMALE	WHITE	15
OVERSEAS	LIB	MALE	ASIAN	1
OVERSEAS	LIB	MALE	BLACK or AFRICAN AMERICAN	1
OVERSEAS	LIB	MALE	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	MALE	OTHER	1
OVERSEAS	LIB	MALE	TWO or MORE RACES	1
OVERSEAS	LIB	MALE	UNDESIGNATED	3
OVERSEAS	LIB	MALE	WHITE	28

OVERSEAS	LIB	UNDESIGNATED	ASIAN	0
OVERSEAS	LIB	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
OVERSEAS	LIB	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	LIB	UNDESIGNATED	OTHER	0
OVERSEAS	LIB	UNDESIGNATED	TWO or MORE RACES	0
OVERSEAS	LIB	UNDESIGNATED	UNDESIGNATED	3
OVERSEAS	LIB	UNDESIGNATED	WHITE	2
OVERSEAS	REP	FEMALE	ASIAN	29
OVERSEAS	REP	FEMALE	BLACK or AFRICAN AMERICAN	5
OVERSEAS	REP	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	REP	FEMALE	OTHER	17
OVERSEAS	REP	FEMALE	TWO or MORE RACES	7
OVERSEAS	REP	FEMALE	UNDESIGNATED	49
OVERSEAS	REP	FEMALE	WHITE	700
OVERSEAS	REP	MALE	ASIAN	20
OVERSEAS	REP	MALE	BLACK or AFRICAN AMERICAN	13
OVERSEAS	REP	MALE	INDIAN AMERICAN or ALASKA NATIVE	3
OVERSEAS	REP	MALE	OTHER	18
OVERSEAS	REP	MALE	TWO or MORE RACES	4
OVERSEAS	REP	MALE	UNDESIGNATED	55
OVERSEAS	REP	MALE	WHITE	840
OVERSEAS	REP	UNDESIGNATED	ASIAN	0
OVERSEAS	REP	UNDESIGNATED	BLACK or AFRICAN AMERICAN	0
OVERSEAS	REP	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	REP	UNDESIGNATED	OTHER	0
OVERSEAS	REP	UNDESIGNATED	TWO or MORE RACES	1
OVERSEAS	REP	UNDESIGNATED	UNDESIGNATED	14
OVERSEAS	REP	UNDESIGNATED	WHITE	7
OVERSEAS	UNA	FEMALE	ASIAN	92
OVERSEAS	UNA	FEMALE	BLACK or AFRICAN AMERICAN	63
OVERSEAS	UNA	FEMALE	INDIAN AMERICAN or ALASKA NATIVE	1
OVERSEAS	UNA	FEMALE	OTHER	59
OVERSEAS	UNA	FEMALE	TWO or MORE RACES	39
OVERSEAS	UNA	FEMALE	UNDESIGNATED	467
OVERSEAS	UNA	FEMALE	WHITE	1399
OVERSEAS	UNA	MALE	ASIAN	68
OVERSEAS	UNA	MALE	BLACK or AFRICAN AMERICAN	79

OVERSEAS	UNA	MALE	INDIAN AMERICAN or ALASKA NATIVE	6
OVERSEAS	UNA	MALE	OTHER	61
OVERSEAS	UNA	MALE	TWO or MORE RACES	14
OVERSEAS	UNA	MALE	UNDESIGNATED	359
OVERSEAS	UNA	MALE	WHITE	1335
OVERSEAS	UNA	UNDESIGNATED	ASIAN	2
OVERSEAS	UNA	UNDESIGNATED	BLACK or AFRICAN AMERICAN	1
OVERSEAS	UNA	UNDESIGNATED	INDIAN AMERICAN or ALASKA NATIVE	0
OVERSEAS	UNA	UNDESIGNATED	OTHER	1
OVERSEAS	UNA	UNDESIGNATED	TWO or MORE RACES	1
OVERSEAS	UNA	UNDESIGNATED	UNDESIGNATED	184
OVERSEAS	UNA	UNDESIGNATED	WHITE	30

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EXHIBIT G

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N.C. Absentee Statistics for the 2020 General Election

Absentee data updated 4:40 am November 14, 2020

General Statistics

Total Absentee Ballots Cast	4,629,200
Total Registered Voters	7,371,107
Approx. Eligible Voters	7,371,107
Turnout	62.80%

Total Absentee Ballots Cast

One-Stop early voting	3,627,799
Civilian	974,121
Military	11,234
Overseas	16,046
	4,629,200

Comparison to 2016 General Election

Total absentee ballots cast this time in 2016

One-Stop early voting	2,955,609
Civilian, Military, & Overseas	191,601
	3,147,210

(Total number of accepted ballots cast)

Registration Statistics by Party

		%
Democratic	2,626,723	35.64%
Republican	2,233,458	30.30%
Unaffiliated	2,456,106	33.32%
Libertarian	46,507	0.63%
Constitution	4,668	0.06%
Green	3,645	0.05%
	7,371,107	100.00%

Ballots Cast by Party

		Turnout*	Proportion**
Democratic	1,726,701	65.74%	37.30%
Republican	1,465,473	65.61%	31.66%
Unaffiliated	1,411,527	57.47%	30.49%
Libertarian	21,329	45.86%	0.46%
Constitution	2,183	46.77%	0.05%
Green	1,987	54.51%	0.04%
	4,629,200		100.00%

Registration Statistics by Race

		%
White	4,701,132	63.78%
Black	1,518,972	20.61%
Other	1,151,003	15.62%
	7,371,107	100.00%

Ballots Cast by Race

		Turnout*	Proportion**
White	3,061,269	65.12%	66.13%
Black	900,722	59.30%	19.46%
Other	667,209	57.97%	14.41%
	4,629,200		100.00%

Registration Statistics by Gender

		%
Female	3,654,787	49.58%
Male	3,106,651	42.15%
Undesignated	609,669	8.27%
	7,371,107	100.00%

Ballots Cast by Gender

		Turnout*	Proportion**
Female	2,369,252	64.83%	51.18%
Male	1,882,774	60.60%	40.67%
Undesignated	377,174	61.87%	8.15%
	4,629,200		100.00%

* Turnout = Ballots Cast per Demographic / Registered Voter Count for that Demographic

** Proportion = Ballots Cast per Demographic / Total Ballots Cast

Data Sources: absentee_counts_20201103.csv, absentee_20161108.zip

Ballots Cast by County

ALAMANCE	69,333
ALEXANDER	16,962
ALLEGHANY	5,068
ANSON	7,974
ASHE	11,350
AVERY	6,015
BEAUFORT	20,531
BERTIE	7,897
BLADEN	13,817
BRUNSWICK	79,659
BUNCOMBE	142,261
BURKE	36,972
CABARRUS	97,671
CALDWELL	35,955
CAMDEN	4,538
CARTERET	34,852
CASWELL	8,426
CATAWBA	68,734
CHATHAM	43,851
CHEROKEE	11,507
CHOWAN	6,678
CLAY	5,282
CLEVELAND	41,756
COLUMBUS	19,091
Craven	45,003
CUMBERLAND	123,007
CURRITUCK	10,330
DARE	19,262
DAVIDSON	70,123
DAVIE	20,403
DUPLIN	16,796
DURHAM	165,763
EDGECOMBE	20,452
FORSYTH	170,999
FRANKLIN	30,549
GASTON	97,557
GATES	4,409
GRAHAM	3,508
GRANVILLE	26,961
GREENE	6,711
GUILFORD	241,226
HALIFAX	19,759
HARNETT	49,389
HAYWOOD	29,453
HENDERSON	57,254
HERTFORD	8,616
HOKE	17,753
HYDE	1,249
IREDELL	84,016
JACKSON	17,668
JOHNSTON	92,768
JONES	3,844

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LEE	24,855
LENOIR	23,955
LINCOLN	41,990
MACON	16,760
MADISON	10,501
MARTIN	8,951
MCDOWELL	17,288
MECKLENBURG	500,413
MITCHELL	7,429
MONTGOMERY	9,096
MOORE	48,949
NASH	43,139
NEW HANOVER	114,813
NORTHAMPTON	7,718
ONSLow	58,166
ORANGE	76,671
PAMLICO	5,939
PASQUOTANK	16,385
PENDER	29,411
PERQUIMANS	6,227
PERSON	17,810
PITT	73,114
POLK	9,790
RANDOLPH	58,282
RICHMOND	16,527
ROBESON	33,135
ROCKINGHAM	37,613
ROWAN	57,863
RUTHERFORD	25,975
SAMPSON	23,502
SCOTLAND	12,140
STANLY	27,327
STOKES	18,348
SURRY	29,974
SWAIN	5,428
TRANSYLVANIA	16,979
TYRRELL	1,217
UNION	110,695
VANCE	17,666
WAKE	548,063
WARREN	8,383
WASHINGTON	4,965
WATAUGA	27,893
WAYNE	46,919
WILKES	24,539
WILSON	32,542
YADKIN	13,604
YANCEY	9,243
	4,629,200

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EXHIBIT H

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1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
 2 COUNTY OF WAKE SUPERIOR COURT DIVISION
 24CV031557-910

4 TELIA KIVETT, THE NORTH CAROLINA REPUBLICAN PARTY, THE REPUBLICAN
 5 NATIONAL COMMITTEE,
 WANDA NELSON FOWLER. October 21, 2024

6 Plaintiffs,

7 v.

8 ALAN HIRSCH, JEFF CARMON, KAREN BRINSON BELL, KEVIN N. LEWIS,
 9 NORTH CAROLINA STATE BOARD OF ELECTIONS, SIOBHAN O'DUFFY MILLEN,
 10 STACY EGGERS IV, Pages 1 - 70

11 Defendants.

12
 13 -----
 14 WAKE COUNTY SUPERIOR COURT
 15 October 21, 2024, CIVIL SESSION
 16 HONORABLE JOHN W. SMITH, JUDGE PRESIDING
 17 TRANSCRIPT OF HEARING
 18 VOLUME 1 OF 1
 19 -----

20 ROBIN WEILER, RPR, RMR, RVR-S
 21 Official Court Reporter
 22 District 10
 23 Wake County, North Carolina
 24
 25

1 APPEARANCES:

2

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7

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TERENCE STEED, ESQ.

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1 THE COURT: This is an emergency request for
2 a preliminary injunction. Republican Party versus
3 Board of Elections versus Democratic National
4 Committee.

5 MR. KOONTS: Yes, Your Honor. Jordan Koonts
6 along with Alyssa Riggins for the plaintiffs in the
7 matter.

8 We're ready to go today, but I'll just note
9 in our calendar request, today was the one day that
10 Counsel, Attorney Phil Strach was not available. So,
11 to the extent the Court could push to tomorrow, we
12 understand --

13 THE COURT: I cannot push it to tomorrow.
14 We'll be in the middle of a jury trial.

15 MR. KOONTS: Understood. If there's a time
16 certain that the Court would prefer, we're ready to go
17 whenever.

18 MR. DAVID: Good morning. Eric David from
19 the Brooks Pierce Firm for the Democratic National
20 Committee.

21 We're ready to go. We would like it to be
22 today. We have out-of-state counsel with us, so that
23 would be an inconvenience to come back.

24 THE COURT: Unless you feel prejudiced, I'm
25 prepared to hear that this morning.

1 MR. KOONTS: That's fine, Your Honor.

2 THE COURT: Get that off the calendar one way
3 or the other.

4 MR. KOONTS: Understood.

5 THE COURT: And I anticipate that that will
6 take a substantial amount of time?

7 MR. KOONTS: I'd say.

8 THE COURT: I saw that a 30-page brief was
9 filed Friday.

10 MS. BOYCE: Your Honor, I think it's set for
11 90 minutes. I wouldn't expect it to go past that.
12 Obviously, lawyers are not great at estimating time.

13 (Pause in the proceedings.)

14 THE COURT: This is case 24 CV 031557-910
15 Telia Kivett, North Carolina Republican Party,
16 Republican National Committee, Wanda Nelson Fowler
17 versus Hirsch, Carmon, Bell, Lewis, North Carolina
18 State Board of Elections, Millen, Stacey Eggers IV, and
19 the Democratic National Committee that is allowed to
20 introduce.

21 I note that this is a request for an
22 emergency hearing, that there was some issue of that
23 getting on the calendar. So, I think we need to go
24 ahead and dispose of it in view of the fact that it is
25 designated as an emergency hearing, and does affect the

1 ongoing elections.

2 So, for the plaintiff, if you will identify
3 everybody that's in court on behalf of the plaintiff in
4 the matter for the court reporter.

5 MR. KOONT'S: Certainly, Your Honor. We
6 appreciate the Court accommodating us on short notice.

7 Jordan Koonts, along with Alyssa Riggins, on
8 behalf of all plaintiffs in the matter.

9 THE COURT: Your name, Ma'am.

10 MS. RIGGINS: I'm sorry, Your Honor. Alyssa
11 Riggins, Wake County Bar, from Nelson Mullins for all
12 plaintiffs.

13 MS. BOYCE: Good morning. Sarah Boyce. I am
14 with the National Department of Justice on behalf of
15 the North Carolina State Board of Elections and the
16 other State Board Defendants.

17 I'm here with my colleagues Mary Carla Babb
18 and Terence Steed who are also with the North Carolina
19 Department of Justice on behalf of the State for all
20 defendants.

21 MR. DAVID: Good morning, Your Honor. Eric
22 David from Brooks Pierce on behalf of the Democratic
23 National Committee.

24 I'm here with my colleague Will Robertson,
25 and counsel from Wilmer Hale in DC, Christopher

1 Babbitt.

2 Just as an administrative matter, I don't
3 know that our intervention order has been signed. I
4 just want to make sure.

5 THE COURT: I thought it had.

6 MR. DAVID: If it has, I didn't check first
7 thing this morning. I just want to make sure we're all
8 squared away on that.

9 THE COURT: The senior residence superior
10 court judge has signed it.

11 MR. DAVID: Beautiful. Thank you, Your
12 Honor.

13 THE COURT: I will be glad to hear from you.

14 MR. KOONTZ: Thank you, Your Honor.

15 So, plaintiffs are coming here today seeking
16 a narrowly tailored, but vitally important request for
17 relief in the form of a preliminary injunction stopping
18 defendants from committing ongoing, but increasingly
19 dangerous violations of the North Carolina
20 Constitutions voter residency requirements which
21 defendants are doing through a twisted application of
22 North Carolina General Statute 163-258.1.

23 Plaintiffs asked this Court to order
24 defendants to immediately instruct their County Boards
25 of Elections to separate and segregate these ballots

1 pending confirmation of the individual's qualifications
2 to vote.

3 Your Honor mentioned the nature of this
4 emergency motion and the ongoing election. Your Honor,
5 we understand and recognize that early voting is
6 ongoing, but I do want to emphasize for the Court it's
7 not too late to request -- I'm sorry -- to grant the
8 effective relief that plaintiffs seek.

9 These ballots are readily and easily
10 identifiable. The relief plaintiffs seek is in both
11 form and function, no different than actions defendants
12 are already taking in other contexts.

13 Another point I want to clarify for the
14 Court, on the front-end when we're talking about
15 never-resident overseas voters, we're not talking about
16 military voters. We're not talking about the general
17 overseas voter. We are focused on a narrow subset of
18 individuals, a person who has never resided in the
19 State of North Carolina, who, through defendant's
20 application of the statute, would be allowed to vote.
21 That's a plain violation of the Constitution, and the
22 manner in which they are applying it. That is basis
23 upon which plaintiffs are seeking relief.

24 So, Article 6, Section 2 of the State
25 Constitution provides a 30-day residency requirement

1 applicable to persons wishing to vote in the state's
2 elections. This residency principle has been in our
3 State's Constitution since 1868. It's been repeated,
4 reaffirmed by our Appellate Courts.

5 So, Your Honor, when we're talking about the
6 status quo, the status quo is and would remain should
7 this Court grant relief that never-residents cannot
8 vote in state's elections.

9 Yet, despite this unambiguous requirement,
10 defendants are allowing non-residents and potentially
11 never-residents to vote in the state's elections.
12 They're doing this again through -- how they're
13 applying Subsection 258.1 to both openly market
14 non-resident voting and instruct their County Boards on
15 how to process these registrations and now potentially
16 ballots without any confirmation of residency.

17 Your Honor, I don't think it is a
18 controversial point. I'm sure my friends would agree
19 with me that every valid vote matters and should count.

20 What we're talking about, again, is a narrow
21 subset of individuals who the Constitution does not
22 allow to vote. Yet, defendants are applying a statute
23 in a way which would circumvent that constitutional
24 requirement.

25 Now, to look specifically at the statute

1 itself 258.1, the Uniform Military Overseas Voting Act,
2 UMOVA, this is the state statute purporting to extend
3 voting eligibility to individuals overseas. It has a
4 host of categories. Many of which -- in fact, the
5 majority of which are not at issue here. Commonly
6 thought of military members, their spouses, dependents,
7 other categories of persons who this relief would not
8 impact whatsoever, and plaintiffs are not seeking any
9 relief which would impact them.

10 THE COURT: So, just to clarify on that, that
11 was something I was concerned about when I read your
12 motion. Even if a military person is currently a
13 non-resident, it does not violate the Constitution for
14 them to vote.

15 MR. KOONTS: That's correct, Your Honor.
16 This relief would in no way impact that. That's
17 covered both by state law and federal law. Military
18 members and these other categories of persons would
19 still be allowed to vote, and, you know, assuming they
20 meet all of the qualifications set forth, their vote
21 can and should be counted.

22 Again, what we're talking about is that
23 narrow subset of individuals who has never resided in
24 the state, potentially never even stepped foot in the
25 state, certainly has no connection to the state, still

1 being able to vote and have a say in the state's
2 elections under how they're applying the statute.

3 I would just pause it whether the General
4 Assembly could have intended such a result when it
5 passed that statute.

6 You know, Your Honor, these elections --
7 North Carolina's elections are extremely close. We all
8 know that. This could be the closest one yet. Again,
9 every valid vote should be counted. The risk, the very
10 real risk here of unqualified persons voting, casting
11 ballots in the state's elections makes injunctive
12 relief that much more necessary here. Because once
13 those votes are counted, there's no going back.
14 Plaintiffs are irreparably harmed.

15 To move us into the statute specifically, and
16 look at how they're applying it, the last definition of
17 UMOVA's covered voter --

18 THE COURT: Let's don't use acronyms.

19 MR. KOONTs: Understood. So, the last
20 definition of General Statute 163-258.1 covered voter
21 Subsection (e) (1) and (2), that is the subsection that
22 defendants are applying here.

23 It reads, "An overseas voter who was born
24 outside of the United States, and is not described in
25 Subdivision C or D of the subdivision, except for a

1 state residency requirement, otherwise satisfies the
2 state's voter eligibility requirements if, one, their
3 parents or legal guardian was a resident of the state
4 before leaving. And two, that person has not
5 previously registered to vote in any other state."

6 Now, this definition captures a wide variety
7 of individuals who, again, are not challenged here,
8 would not be affected by any relief. The manner in
9 which the defendants are applying it and under their
10 interpretation, anyone anywhere in the world could have
11 a say in North Carolina's elections so long as they
12 meet these never-resident requirements. Your Honor,
13 that is where I want to focus the Court in on.

14 THE COURT: When you say "never-resident
15 requirement," you're talking about (e)?

16 MR. KOONTs: Yes, Your Honor, I'm sorry.
17 Just to clarify there, we're challenging the manner in
18 which they are applying it which --

19 THE COURT: Which they're applying (e)?

20 MR. KOONTs: Yes, yes.

21 THE COURT: Nothing else?

22 MR. KOONTs: Nothing else.

23 Again, none of those other sections, those
24 other covered voters, those are not challenged here.

25 So, in practice, you know -- so, we

1 understand and we look at the harm and the manner in
2 which they're applying it, but I want to shift the
3 Court briefly to how this relief is readily and easily
4 ascertainable, even in light of the ongoing election.

5 So, the Court is aware, when an overseas
6 person is registering to vote in the state, they submit
7 a Federal Post Card Application or a Federal Write-In
8 Absentee Ballot. Both of those are linked in the
9 complaint. Both of those are provided by the General
10 Statute. As showed in paragraphs 48 and 49 of the
11 complaint, North Carolina's Post Card Application has
12 an option for an overseas registrant to select and
13 affirm that they are a citizen of the United States,
14 but they have never lived in the United States. Now
15 that right there, Your Honor, that is massive red flag,
16 and it's the point upon which plaintiffs are asking for
17 relief.

18 THE COURT: Where is the card? I don't
19 remember seeing the card you're talking about.

20 MR. KOONT'S: So, Your Honor, it's linked in
21 the complaint, and I have copies for the Court.

22 THE COURT: I didn't follow any link. So, I
23 haven't seen the card. If you have that, I'd like to
24 see what you're talking about.

25 MS. RIGGINS: May I approach, Your Honor?

1 Yes.

2 (Handing)

3 MR. KOONTs: So, Your Honor, I would
4 represent that this was printed out this morning, and I
5 specifically -- I believe it's double-sided, but the
6 second full page, the section that begins, "Number one,
7 who are you," that is the card that we are saying
8 relief -- indicates where relief can begin.

9 Specifically, the last option under the "pick
10 one require" category. The option that says, "I'm a
11 U.S. Citizen living outside the country, and I have
12 never lived in the United States." That, Your Honor,
13 is a massive red flag for never-residents attempting to
14 vote.

15 Now, to be clear, though, we're not saying
16 that just by selecting that option an individual is per
17 se an invalid registrant or invalidly casting a ballot.
18 What we are saying is this is the starting point which
19 the Court can craft this narrow, but necessary relief.
20 It also shows why the relief is readily attainable.

21 So, clearly, there's an ongoing violation of
22 the North Carolina Constitution through the manner in
23 which the defendants are applying General Statute
24 163-258.1, and there's an increasing danger and risk
25 the closer we get to the election without this relief.

1 So, again, we're asking this Court to order
2 the defendants to simply instruct their County Boards
3 to immediately identify ballots received from
4 individuals who register selecting that specific box,
5 segregate those ballots and hold them pending
6 confirmation of their qualifications to vote.

7 Again, we're not saying these ballots are per
8 se invalid. We're saying that this is enough of a
9 warning sign, and the present danger here is real
10 enough. The constitutional violation is real enough
11 that that should be a stopping point upon which we can
12 say, Okay, hold up. We need to confirm that these
13 individuals are covered voters, are qualified voters,
14 and we meet all federal and state requirements.

15 THE COURT: Do you concede that if that box
16 is checked and they're qualified under (e), that the
17 vote's legal and should be counted?

18 MR. KOONTs: I'm sorry, Your Honor?

19 THE COURT: That the vote's legal and should
20 be counted?

21 MR. KOONTs: And is Your Honor referencing a
22 section of the Post Card Application?

23 THE COURT: If they check the bottom one -- I
24 assume that's the one you are talking about?

25 MR. KOONTs: Yes, your Honor.

1 THE COURT: If they check the bottom one, and
2 it turns out that they are in compliance with Section
3 (e), there's no constitutional problem; is that
4 correct?

5 MR. KOONTZ: I quibble with that just a
6 little bit, Your Honor. We're saying that that is the
7 warning sign for a potential never-resident voter. We
8 are not saying that everyone who selected that is
9 either per se a valid voter or per se invalid.

10 THE COURT: That's what I'm asking you. If
11 it's checked, but if it turns out that that person who
12 checked it is a person covered under (e), what is your
13 position about that vote?

14 MR. KOONTZ: Our position about that vote is
15 there are instances in which that individual would be
16 allowed to vote, and that vote should be counted.

17 There are other statutory coverages for
18 potential people following under that definition, but
19 it's not a hardline rule if they are or they are not a
20 valid voter. We're saying that that's where the
21 inquiry begins.

22 THE COURT: If they comply with Section (e),
23 what is the criteria that would make the vote invalid?

24 MR. KOONTZ: The criteria that would make the
25 vote invalid, Your Honor, is the fact that they would

1 have never resided in the state. They would have no
2 connection to the state whatsoever. Therefore, it
3 would violate the Constitution's residency requirement,
4 unless they were covered by some other statute or some
5 other protection.

6 THE COURT: So, that's what I'm getting at.
7 Are you saying that Subsection (e) is unconstitutional
8 or not?

9 MR. KOONTZ: We're saying it's
10 unconstitutional in the manner with which they are
11 applying it. Your Honor, one can think of --

12 THE COURT: How could it be applied
13 constitutionally?

14 MR. KOONTZ: Certainly, Your Honor.

15 So, you know, just off the top of my head,
16 you know, one could think of an instance where you have
17 a military member stationed at Fort Bragg. They and
18 their spouse are deployed, let's say, to Germany.
19 While over in Germany, the spouse gives birth to a
20 child. That military member then spends at least 18
21 years overseas. That child becomes 18. They are then
22 able to vote. They are a covered voter because, you
23 know -- well, let's say, in this instance, we're
24 assuming that that 18-year-old is a dependent of that
25 military member. They're a covered voter. They're

1 allowed to vote. Their vote would count and would be
2 constitutional. They would fall under (e)'s, plain
3 language definition. So, that's just one scenario,
4 Your Honor.

5 I want to make an important distinction.
6 We're not talking about the 18-year-old who is casting
7 their first ballot.

8 What we're talking about is, again, the
9 "never-resident" as we call them. Somebody who would
10 say be -- just go to an extreme -- 50, 60, 70 years
11 old, has lived overseas their entire lives. They know
12 full well they are not a resident of North Carolina.
13 They very likely made the conscious choice to stay
14 overseas.

15 If they were so invested in the state's
16 elections and what was going on in the state, they
17 could have easily moved back here. They made the
18 choice to reside overseas. They know that they have
19 never resided here. That is the type of voter or --
20 I'm sorry -- that is the type of person who would be
21 captured in plaintiffs' relief. That is the type of
22 voter that we say should be stopped and held pending --
23 you know, there are other qualifications out there that
24 might come into play.

25 We're saying, Your Honor, this risk is just

1 so real that we need some sort of starting point to
2 immediately hold these, to segregate them and to
3 confirm their qualifications to vote.

4 If they fall under another category with
5 coverage, that's fine. That vote should be counted.
6 We're not challenging that. But this is a very real
7 and very -- becoming increasing problematic in this
8 election. It's why we're here seeking emergency relief
9 today.

10 Your Honor, I just also want to emphasize
11 that the relief that we're requesting is no different
12 than what defendants are doing in other contexts
13 already. So, if I were to leave here today and go vote
14 and forget my ID, I would cast a provisional ballot.
15 Assuming, of course, that I didn't certify a reasonable
16 impediment, I'd cast a provisional, and that then that
17 would be held pending confirmation of my
18 identification. That's all we're asking for here. It
19 doesn't mean that my vote is per se invalid. It means
20 there are some of warning signs, some sort of red flag
21 that I haven't met all of the requirements to vote.
22 So, put a pause on it. County Board confirms
23 qualifications in that instance to me providing ID.

24 In our instance and why we're here, the
25 County Board confirmed that this person fits into some

1 sort of other unchallenged covered category or is
2 potentially a resident who may have just selected a
3 wrong option.

4 So, again, Your Honor, I just would briefly
5 mention that this residency requirement has been around
6 since 1868. So, status quo is and would remain through
7 this relief that never-residents still cannot vote in
8 the state, unless they meet some other qualification.
9 But to allow them to vote would be a massive disruption
10 and cause --

11 THE COURT: You keep referring to some other
12 qualification. I don't know of any other qualification.
13 None comes to mind. What other qualification would
14 allow them to vote?

15 MR. KOONTZ: Certainly, Your Honor. So when
16 I say "other qualification," I'm simply referring to
17 the other sections of 163-258.1 which, as I said, we
18 are not challenging here.

19 I'm also referring to 52 USC 20301. That's
20 the Uniform Overseas Citizens Voting Act. Of course,
21 to the extent there would be any conflict, federal law
22 would preempt. There are certainly categories of
23 coverage which could apply. That's something I think
24 our complaint focuses a lot on, is parsing the two.

25 There's certainly overlap between the state

1 and federal statutes, but the manner in which the
2 defendants are applying Subsection (e) goes beyond
3 anything that's covered both by the State Constitution
4 or by the federal statute itself. When I say "other
5 categories," that's what I mean.

6 THE COURT: If a person is covered by (e),
7 let's assume the person is covered by (e), I don't know
8 of any other provision that would allow that person to
9 vote, do you?

10 MR. KOONTs: So, Your Honor, I would say my
11 example of the 18-year-old dependent, they would fall
12 under (e), but they're covered by other categories.
13 There's coverage for military dependents.

14 THE COURT: Can you think of any other
15 instances?

16 MR. KOONTs: Not off the top of my head, Your
17 Honor, but I certainly think -- I mean, this data is
18 readily ascertainable. The evidence attached to the
19 complaint shows this is something they're aware of, and
20 easily able to segregate and separate.

21 So, very well, discovery could reveal other
22 instances. What we're seeing is the presence of harm
23 here is just so real and the relief is -- you know, we
24 need -- it needs to be now or it will be a fleeting
25 hope once these -- if even one never-resident votes in

1 violation of the State Constitution, again, once those
2 votes are counted, there's no going back from that. We
3 certainly will litigate these issues past the election,
4 but the reason we're here now is because of that very
5 real danger. So, our position is that that rises to
6 the level of needing immediate injunctive relief.

7 Your Honor, I mean, I think the balance of
8 the equities here very clearly favors plaintiffs in the
9 sense that, again, as I've stated, the relief requested
10 is no different than what defendants are already doing.
11 So it's a minimal burden, yet, an extreme risk of
12 irreparable harm, especially individual plaintiffs.

13 North Carolinians just -- the idea that a
14 statute could be applied in a manner which would allow
15 anyone in the world -- again, who's never even stepped
16 foot in this state, has no connection to it -- to
17 somehow have a say in who our governor is or who are
18 senator is or even local representation, Your Honor,
19 that certainly could not be what the General Assembly
20 intended when it passed this statute.

21 I think legislative history here is a bit
22 lacking, but my understanding is that this was passed
23 at a time -- this was passed with the intent of it
24 being a military-type voting provision to provide
25 additional layers of coverage to military members, just

1 like the federal statute does. That's not contested
2 here. Again, those votes should count.

3 What we're trying to focus the Court in on is
4 the manner in which they're applying it, and how it
5 violates the Constitution's residency requirements.

6 THE COURT: It's 11:00 o'clock. Let's take a
7 15-minute recess. I'll come back and hear the rest of
8 your argument.

9 MR. KOONTs: Certainly, Your Honor.

10 THE COURT: The Court will be in recess for
11 15 minutes.

12 THE BAILIFF: Court is now in recess for 15
13 minutes.

14 (Whereupon, a brief recess is held.)

15 (After the recess the following occurred:)

16 MR. KOONTs: Thank you, Your Honor.

17 I don't want to belabor the point. I'm happy
18 to answer any questions the Court has or respond to my
19 friend's arguments as she raises them, but I'll just
20 close with this. You know, Your Honor had some
21 questions about the application of the statute. You
22 know, we're not here today litigating the
23 constitutionality of the statute as a whole. We are
24 asking for narrowly tailored relief to segregate and
25 confirm qualifications to vote. We're simply saying

1 that the defendant should be forced to check instead of
2 presume.

3 The risk here is too great. The harm, should
4 these votes be counted in violation of the
5 Constitution, is too real. Indeed, you know, post
6 election discovery may reveal other instances of
7 individuals who fall under this definition.

8 As we stand here today, and the reason we ask
9 for such narrowly tailored and attainable relief, is
10 that we just simply don't know. We need these stopped.
11 We need a stopping point to, like I said, just say, we
12 need to hold on. We need to confirm this person is
13 eligible to vote. Once they are, that's fine.
14 Plaintiffs don't seek to challenge it at that point.

15 So, unless Your Honor has any questions,
16 that's all I have.

17 THE COURT: You've answered my questions.

18 MR. KOONTS: Thank you.

19 THE COURT: I'll hear from North Carolina,
20 please, first.

21 MS. BOYCE: Good morning, Your Honor. My
22 name is Sarah Boyce. I am here on behalf of the
23 Department of Justice for our clients the State Board
24 Defendants.

25 The first thing that I want to tackle head-on

1 is the notion that this case challenges the board's
2 implementation of the statute or that there is any
3 daylight between what the State Board has done here and
4 permitted and the statute that was passed.

5 The statute that has been referenced over and
6 over 163-258.2(1)(e) plainly -- clearly by its plain
7 language encompasses the targeted voters that
8 plaintiffs have focused on. I haven't heard my friend
9 on the other side explain why it is that the
10 individuals, the U.S. Citizens that they target, do not
11 fall within the scope of Subsection (e).

12 So, much as the plaintiffs would like to
13 characterize this case as a challenge to the
14 implementation of the law, this is transparently a
15 challenge to this state's statute, and whether or not
16 it is consistent with the North Carolina Constitution.

17 If I may, Your Honor, I'd like to approach
18 the bench with copies of the federal applications. My
19 friend here gave you the North Carolina version that
20 you can do online, but these are the federal versions.
21 I gave a copy to the other parties here. These are
22 both also linked in their complaint.

23 (Handing)

24 MS. BOYCE: My purpose in showing you those,
25 Your Honor, is, again, just to point out that this is

1 not the North Carolina State Board doing something that
2 is different than what has been authorized under North
3 Carolina State Law or under comparable laws in 38
4 states.

5 If Your Honor looks at the top of the form
6 that looks like this entitled, "Voter Registration and
7 Absentee Ballot Request." This is, again, the federal
8 form put forward by the federal government.

9 You will see there the check boxes that
10 mirror the ones that the State Board uses to authorize
11 various individuals to vote. The last of those is, "I
12 am a U.S. Citizen living outside the country. I have
13 never lived in the United States."

14 Similarly, on the "Federal Write-in Absentee
15 Ballot," if you look on the second page, the backside
16 of the first page, there is a similar box that
17 similarly suggests that if you have never lived in the
18 United States, many, many state laws, nevertheless,
19 authorize these individuals to vote. That is plainly
20 the case here in North Carolina.

21 This is not the State Board taking a state
22 statute and of its own accord unilaterally extending
23 the right to vote to these individuals. This was the
24 North Carolina Legislature in 2011 deciding that this
25 group of individuals had close enough ties to North

1 Carolina, despite never having lived in the United
2 States, that they should nevertheless be extended to
3 vote.

4 So, I do just want to take head-on the idea
5 that this is a challenge to the State Board's actions
6 as opposed to a challenge to a North Carolina State
7 Statute that has been on the books now for 13 years,
8 and was passed unanimously by both houses -- by both
9 bipartisan houses of our General Assembly.

10 The next point, Your Honor, is that I believe
11 what we have here is, essentially, a facial challenge
12 to this subsection of the statute.

13 As my friend here has already conceded that
14 there are voters, in his opinion, who would lawfully be
15 permitted to vote under Subsection (e) (1) of this
16 statute. That undermines any facial challenge that he
17 could possibly bring.

18 As the North Carolina Supreme Court just
19 reiterated on Friday in explaining the way that facial
20 challenges work, if there are constitutional
21 applications of a state statute, a facial challenge
22 necessarily fails.

23 The plaintiffs have concededly throughout
24 their complaint used the words "as-applied" over and
25 over and over, but they have not explained how this is

1 actually an "as-applied" challenge given the breath of
2 the relief that they seek.

3 They say repeatedly in their complaint that
4 they want a declaratory judgment that would declare
5 that Subsection (e) (1) is inconsistent with the North
6 Carolina Constitution. That is on its face a facial
7 challenge to this subsection of North Carolina State
8 Law.

9 THE COURT: Let me ask you this, for the
10 purposes of a preliminary injunction, what difference
11 does it makes whether it's facial or it's applied?

12 MS. BOYCE: Well, I mean, it certainly goes
13 to whether they're likely to prevail on the merits,
14 whether or not that they are likely to prove that all
15 applications of the statute are unconstitutional.

16 So, as a procedural matter, our view would be
17 that it doesn't make a difference, if Your Honor is
18 suggesting whether it needs to be sent to a three-judge
19 panel at this time or not.

20 As a substantive matter, if the question is,
21 how likely are they to prevail on the merits if their
22 burden ultimately is going to be, can they show that
23 this statute is unconstitutional in all its
24 applications? Then it certainly matters how likely
25 they are to be able to do that.

1 My friend here has already conceded there are
2 voters who could lawfully vote under this provision
3 which would doom any facial challenge as we believe
4 this to be. So that would be relevant.

5 Your Honor has keyed in very quickly on the
6 risks of this case, and I do want to highlight those
7 briefly.

8 Much as my friends on the other side would
9 like to cabin this complaint and this challenge to this
10 small group of targeted voters, the ramifications of
11 their challenge could be far graver than that, and, in
12 fact, could disqualify military voters from voting for
13 anything other than president, including in this
14 election. The reason for that is a little complicated,
15 but I'll try to break it down as simply as I can.

16 UOCAVA, "Uniformed Overseas Civilian Voter
17 Act, Absentee Voter Act," is the Federal Law that
18 authorizes a lot of different members of the military,
19 as well as the individuals living overseas to vote in
20 federal elections and federal elections alone.

21 Layered onto that now, we have what they have
22 dubbed UMOVA, the "Uniform Military and Overseas Voter
23 Act," which is the state analogue to that.

24 The state analogue expands the extent to
25 which voting rights are available beyond what UOCAVA,

1 the federal law does. Their point is that state law
2 goes too far because it sweeps in these voters who
3 have, in fact, never lived in the United States.

4 Whereas, the federal law does not do that.

5 Their position is that the federal law
6 preempts North Carolina's Constitution, its residency
7 requirement to the extent that federal law says that
8 these individuals can vote.

9 The problem with that is that federal law
10 does not extend the right to vote to military members
11 beyond federal elections either.

12 So, they are correct that this is the way the
13 North Carolina State Constitution has to be read, and
14 that there is this rigid 30-day residency requirement
15 that will necessarily mean that military voters are
16 also disqualified from voting in anything other than
17 the presidential election because of this gap that
18 exists.

19 So, sure, it may be true that all they are
20 asking for here is for you to enjoin the votes of a
21 narrow group of people, but to do so requires reading
22 of the North Carolina Constitution that would fling
23 wide the doors to challenges brought by individual
24 voters who also want to point out that the North
25 Carolina State Statutes that allow service members to

1 vote in state and local elections, would also seem to
2 be inconsistent with their reading of the North
3 Carolina Constitution.

4 Either the North Carolina Constitution
5 permits the General Assembly to tinker with the
6 residency requirements for individuals who live abroad
7 or part of the Armed Services or it doesn't.

8 If North Carolina -- the North Carolina
9 Constitution does not permit the General Assembly to
10 make exceptions to the residency requirement, then that
11 is going to implicate a far greater group of votes than
12 the narrow group that they are focused on here.

13 I'd actually like to take issue with the
14 characterization of the status quo here. It is true,
15 of course, that the residency requirement has been
16 around for quite some time, since the mid-1800s, but
17 this statute, which seems to extend voting rights
18 beyond what the Constitution might imply, has been
19 around since 2011.

20 Since 2011, the voters that they are focused
21 on, in addition to the military members that I've just
22 touched on, have been voting in these elections. The
23 status quo has been the state law seems to clearly
24 extend the right to vote to these buckets of voters.
25 Even now, of course, they have participated in this

1 election. More than 10,000 votes have been cast by
2 individuals falling within these categories.

3 So, the status quo was very much that North
4 Carolina Law authorizes these votes. The General
5 Assembly has authorized these votes. So, it's simply
6 not true to suggest the status quo is anything other
7 than that these voters have been voting in past
8 election cycles, and expect for their vote to count
9 here.

10 That implicates both the Laches argument, and
11 it also obviously speaks to the harm. Because had the
12 voters who have now already participated in this
13 election known that their votes might be discounted
14 midstream, perhaps they could have investigated and
15 figured out whether other states might, nevertheless,
16 permit them to vote.

17 At this point, of course, it's simply too
18 late. They're waiting for this challenge to be
19 resolved. They can't possibly get registered in other
20 states, many of which have already had their
21 registration deadlines pass, and figure out a way to
22 get their vote to be counted here.

23 So, there is significant irreparable harm to
24 the voters who have expected that they will be able to
25 participate in this election, and then may find out all

1 too late that they cannot.

2 I also want to take issue with the idea that
3 the relief that they're asking for is something normal
4 or something that's already going on here. That's
5 simply not the case. The relief that would be required
6 here would be two-fold.

7 One, the State Board and the County Boards
8 are going to be required to go through the voter rolls,
9 and figure out who falls into these different
10 categories.

11 If Your Honor accepts as true that all we're
12 talking about are these targeted residents who have
13 never lived in the United States, that's still quite a
14 challenge. They need to go through the tens of
15 thousands of applications, and identify who has checked
16 this box on the Federal Application saying that they've
17 never lived here before.

18 So, you're asking the State Board and County
19 Boards to go through tens of thousands of forms, while
20 they're doing the hard work of administering the
21 election that's already ongoing, and pull out these
22 groups of voters. And that's not to mention the other
23 groups of voters that are implicated by this challenge,
24 as I've already explained.

25 Then not only do they have to pull those --

1 identify those voters, they have to go in and unwind
2 those votes for any voters whose ballots have already
3 been submitted through the tabulator, which, obviously,
4 is both burdensome, depending on the number of
5 tabulators a given county has, and also, obviously,
6 present concerns about the reliability with which that
7 could be done.

8 So, this is not something that is already
9 ongoing. The State and County Boards are not in the
10 business of disqualifying large categories of voters,
11 and having to unwind their ballots midstream.

12 I'd also point out that in so far as what my
13 friend on the other side wants to suggest is that the
14 State Board can simply rely on provisional ballots.
15 That's not going to be an option for these individuals
16 who live abroad because that requires them to appear at
17 a County Board of Elections and present this
18 identification. And, obviously, these are individuals
19 who have never even lived in the United States. They
20 cannot simply show up at the County Board, and provide
21 the information that plaintiffs would like them to
22 provide.

23 I'll touch briefly, Your Honor, if I may, on
24 the harm to the plaintiffs. As I've already explained,
25 the harm here to the County and State Boards is grave.

1 The harm to the voters who are relying on their votes
2 to be counted is even greater.

3 On the other side, we have plaintiffs who
4 have yet to allege any cognizable harm. The harm that
5 they do allege is somehow that these illegal votes will
6 dilute the votes of their organization's members and
7 the two-named plaintiffs. But there are at least two
8 problems with that argument.

9 First, the voters that we are talking about
10 here are U.S. Citizens. There's sort of a shroud
11 around the allegations here as if there's something
12 wrong with the fact that these individuals live abroad,
13 and are, nevertheless, being permitted to vote.

14 I do want to be very clear that these are
15 U.S. Citizens who must prove that they are U.S.
16 Citizens, prove they are over 18 years old, and prove
17 that they have close enough ties to North Carolina
18 under state law that they should be permitted to vote.

19 So, the notion that these are just illegal
20 votes that should be cast aside is simply false. They
21 are expressly authorized by state law. Thus, all these
22 vague allegations about voter fraud and illegal votes
23 simply fall flat.

24 Second, numerous opinions of our state courts
25 made clear that the kinds of dilution allegations that

1 plaintiffs have alleged are simply not cognizable.

2 The only vote dilution claims that have
3 succeeded in our state courts are ones where the
4 plaintiffs have alleged that their votes are being
5 counted differently than other voters' votes, and here
6 that is simply not what the plaintiffs have alleged.

7 They are alleging that all voters' votes are
8 being watered down equally with these, supposedly,
9 illegal votes, and that kind of claim where it is a
10 widespread harm shared by every single voter who
11 participates in the election is simply not cognizable
12 to support the irreparable injury that they claim.

13 I do want to touch briefly also on the
14 potential legal ramifications of this claim. There are
15 at least two issues with the State Board being asked to
16 discount the votes of these voters at this late date.

17 One of those is obviously due process which
18 ties into the issue that I was talking about before of
19 asking these voters to appear in person at the County
20 Board. They're not getting notice, and an opportunity
21 to be heard before they are stripped of their sacred
22 right of the franchise.

23 The second issue is the National Voting
24 Registration Act which bars the State Board from
25 removing voters from the rolls within 90 days of an

1 election. Here they've been very careful to tatter
2 their remedy, and not expressly ask that these voters
3 actually be taken off the rolls. But we would submit
4 that there's no difference between discounting their
5 votes, and then later removing them from the rolls, and
6 removing them from the rolls now and not counting their
7 votes.

8 So, to the extent that plaintiffs are trying
9 to circumvent the National Voter Registration Act's
10 restrictions that do not permit you to kick large swats
11 of voters off the rolls within 90 days of an election
12 beginning, that would also put the State Board in an
13 untenable position of having to choose between
14 complying with whatever orders Your Honor may enter,
15 and the federal law that seems to bar the relief that
16 they seek.

17 Unless Your Honor has any other questions, I
18 would just reiterate, again, that this is an ongoing
19 election. This is a statute that has existed for 13
20 years, passed, again, by bipartisan members of our
21 General Assembly unanimously.

22 To the extent Your Honor does have concerns
23 about the constitutionality of this statute, the best
24 approach here would be to deny relief in this instance,
25 wait until the election is past, and then bring the

1 Assembly into this case to figure out a way to resolve
2 this, such that, we can ensure that any state laws that
3 exist relating to these particular buckets of voters
4 are consistent with whatever constitutional
5 requirements are in place.

6 THE COURT: My question is: Does Laches
7 apply to a constitutional challenge?

8 MS. BOYCE: Yes, Your Honor. I believe that
9 our -- the intervenors cited a case that says expressly
10 that in their motion, and I don't have the page number
11 readily in front of me.

12 THE COURT: That's all right.

13 MS. BOYCE: But, yes, it is clear, Your
14 Honor, that the simple fact that this is a
15 constitutional challenge does not bar application of
16 Laches, either in preventing them from getting the
17 specific relief they ask for here, or, in fact, in
18 getting summary judgment against their claims entirely.

19 THE COURT: Thank you.

20 MS. BOYCE: If there are no further
21 questions, I'll turn it over to counsel for the
22 intervenor.

23 MR. DAVID: Thank you, Your Honor. May I
24 approach? I've got a notebook I've already given
25 counsel.

1 THE COURT: I've got a copy in the brief. Is
2 there anything else?

3 MR. DAVID: There's just some of the
4 statutes, and a couple of cases for the Court. I will
5 take it back if you don't want it at the end.

6 (Handing)

7 THE COURT: I tried to get all of the stuff
8 that I needed in front of me here.

9 MR. DAVID: Thank you, Your Honor. I
10 appreciate that, and I appreciate you hearing us on
11 short notice.

12 I'll do my best not to repeat any arguments
13 made by, so ably by Ms. Boyce, and focus on a few
14 different things, but maybe elaborate on a few of the
15 arguments made by the State.

16 Your Honor, this lawsuit is part of a broader
17 strategy by the Republican Party across the country,
18 but especially here in North Carolina to sow confusion
19 and doubt about the integrity of our elections.

20 Ultimately, the purpose is, after the
21 Election Day, before the election is certified to --

22 (Court Reporter interrupts.)

23 MR. DAVID: I'm sorry.

24 After the election, after Election Day but
25 before the election is certified, we think the ultimate

1 goal is subvert the will of the people.

2 So, here in North Carolina, Your Honor, the
3 RNC has brought a series of piecemeal lawsuits, at
4 least five already, but they all have a series of
5 common characteristics.

6 First, the RNC seeks to disenfranchise voters
7 without giving those voters any notice or any
8 opportunity to be heard. No due process at all, even
9 though they face the loss of this fundamental right.

10 We heard a lot from my friend on the other
11 side about this group of voters that may have a chance
12 to vote when they shouldn't, but none of those voters
13 are named in any of these lawsuits. If they're going
14 to lose their right, they should be here.

15 Second, they seek to disenfranchise these
16 voters without a shred of evidence. In fact, counsel
17 at the end of his argument said, "We just don't know."
18 Which is not usually something you hear when you're
19 trying to meet your burden on a preliminary injunction.

20 And third, the Republicans waited until the
21 11th hour, in fact, sometimes later. We are 15 days
22 from Election Day. According to the State Board, I
23 think over the weekend, more than a million votes have
24 been cast. All of those shared characteristics apply
25 here, and they especially apply in this case.

1 Your Honor, I'm not going to repeat the
2 Laches argument, except I want to respond to the
3 question you asked Ms. Boyce.

4 The case we cited is Cannon versus City of
5 Durham, it's on page eight of our brief, which was a
6 constitutional challenge and Laches did apply in that
7 case. That's 120 N.C. App. 612.

8 I think connected to Laches is -- I think at
9 this point -- a well-settled doctrine both in the
10 United States Supreme Court and in the North Carolina
11 Supreme Court commonly referred to as a Purcell
12 doctrine, which is from a 2006 U.S. Supreme Court case.

13 I think Justice Kavanaugh in 2022 I think put
14 it well which is -- this principle is, "That when an
15 election is close at hand, the rules of the road must
16 be clear and settled. Late judicial tinkering with
17 election laws can lead to disruption, and to
18 unanticipated and unfair consequences for candidates,
19 political parties and voters." All of that is true in
20 spades with this case, Your Honor.

21 The North Carolina Supreme Court has applied
22 a similar doctrine many times. We cited Pender County
23 versus Bartlett which is a 2007 North Carolina Supreme
24 Court case where the Court confirmed that house
25 districts were unconstitutionally drawn, state house

1 districts. The Court confirmed there, We're not going
2 to change it. It's too close to the election. You can
3 fix it after the election, but we're too close to the
4 election to make those kinds of changes.

5 Your Honor, I think, zeroed in on a key
6 point -- and Ms. Boyce has talked about this a fair
7 bit -- the question of whether this is a facial or as
8 an applied challenge. It is, quite obviously, a facial
9 challenge.

10 I think the reason we know that is simply
11 this, my friend on the other side said repeatedly in
12 his argument that the manner in which they are applying
13 this law is unconstitutional. To try to fit it into
14 the box of an as-applied challenge. But what I never
15 heard was exactly what manner are they applying it?
16 What about the manner that the State Board is applying
17 this law is particularly unconstitutional?

18 Ms. Boyce is exactly right. The State Board
19 is doing precisely what the legislature told them to
20 do. So, it's not about the manner in which the law is
21 being applied, it is the way the law reads.

22 But there's a whole other problem. When you
23 talk about an as-applied challenge, the question I
24 would ask here is, As applied to who?

25 The law is not being applied to plaintiffs.

1 The two individuals plaintiffs are residents of North
2 Carolina. The institutional parties don't allege that
3 they have overseas voters in their members that are
4 somehow affected by the State's application of this
5 law.

6 The argument that this is as-applied just
7 means by applying the law, you are violating the
8 Constitution. Well, that's a facial challenge. The
9 law is not being applied to plaintiffs. At all. They
10 don't allege it. It's just sort of an overall concern
11 that the law is unconstitutional. That's a facial
12 challenge.

13 I don't want to do too much repeating of what
14 Ms. Boyce said, but it was a very important question
15 you asked, which is, Well, what does that mean for me
16 as I sit here today on a preliminary injunction?

17 THE COURT: Well, if votes were, in fact,
18 diluted with mass standing to raise it, it could
19 effectively.

20 MR. DAVID: Well, Your Honor --

21 THE COURT: If it were. I'm not saying it
22 is. I'm just saying if it were. They've alleged that
23 the votes are being diluted, so why have they not made
24 a claim that applies to them?

25 MR. DAVID: Well, Your Honor, because, as Ms.

1 Boyce said, the North Carolina Supreme Court has said
2 very, very clearly that that is not a vote dilution
3 claim. The law is being applied equally to all the
4 voters. That's not vote dilution.

5 The only avenue for a vote dilution claim in
6 North Carolina is my vote doesn't -- is not being
7 counted in the same way that somebody else's vote is
8 being counted.

9 THE COURT: When you say "being applied to
10 everybody," it's only being applied to those that fall
11 within Subsection (e) --

12 MR. DAVID: Well, that's --

13 THE COURT: -- of the statute; isn't that
14 right?

15 MR. DAVID: Your Honor, that's -- the law's
16 being applied to those voters. I completely agree with
17 that. That's right. But that's not a vote dilution
18 claim.

19 If the allegation is, Your Honor, that these
20 votes --

21 THE COURT: Doesn't that depend on the
22 numbers?

23 MR. DAVID: No, Your Honor, because vote
24 dilution means my particular vote is being diluted.

25 Here, all it is -- everybody's vote counts

1 exactly the same, and that's what the Court said in --
2 the Supreme Court said just two years ago.

3 You have to show that somehow your vote is
4 being counted differently. Not just that, well, this
5 person, you know, shouldn't be allowed to vote so
6 there's one extra vote, and my vote now counts somehow
7 one vote less. That's not a vote dilution claim that's
8 cognizable under North Carolina Law.

9 On the question of the sort of language of
10 the statute, and the language of the state statute, and
11 the language of the Constitution, I think counsel
12 conceded this but I want to make clear that there's a
13 very simple reading of the statute and the law which
14 makes this absolutely understandable, what the
15 legislature was trying to do.

16 It's been well-settled in North Carolina in
17 the Hall verses Wake County case that they cited in
18 their briefs, that the plaintiff cited in their briefs,
19 said this, "Residency" for the purposes of Article 6,
20 Section 2 has a particular meaning. It really means
21 domicile which is a legal term of art. "Domicile"
22 means where you live, plus an intent to stay there.

23 There's really sort of four steps to this.
24 The first step -- and these are all laid out in the
25 Hall decision which is in your notebook, Your Honor.

1 The first step is everybody has a domicile.
2 Legally. Nobody is without a domicile. That's the
3 first step.

4 The second step is, when you're born, you
5 adopt. You take on the domicile of your parents.
6 That's a matter of law. You can't choose your domicile
7 until you turn 18.

8 And so, somebody that moves overseas -- a
9 military couple, intelligence foreign service,
10 university professor, whatever -- they move overseas
11 from North Carolina. They still are domiciled in North
12 Carolina. Nobody questions, nobody should question
13 that those folks can vote in a North Carolina election.
14 They have a child. Just cause that, that couple stays
15 overseas for 18 years -- and so their domicile remains
16 North Carolina. Their children's domicile remains
17 North Carolina. It doesn't stand to reason that their
18 children, when they turn 18, shouldn't be allowed to
19 vote in a United States and a North Carolina election.
20 That's exactly what the legislature was trying to do in
21 2011.

22 Why shouldn't the children of military
23 families, even though they've lived overseas their
24 entire lives, why shouldn't they get to participate in
25 a North Carolina election if their domicile is North

1 Carolina?

2 So, it's not sort of astonishing that the
3 legislature would do this or sort of hard to understand
4 why they did this. That's exactly what they were
5 trying to do.

6 THE COURT: But for Subsection (e), they
7 would not be; is that correct?

8 MR. DAVID: That's right, except in federal
9 elections.

10 THE COURT: That is the only -- that is the
11 only provision that I need to be concerned about that
12 grants them the power. I don't need to look anywhere
13 else in the statute.

14 MR. DAVID: I'm not aware of any other
15 statute other than -- my colleagues may correct me.
16 The only distinction I want to make is they could still
17 vote in federal elections under UOCAVA.

18 Ms. Boyce made reference to -- I just want to
19 draw out just a little bit, but the whole second
20 argument for why this is constitutional.

21 The second provision of Article 2 -- Article
22 6, Section 2 says that, "The legislature can reduce the
23 residency period for presidential elections."

24 So, the legislature has said -- or the people
25 in the Constitution have told the legislature, You can

1 change the definition of residency. It's in the
2 Constitution. And so, there's no reason to think or no
3 logical -- there's nothing in the intent or the logic
4 of the text to say that they couldn't reduce it to
5 zero.

6 I feel very strongly that I want to reduce
7 the number of typos in briefs that I file with the
8 Court. I'd like to reduce that to zero. We want to
9 reduce violent crime, and of course, the goal is to
10 reduce that to zero. All of that is perfectly
11 consistent with what they were trying to do in 2011.

12 There's a little bit of an open question for
13 me, Your Honor, that I just want to make sure we
14 address on the record. The plaintiffs have two claims
15 in their complaint.

16 The second claim -- we've talked all about
17 the first claim. Second claim goes to whether overseas
18 voters have to show a HAVA ID. HAVA is the "Help
19 America Vote Act." It's a federal law. I don't hear
20 that plaintiffs are moving for preliminary injunction
21 on the basis of that claim. If they are, I'd like to
22 argue it, but I don't want to waste anybody's time if
23 that's not one of the arguments they're making for
24 preliminary injunction.

25 THE COURT: Are you?

1 MR. KOONTS: We're not, Your Honor.

2 MR. DAVID: Then that cuts off about two
3 pages of my outline, Your Honor, which I know you'll be
4 glad to hear.

5 Let me just close with the balance of the
6 equities. There is no injury here. You asked about
7 vote dilution. I think Ms. Boyce said it perfectly,
8 which is, the Supreme Court has, frankly, narrowed down
9 what a vote dilution claim is to almost nothing. And
10 saying that somebody else was allowed to vote and I
11 wasn't, and they shouldn't have been, and, therefore,
12 my vote is affected, the Supreme Court has said, No,
13 that's not vote dilution.

14 In fact, much more, I think, impactful things
15 the Court has said are not vote dilution. And so, the
16 notion that one extra vote or however many they're
17 talking about is vote dilution, is not anything
18 cognizable by the Court.

19 By contrast, 11,000 voters have voted UMOVA
20 ballots.

21 Let me back up for a second. Mr. Robertson
22 made a note that I want to draw out. If that's a vote
23 dilution claim, that is, somebody else was allowed to
24 vote and they shouldn't have been, then every voter
25 across the state any time they think there's --

1 somebody was wrongfully voted, would have the standing
2 to come into court and challenge the actions of the
3 State Board of Elections. The Supreme Court has
4 clearly said that's not -- we're not going down that
5 road.

6 Your Honor, there are profound due process
7 problems with what the plaintiffs are asking the State
8 Board to do. It's unclear that the State Board can do
9 it in these 15 days. The harm to the voters, who we
10 are really standing in for, the harm to the voters
11 would be irreversible. They've lost their vote. Some
12 of them, probably all of them, don't even know they're
13 about to lose their vote. How are we going to "check"?

14 There's no explanation of what is behind what
15 they're asking for. What they're asking for is to
16 disenfranchise these voters. If that's going to
17 happen, they should be here as a matter of due process.

18 Let me just close with this, Your Honor. I
19 want to circle back to the beginning of what I said.
20 This really is, I think, a cynical strategy to cast out
21 on the results of the election. This is the place,
22 Your Honor, where North Carolina Courts, I think, have
23 put a stop to this strategy. North Carolina Courts
24 should not be conscripted into helping parties tinker
25 with the election rules. The rules of the road while

1 we're driving down the road. While votes are being
2 cast.

3 Your Honor, we would ask that the preliminary
4 injunction motion be denied, and I'm happy to take any
5 questions.

6 THE COURT: I appreciate it.

7 MR. DAVID: Thank you, Your Honor.

8 MR. KOONTs: Thank you, Your Honor. I just
9 want to briefly address a couple of points my friends
10 on the other side made.

11 First, they're raising or trying to
12 characterize this as a facial challenge. First off, my
13 friend with the State Board talked about a concession.
14 Your Honor, you know --

15 THE COURT: We don't argue about that. I
16 still don't see what difference it makes for the
17 purposes of this preliminary injunction. Does it make
18 any difference whether it's facial or as-applied?

19 MR. KOONTs: Your Honor --

20 THE COURT: Why is that an important issue
21 that I need to pay attention to?

22 MR. KOONTs: Your Honor, I don't think it has
23 any bearing on why the injunction should issue here.

24 I just wanted to make it clear on the record
25 that what I was speaking of is pure hypothetical, and,

1 indeed, as the parties engage in post-election
2 discovery, it may reveal that this is a different type
3 of -- different type of challenge, and that could be
4 addressed at that point.

5 But to answer Your Honor's question, my
6 understanding is it would not make a difference, and
7 injunctive relief should issue either way.

8 Your Honor, I want to address something first
9 and foremost that my friends at the State Board --

10 THE COURT: Let me be more precise. Do you
11 say that the Statute Subsection (e) is or is not
12 facially constitutional?

13 MR. KOONTZ: We say it's facially
14 constitutional. The manner in which it's being applied
15 is unconstitutional.

16 THE COURT: All right.

17 MR. KOONTZ: Your Honor, I want to address
18 something else that my friend at the State Board
19 raised. This would in no way -- relief here would in
20 no way impact military voters.

21 In fact, the very first subsection of the
22 state statute, it very clearly identifies military
23 members as covered. Again, I've made clear many times,
24 we're not challenging that. They would in no way be
25 impacted by any application of either -- they're simply

1 covered under a different provision.

2 Your Honor, if investigation here -- the
3 investigation we're seeking does reveal an impacted
4 service member, well, again, they're obviously covered
5 and their vote can and should be counted. So, that
6 idea is just not applicable here.

7 Briefly on the Laches argument, Your Honor.
8 So, a couple of points on that. Binding appellate
9 precedent from the --

10 THE COURT: I'm not concerned about Laches.
11 I don't think Laches applies.

12 MR. KOONTs: Well, then I'll move on, Your
13 Honor.

14 I also want to address something the State
15 Board raised which I hadn't heard before, but it goes
16 to the balance of the equities and any burden and harm.

17 If I understand Ms. Boyce correctly, to talk
18 about tabulation and having to undue tabulated ballots,
19 well, Your Honor, absentee ballots are not counted
20 until Election Day. So, ongoing tabulation would
21 violate General Statute 163-234.

22 So, to the extent there is ongoing
23 tabulation --

24 THE COURT: Say that one more time.

25 MR. KOONTs: I'm sorry, Your Honor. That is

1 163-234. These are absentee ballots which are not
2 counted until Election Day, which shows why relief can
3 and should be issued here because it's still doable.
4 Something I led off by saying.

5 So, if we're counting those now, then,
6 frankly, we need injunctive relief to stop counting
7 them now.

8 It further proves why, you know, a check
9 instead of a presumption is necessary.

10 THE COURT: So, those votes already cast,
11 what's your position about that?

12 MR. KOONTs: Those votes already cast, Your
13 Honor, those are -- assuming that they were registered
14 under the option we've identified, those ballots are
15 readily and easily identifiable. Those are the ones
16 that we're asking to be segregated, and for a check to
17 be made,

18 Again, it could catch people who checked the
19 wrong box or who otherwise covered. Those votes can
20 and should be counted. We're not arguing with those.
21 We're saying it also would have captured
22 never-residents.

23 Your Honor, just something to be clear on the
24 record, just because a ballot is marked, does not mean
25 it's cast. That's just -- you know, it's a technical

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1 term, but something that I want to make clear.

2 THE COURT: Say that again.

3 MR. KOONTs: Just because a ballot is marked,
4 does not mean it's cast. It's not counted yet. Again,
5 these absentee ballots --

6 THE COURT: I'm not sure what you're getting
7 at.

8 MR. KOONTs: We wouldn't be undoing any
9 count. We wouldn't be -- my friends are saying we
10 would be taking these ballots that are already cast,
11 and undoing the will of those voters or those potential
12 voters, but that's simply not true. They're received,
13 but they're not counted until Election Day.

14 THE COURT: Oh, you're saying my vote -- I
15 voted yesterday or Saturday -- my vote has not been
16 counted, that's your --

17 MR. KOONTs: We're saying absent -- I'm
18 sorry.

19 MS. RIGGINS: May I, Your Honor? I'm sorry.
20 Alyssa Riggins for the plaintiffs.

21 There's a difference between voting absentee
22 by mail and overseas. Absentee by mail pursuant to
23 163-234 of the North Carolina General Statutes are
24 required to be tabulated on Election Day.

25 So, when Ms. Boyce was talking about needing

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1 to undue the tabulation, well, there's not an ongoing
2 tabulation. It's not that the ballots are coming in by
3 the electronic means or the mail. They're opening them
4 and feeding them into a tabulator, or, at least, they
5 shouldn't be under North Carolina Law.

6 The issue is, you know, there's still time to
7 do that investigation because absentee by mail is not
8 tabulated until Election Day which is still 15 days
9 away? Fifteen days away.

10 MR. KOONTs: Said much better than I could,
11 Your Honor. So, I appreciate that from Ms. Riggins.

12 Just a couple of other points. I've heard my
13 friends raise the specter of voter disenfranchisement,
14 the NVRA. Frankly, their brief hedges a little bit on
15 this issue. Under their reading of the -- under their
16 theory that if you don't vote -- under their reading of
17 the NVRA, if you didn't vote, then you'd be taken off
18 the rolls. That's just simply not what the NVRA says.
19 So, I just want to make that clear as well.

20 My friends mentioned reliance, and reliance
21 on those voters who thought they would cast -- be able
22 to cast a vote in North Carolina, despite the fact that
23 they never resided here or have any connection here.
24 But then I heard my friend just say an interesting
25 theory; that if they had known earlier, they could then

1 look to what other states might accept their
2 registration. Your Honor, that's the very problem
3 here, that people could be shopping around where they
4 want to register to vote.

5 Your Honor, I've not heard anything, be it
6 through the state's form or through my friend's
7 argument, that indicates what's being done to confirm
8 the district in which that individual wishes to vote.

9 You know, if I'm somebody under their
10 application of statute, and I see there's a really
11 hotly contested race in Congressional District 1, well,
12 then I can just, under their theory, register in
13 Congressional District 1 and attempt to sway that
14 election.

15 Your Honor, it's well-known that the last
16 Supreme Court Chief Justice race, Justice Newby, won by
17 400 votes. That just shows how close these elections
18 are, and why checking now instead of presuming
19 eligibility is necessary.

20 Finally, Your Honor, just talking a little
21 bit on Purcell and the Purcell doctrine, plaintiffs'
22 position on that is that Purcell -- an element of
23 Purcell is reliance on the law.

24 But, Your Honor, under our theory, there can
25 be no justifiable reliance on a law if it's being

1 unconstitutionally applied. So, Purcell does not bar
2 relief. It doesn't council against relief. In fact,
3 the relief can and should issue.

4 So, finally, on this question of vote
5 dilution. Your Honor raised a good question about an
6 individual whose vote might be diluted and their
7 ability to bring suit.

8 Your Honor, you know, I just want to give an
9 example here. I think everyone can agree that
10 malapportioned districts are unconstitutional. But if
11 I'm not being required to prove my district, and I'm a
12 never-resident, and I decided to vote in a specific
13 district, it would dilute the votes of the residents
14 who actually are in that district or are eligible to
15 vote in that district. So, there is a cognizable harm
16 here, and one that should be addressed immediately.

17 Again, a lot of these open-ended questions
18 that my friends raise are items that will -- can and
19 will be resolved as the case moves forward past
20 Election Day.

21 Your Honor, as Ms. Riggins points out, there
22 are 15 days until these ballots are counted. So, now
23 more than ever, this narrowly tailored, but vitally
24 important relief is necessary.

25 THE COURT: I have read your complaint and

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1 your motion in some detail, and looked at the
2 verifications and everything else. I see no citation
3 of a single specific incident where the harm that
4 you're alleging is actually provable occurred.

5 Have I missed something?

6 MR. KOONTs: So, Your Honor, I think -- so
7 this issue has come up and frankly --

8 THE COURT: That's a yes or no and then an
9 explanation. Am I missing something?

10 MR. KOONTs: Your Honor --

11 THE COURT: I hate to put you on the spot.
12 If you have got some specific allegation in there of a
13 specific incident -- I understand your argument, but I
14 have read this carefully looking for a specific
15 incident where not only did they not qualify under (e),
16 put a claim in under (e), but for those who claim under
17 (e) who have voted, that you would contend
18 unconstitutionally did so. I see no incident.

19 Have I missed anything?

20 MR. KOONTs: So, Your Honor, a couple of
21 points to that. I would say, first and foremost, there
22 is citations in our brief and motion to this --

23 THE COURT: Well, what have I missed
24 specifically that will show me one single incident
25 where the harm that you're alleging has actually

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1 occurred?

2 MR. KOONTs: So, a couple of points to that,
3 Your Honor.

4 So, first, the citations in the brief that
5 I'm referring to or I'm thinking of, are pointing to
6 the fact that there are very real and very well
7 publicized --

8 THE COURT: They are all conclusionary as I
9 read them, but they do not raise a specific incident
10 that the evidence will prove.

11 Have I missed something?

12 MR. KOONTs: Well, I think what Your Honor is
13 getting at is an extra tier of scrutiny here. I mean,
14 the defendants have the access, the ease of access to
15 these records. Discovery will show exactly, you know,
16 whether or not there are --

17 THE COURT: Are you saying you haven't had
18 access to those records since 2011?

19 MR. KOONTs: Your Honor, these are voter
20 records or registration records that only defendants
21 have. The briefs in the motion make clear that this is
22 a very real and very new problem.

23 THE COURT: You keep saying that. I want to
24 see that real incident where it actually occurred that
25 fall within your complaint.

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1 MR. KOONTZ: Well, Your Honor, I would point
2 you then to the citations in the first --

3 THE COURT: Let me ask it this way --

4 MR. KOONTZ: -- page two on the motion.

5 THE COURT: Let me ask it this way, you use
6 the word "fraudulent" which got my attention in your
7 complaint. Has anybody ever been prosecuted to your
8 knowledge for a violation of Subsection (e)?

9 MR. KOONTZ: Not to my knowledge, Your Honor.
10 But, again, discovery will reveal the individuals who
11 are captured under this definition, and whether or not
12 they meet some other qualification.

13 THE COURT: You're asking for emergency
14 relief. Don't you think that you should at least be
15 able to show that the harm has, in fact, occurred?

16 MR. KOONTZ: Well, Your Honor, so what I was
17 going to point the Court to is the first footnote on
18 page two of our motion which shows that this is a very
19 new and very real thing. That third parties -- that
20 the media is aware of, that third parties specifically
21 align with --

22 THE COURT: You know that that is not
23 substantive evidence or incidents.

24 MR. KOONTZ: Well, Your Honor, I think it's
25 indicative of why this relief -- why, again, this stop

1 gap is necessary.

2 THE COURT: If I thought it were necessary,
3 I'd grant it in a heartbeat. Your pleadings and your
4 motion are adrift of any substantive evidence of any
5 incident for the harm that you're complaining about has
6 actually occurred.

7 I can see the hypothetical possibilities that
8 you've identified already. But I'm sure you have
9 investigated this incident thoroughly, and you've not
10 come up with a single incident where it actually
11 occurred; is that correct?

12 MR. KOONTZ: We've investigated with the
13 resources at our disposal. But, again, I want to
14 stress, we don't have the resource and the access to
15 the records which defendants do.

16 THE COURT: You're saying the Republican
17 Party does not have resources --

18 MR. KOONTZ: Your Honor, certainly the --

19 THE COURT: -- to get the information since
20 2011?

21 MR. KOONTZ: Your Honor, I'm just simply
22 unaware of an instance in which we could access these
23 records that only the defendants and only defendants
24 have access to, and that's the purpose of discovery
25 here.

1 What we're coming here saying is, this is a
2 very real, very new and well-publicized issue. It's
3 something intervenor defendants have made a public
4 party platform. We need relief now to stop and check
5 to see what is ongoing.

6 Again, Your Honor, if discovery reveals that
7 there's nothing there, then we deal with that as the
8 case progresses.

9 THE COURT: Why should I grant emergency
10 relief if you don't know whether it's there or not?

11 MR. KOONTs: Because the risk is real enough.
12 The likelihood of --

13 THE COURT: You keep saying that, but out of
14 the whole world, in the history of the world, you have
15 not come forward with a single incident where the harm
16 you alleged actually occurred.

17 MR. KOONTs: Again, Your Honor --

18 THE COURT: Is that right?

19 MR. KOONTs: That's right because it's asking
20 us to utilize resources we don't have access to.

21 My friends and intervenor defendants, I would
22 assume, do not have access to records that only
23 defendants hold, and that will be revealed as this
24 litigation progresses.

25 THE COURT: And that, I agree with you that

1 Laches would not apply. If there is, indeed, a
2 constitutional violation here, I don't think Laches
3 would bar you from presenting it.

4 But why, after voting has started, and this
5 issue has been on the books since 2011 -- in fact, the
6 bill that was adopted was signed by Senator Tillis
7 after a number of very, very close elections. Why are
8 you just now raising this?

9 MR. KOONTZ: A couple of reasons, Your Honor.
10 But, again, I know you've pointed out that I said it a
11 lot, but I'll say it again, because of this being a
12 relatively newfound tool --

13 THE COURT: What's new about it?

14 MR. KOONTZ: What's new about it, Your Honor,
15 is that there are third-party interest groups, and my
16 intervenor defendant friends and their party as well,
17 who are specifically and openly targeting these
18 individuals.

19 THE COURT: Targeting individuals who can
20 legitimately vote under (e)?

21 MR. KOONTZ: Targeting individuals who've
22 never resided in the State of North Carolina, who have
23 no connection to the state and --

24 THE COURT: But qualify under (e)?

25 MR. KOONTZ: They might qualify in certain

1 applications of (e). We're saying, you know, if that
2 is the case, then, you know, that can be dealt with as
3 the litigation progresses. But there is also the very
4 real risk that they might fall under -- they might fall
5 under that definition, but then as defendants are
6 applying it, they're not doing any check for residency.
7 They're not doing anything, to my knowledge, that would
8 confirm, you know, where that -- what district that
9 person can vote in, what constitutional district,
10 senate, house, wherever.

11 I mean, I would just ask the open question
12 of, Can somebody who would fall under defendants'
13 application of the statute pick and choose where they
14 want to vote in the state, and specify, you know, this
15 is a hotly contested race --

16 THE COURT: They can't pick and choose, they
17 can only vote where their parent could have voted --

18 MR. KOONTs: Their qualified --

19 THE COURT: -- under (e).

20 MR. KOONTs: My understanding of (e) is
21 they're qualified to vote -- they would be qualified to
22 vote under their parents' residency. I have not seen
23 anything -- and I could be misreading it or missing
24 something -- I have not seen anything in (e) that says
25 they can only then vote in their parents' place of

1 residence. I think the eligibility is tied to their
2 parents' place of residence, but where they choose to
3 vote -- and Your Honor, on the form that Defendants'
4 Counsel Ms. Boyce handed up, it says -- number 3 is,
5 "Where are you now?" I'd like -- to my knowledge,
6 there's nothing being done to confirm where somebody
7 picks to say they want to vote.

8 So, that, I think, is the crux of the issue
9 and the harm here. Your Honor, I'll just close with
10 this, I mean, you're asking me --

11 THE COURT: Well, don't close yet cause I'm
12 afraid I have another question.

13 MR. KOONTs: Go for it.

14 THE COURT: Don't you have an adequate remedy
15 of law if you can show that you've, in fact, been
16 prejudiced by voters within Section (e)? Total number
17 of voters. That is, if you can show that (e) was
18 violated, and that the gap in the election is
19 sufficient so that those votes would have closed the
20 gap, don't you have an adequate remedy of law --

21 MR. KOONTs: Your Honor --

22 THE COURT: -- as opposed to an equitable
23 injunction?

24 MR. KOONTs: No, Your Honor. We're 15 days
25 from the election. Any relief --

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1 THE COURT: In the midst of the election.

2 MR. KOONTs: Fifteen days from the point at
3 which these votes are counted. Any post election
4 relief -- as my friends pointed out, there are other
5 pieces of our complaint which will be litigated beyond
6 the election, but in this specific regard, once these
7 votes are counted, the harm to plaintiffs is palpable
8 and irreparable.

9 THE COURT: What's the harm if the spread
10 exceeds the number of absentee votes?

11 MR. KOONTs: Your Honor, I mean, the remedy
12 then would assume that we have access to be able to
13 challenge them in time before the canvass. I mean, this
14 is all very speculative and hypothetical, but the harm
15 here that we're seeking to stop -- and again, I just
16 want to emphasize, as I said at the beginning, Your
17 Honor, this is a check instead of a presumption.
18 That's all it is.

19 If the check turns up everyone that falls
20 under this category is qualified, then that's that.
21 But the risk of not implementing that check is what
22 we're trying to stop here, and keep the integrity of
23 the state's elections and North Carolina citizens'
24 votes in their full force and effect. So, thank you.

25 THE COURT: I appreciate your argument. Well

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1 argued, by the way. Been an education. But for the
2 reasons implicit in my questions to you, I don't think
3 you've established that you're likely to succeed on the
4 merits. I don't think that you've shown irreparable
5 harm. I will enter an order in more detail, hopefully
6 before my jury trial starts, with those findings and
7 that conclusion.

8 So, your motion for the preliminary
9 injunction is denied.

10 MR. KOONTS: Thank you, Your Honor.

11 Just one quick question for you. We would
12 ask, and to the extent my friends are agreeable, we
13 could provide the proposed order and have it quickly
14 entered within the hour so that plaintiffs can seek an
15 appeal of this matter.

16 THE COURT: Sure.

17 MR. KOONTS: I would need to confirm with
18 them if they're fine.

19 THE COURT: I will take a look at your
20 proposed order, but I have it in my mind what the order
21 is going to say. I would appreciate a proposed order.
22 I'll be glad to look at it. Email it. Do not file it.

23 MR. KOONTS: Thank you, Your Honor.

24 MS. BOYCE: Your Honor, I would just ask that
25 we be able to take a look at the proposed order before

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1 it's submitted to Your Honor.

2 THE COURT: Of course.

3 MS. BOYCE: We'll, of course, give a prompt
4 -- a feedback.

5 THE COURT: I look forward to it being
6 reviewed by smarter people than I.

7 MR. DAVID: Thank you, Your Honor.

8 THE COURT: If you don't like his proposed
9 order, you could submit a second.

10 MS. BOYCE: Thank you, Your Honor.

11 MR. DAVID: Thank you.

12 THE COURT: And I will consider them all.

13 The jury is coming in at 2:30, so I don't
14 know whether I'm going to be able to get to it today or
15 not, but I will certainly try, but if not, tonight.

16 We'll be in recess until 2:30.

17 THE BAILIFF: Court is now in recess until
18 2:30.

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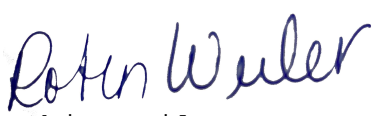
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CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings taken at the October 21, 2024, Session of Wake County Superior Court is a true and accurate transcript of the proceedings as reported by me and transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 24th day of October, 2024.



Robin Weiler, RPR, RMR, RVF-S
Official Court Reporter
Tenth Judicial District
(919) 792-5200
Robin.Weiler@nccourts.org

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EXHIBIT I

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV031557-910

TELIA KIVETT; WANDA NELSON
FOWLER; the REPUBLICAN
NATIONAL COMMITTEE; and the
NORTH CAROLINA REPUBLICAN
PARTY,

Plaintiffs,

v.

NORTH CAROLINA STATE
BOARD OF ELECTIONS; KAREN
BRINSON BELL, in her official
capacity as Executive Director of the
North Carolina State Board of
Elections; ALAN HIRSCH, in his
official capacity as Chair of the
North Carolina State Board of
Elections; JEFF CARMON, in his
official capacity as Secretary of the
North Carolina State Board of
Elections; STACY EGGERS IV,
KEVIN N. LEWIS, and SIOBHAN
O'DUFFY MILLEN, in their official
capacities as members of the North
Carolina State Board of Elections,

Defendants,

and

DEMOCRATIC NATIONAL
COMMITTEE,

Intervenor-Defendant.

FILED
DATE: October 21, 2024
TIME: 10/21/2024 11:23:36 AM
WAKE COUNTY
SUPERIOR COURT JUDGES OFFICE
BY: K. Myers

**UNOPPOSED ORDER ON MOTION
TO INTERVENE BY THE
DEMOCRATIC NATIONAL
COMMITTEE**

THIS CAUSE comes before the undersigned Superior Court Judge on the Democratic National Committee's ("DNC") motion to intervene (filed October 9, 2024) (the "Motion"). The Court has reviewed the motion and proposed pleading, the file, and the relevant law. Furthermore, Plaintiffs and Defendants do not oppose the relief sought by the DNC in its motion. It appears to the Court that the DNC's Motion should be granted.

IT IS THEREFORE ORDERED that the DNC's Motion to Intervene is GRANTED. Within three business days of the filing of this Order, the DNC shall file its answer in intervention on the docket.

SO ORDERED, this the 17th day of October, 2024.


10/17/2024 10:45:25 AM
Superior Court Judge Presiding
Paul C. Ridgeway
Senior Resident Superior Court Judge

EXHIBIT J

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N.C. Absentee & Early Voting Statistics for the 2024 General Election

Published 11/03/2024; Ballots cast through 11/02/2024

General Statistics

Total Ballots Cast	4,440,598
Total Eligible Voters*	7,829,653
Turnout	56.72%

Total Ballots Cast (Absentee/Early Voting)

In-Person Early Voting	4,200,134
Civilian (Mail)	215,419
Military (Mail)	7,020
Overseas (Mail)	18,025
Total	4,440,598

Comparison to 2020 & 2016 General Elections

Total ballots cast this time in 2020 & 2016

Numbers with 2 days remaining until Election Day

	2020*	2016
Early Voting	3,628,662	2,955,609
Civilian, Military, & Overseas	935,302	155,326
<i>(Total number of accepted ballots cast)</i>	4,563,964	3,110,935

* The 2020 election was conducted during the COVID-19 pandemic, resulting in a significant increase in voting by mail. Absentee voting started later in 2024 due to a court decision requiring the removal of a candidate's name from the ballot

Registration Statistics by Party

		%
Democratic	2,449,316	31.28%
Republican	2,340,613	29.89%
Unaffiliated	2,958,892	37.79%
Libertarian	49,874	0.64%
Green	3,592	0.05%
No Labels	25,033	0.32%
Constitution	510	0.01%
We The People	1,337	0.02%
Justice For All	486	0.01%
Total	7,829,653	

Ballots Cast by Party

		Turnout*	Proportion**
Democratic	1,437,304	58.68%	32.37%
Republican	1,478,761	63.18%	33.30%
Unaffiliated	1,492,799	50.45%	33.62%
Libertarian	18,408	36.91%	0.41%
Green	1,686	46.94%	0.04%
No Labels	10,402	41.55%	0.23%
Constitution	312	61.18%	0.01%
We The People	698	52.21%	0.02%
Justice For All	228	46.91%	0.01%
Total	4,440,598		

Registration Statistics by Race

		%
White	4,988,213	63.71%
Black	1,538,748	19.65%
Other	1,302,692	16.64%
Total	7,829,653	

Ballots Cast by Race

		Turnout*	Proportion**
White	3,075,138	61.65%	69.25%
Black	791,408	51.43%	17.82%
Other	574,052	44.07%	12.93%
Total	4,440,598		

Registration Statistics by Ethnicity

		%
Hispanic or Latino	325,478	4.16%
Not Hispanic or Not Latino	5,162,571	65.94%
Undesignated	2,341,604	29.91%
Total	7,829,653	

Ballots Cast by Ethnicity

		Turnout*	Proportion**
Hispanic or Latino	125,616	38.59%	2.83%
Not Hispanic or Not Latino	3,087,567	59.81%	69.53%
Undesignated	1,227,415	52.42%	27.64%
Total	4,440,598		

Registration Statistics by Gender

		%
Female	3,852,525	49.20%
Male	3,284,358	41.95%
Undesignated	692,770	8.85%
Total	7,829,653	

Ballots Cast by Gender

		Turnout*	Proportion**
Female	2,296,066	59.60%	51.71%
Male	1,829,090	55.69%	41.19%
Undesignated	315,442	45.53%	7.10%
Total	4,440,598		

* Turnout = Ballots Cast per Demographic / Registered Voter Count for that Demographic

** Proportion = Ballots Cast per Demographic / Total Ballots Cast

Data Sources: absentee_counts_state_20241105.csv, absentee_20201103.zip

Ballots Cast by County

County	In-Person	Mail			Total
	EARLY VOTING	CIVILIAN	MILITARY	OVERSEAS	
ALAMANCE	64,345	3,297	53	193	67,888
ALEXANDER	16,565	351	14	30	16,960
ALLEGHANY	4,959	190	5	15	5,169
ANSON	7,263	196	0	4	7,463
ASHE	11,347	493	13	37	11,890
AVERY	6,314	278	4	18	6,614
BEAUFORT	19,318	634	21	44	20,017
BERTIE	6,566	81	2	1	6,650
BLADEN	12,641	328	14	9	12,992
BRUNSWICK	87,241	5,961	99	212	93,513
BUNCOMBE	115,805	8,561	104	991	125,461
BURKE	35,480	1,281	49	91	36,901
CABARRUS	82,191	5,687	106	186	88,170
CALDWELL	34,549	1,215	28	47	35,839
CAMDEN	4,357	126	29	11	4,523
CARTERET	35,461	1,416	105	137	37,119
CASWELL	8,266	295	4	7	8,572
CATAWBA	67,513	2,751	74	172	70,510
CHATHAM	42,909	2,538	29	199	45,675
CHEROKEE	12,085	627	2	27	12,741
CHOWAN	5,746	138	3	10	5,897
CLAY	5,768	256	7	12	6,043
CLEVELAND	38,729	1,297	30	57	40,113
COLUMBUS	18,337	561	5	19	18,922
CRAVEN	42,205	1,998	96	95	44,394
CUMBERLAND	97,993	3,953	1,109	426	103,481
CURRITUCK	9,874	516	40	20	10,450
DARE	18,106	1,002	47	109	19,264
DAVIDSON	67,742	3,357	85	113	71,297
DAVIE	20,081	879	15	43	21,018
DUPLIN	15,276	502	27	19	15,824
DURHAM	144,417	6,518	98	1,580	152,613
EDGECOMBE	18,436	365	8	12	18,821
FORSYTH	154,547	9,316	111	642	164,616
FRANKLIN	32,672	1,304	26	51	34,053
GASTON	87,701	3,674	87	170	91,632
GATES	3,662	92	6	6	3,766
GRAHAM	3,344	138	4	5	3,491
GRANVILLE	25,412	972	15	38	26,437
GREENE	5,954	224	7	2	6,187

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GUILFORD	215,981	9,608	151	882	226,622
HALIFAX	16,370	383	9	8	16,770
HARNETT	47,588	2,210	391	130	50,319
HAYWOOD	27,927	1,387	23	84	29,421
HENDERSON	50,491	3,754	28	233	54,506
HERTFORD	6,996	150	0	1	7,147
HOKE	17,034	362	12	10	17,418
HYDE	1,147	60	3	6	1,216
IREDELL	80,675	4,809	92	237	85,813
JACKSON	16,766	673	7	55	17,501
JOHNSTON	94,896	4,256	108	124	99,384
JONES	3,517	119	7	6	3,649
LEE	22,623	1,036	78	69	23,806
LENOIR	20,932	599	20	25	21,576
LINCOLN	43,847	1,690	40	77	45,654
MACON	16,063	899	10	46	17,018
MADISON	9,986	329	13	24	10,352
MARTIN	7,529	216	6	6	7,757
MCDOWELL	17,883	594	13	25	18,515
MECKLENBURG	423,599	29,981	415	2,692	456,687
MITCHELL	6,649	273	3	7	6,932
MONTGOMERY	8,963	207	10	6	9,186
MOORE	41,664	3,358	392	233	45,647
NASH	40,939	957	21	37	41,954
NEW HANOVER	97,553	5,530	152	535	103,820
NORTHAMPTON	6,317	135	7	6	6,465
ONslow	58,310	2,415	896	197	61,818
ORANGE	68,294	3,593	86	1,377	73,350
PAMLICO	6,014	266	0	17	6,297
PASQUOTANK	14,376	353	25	22	14,776
PENDER	30,603	330	16	8	30,957
PERQUIMANS	5,429	101	6	6	5,542
PERSON	16,179	506	13	14	16,712
PITT	66,158	2,036	78	188	68,460
POLK	9,974	495	14	62	10,545
RANDOLPH	57,596	2,136	56	70	59,858
RICHMOND	13,451	288	12	9	13,760
ROBESON	30,941	767	31	22	31,761
ROCKINGHAM	38,098	1,106	24	40	39,268
ROWAN	54,189	2,346	44	83	56,662
RUTHERFORD	23,880	932	13	63	24,888
SAMPSON	19,884	348	13	8	20,253
SCOTLAND	10,935	362	20	12	11,329
STANLY	28,151	929	14	28	29,122
STOKES	19,566	668	13	23	20,270
SURRY	27,635	1,307	37	35	29,014

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SWAIN	5,027	128	8	10	5,173
TRANSYLVANIA	16,218	807	23	108	17,156
TYRRELL	1,153	0	0	0	1,153
UNION	107,316	5,154	116	340	112,926
VANCE	15,011	449	3	4	15,467
WAKE	466,129	34,987	561	3,474	505,151
WARREN	6,905	208	7	8	7,128
WASHINGTON	4,178	91	3	8	4,280
WATAUGA	25,773	1,037	24	152	26,986
WAYNE	42,837	1,202	203	89	44,331
WILKES	23,675	1,083	22	35	24,815
WILSON	29,853	976	30	41	30,900
YADKIN	12,865	524	12	15	13,416
YANCEY	8,419	496	5	33	8,953
Total	4,200,134	215,419	7,020	18,025	4,440,598

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VERIFICATION

The undersigned attorney for Intervenor Democratic National Committee, being first duly sworn, deposes and says:

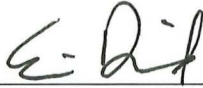
The contents of the foregoing response are true to my knowledge, except those matters stated upon information and belief and, as to those matters, I believe them to be true.

Pursuant to N.C. R. App. P. 23, I also hereby certify that the contents of the foregoing Response to Plaintiffs' Petition for Writ of Supersedeas and App. 50-123 attached thereto are true and correct copies of the pleadings and other documents from the file in Wake County Superior Court.

The remainder of the appendix consists of public records this Court may judicially notice. App. 1-4 is a true and correct copy of a public notice from the North Carolina State Board of Elections published on its website, confirming military and overseas ballot distribution began 20 September 2024. App. 5-19 and 124-128 are true and correct copies of daily, public reports on absentee and early voting for the 2024 general election published by the North Carolina State Board of Elections on its website. App. 20-49 are true and correct copies of final, public reports on absentee voting for the 2012, 2016, and 2020 general elections published by the North Carolina State Board of Elections on its website.

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This the 4th day of November, 2024.



Eric M. David

STATE OF NORTH CAROLINA

WAKE COUNTY

Subscribed and sworn to me this day by Eric M. David, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me, and executed the foregoing instrument for the purposes set forth therein and in the capacity indicated.

Date: 11/4/2024

Patricia G Douglas
Notary Public (Signature)

[official seal]

Patricia G. Douglas
Notary Public (Print Name)

PATRICIA G DOUGLAS
Notary Public
Wake County, NC
My Commission Expires May 2, 2029

My Commission Expires: 5/2/2029

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