



North Carolina Court of Appeals

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From Wake County
(24CV039050-910)

No. P24-865

JEFFERSON GRIFFIN,
Petitioner,

v.

NORTH CAROLINA STATE BOARD OF ELECTIONS,
Respondent.

ORDER

By unanimous vote, the following order was entered:

On 19 November 2024, Petitioner and others filed protests of certain results from the election held on 5 November 2024. On 20 November 2024, the North Carolina State Board of Elections (the "Board") assumed jurisdiction over most of the protests including those filed by Petitioner. The Board set a schedule which included scheduling a public meeting on 11 December 2024 to consider the protests.

On 6 December 2024, Petitioner filed a "Petition for a Writ of Mandamus" with our Court for an order directing the Board to render a decision on his protests by 10 December 2024—prior to the public meeting.

Also on 6 December 2024, Petitioner filed a Petition with the Wake County Superior Court seeking the same relief. On 9 December 2024, Petitioner filed a Notice with our Court that the Wake County Superior Court had entered an order the same day denying Petitioner's Petition, reasoning that it was not appropriate to issue a writ of mandamus requiring the Board to enter its decision before the 11 December 2024 hearing.

The North Carolina Constitution empowers our General Assembly to define the limits of our Court's jurisdiction. N.C. Const. Art. IV, sec. 12. Our General Assembly has defined our Court's jurisdiction to enter extraordinary writs, which include writs of mandamus. See N.C.G.S. § 7A-32.

N.C.G.S. § 7A-32 does not, however, provide express authority for this Court to issue a writ of mandamus to the Board. Moreover, "[n]either mandamus nor mandatory injunction may be issued to control the manner of exercising a discretionary duty." *Gen. Elec. Co. v. Turner*, 275 N.C. 493, 497–98, 168 S.E.2d 385, 388 (1969). Petitioner has failed to identify any authority to the contrary or otherwise vesting us with jurisdiction to issue the writ of mandamus in this case. Thus, our Court does not have jurisdiction to enter a writ of mandamus directed towards the Board

to compel the manner or timing of its decision in this instance. Accordingly, we dismiss Petitioner's Petition for a Writ of Mandamus.

Our General Assembly, however, has empowered our Court to issue writs of certiorari to review orders entered in our trial courts. N.C.G.S. § 7A-32. In our discretion, we treat Petitioner's Petition and subsequent Notice as a Petition for Writ of Certiorari to review the 9 December 2024 order of the Wake County Superior Court referenced in Petitioner's Notice. We conclude, however, the Wake County Superior Court did not abuse its discretion by denying Petitioner's Petition seeking an order directing the Board to decide Petitioner's challenges prior to the scheduled 11 December 2024 public meeting. Thus, Petitioner has failed to demonstrate any merit or error below. See *Cryan v. Nat'l Council of Young Men's Christian Associations of United States*, 384 N.C. 569, 572, 887 S.E.2d 848, 851 (2023) ("[A] writ of certiorari should issue only if the petitioner can show merit or that error was probably committed below." (citation and internal quotations omitted)). Accordingly, we decline to issue a writ of certiorari and deny the Petition for Writ of Certiorari to review the Superior Court's 9 December 2024 order.

By order of the Court, sitting as a three-judge panel, this the 10th of December 2024.

WITNESS my hand and the official seal of the North Carolina Court of Appeals, this the 10th day of December 2024.



Eugene H. Soar
Clerk, North Carolina Court of Appeals

Copy to:

Mr. Troy D. Shelton, Attorney at Law, For Griffin, Jefferson - (By Email)
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Mr. Paul M. Cox, General Counsel - (By Email)
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Mr. Samuel B. Hartzell, Attorney at Law - (By Email)
Lisa R. Tucker, Trial Court Administrator - (By Email)
Mr. South A. Moore, Deputy General Counsel, For North Carolina State Board of Elections - (By Email)
Ms. Mary Carla Babb, Special Deputy Attorney General, For North Carolina State Board of Elections - (By Email)
Mr. Terence Steed, Special Deputy Attorney General - (By Email)
The Honorable Clerk of Superior Court, Wake County