

SUPREME COURT OF NORTH CAROLINA

COMMUNITY SUCCESS INITIATIVE,
et al.,

Plaintiffs,

v.

TIMOTHY K. MOORE, et al.,

Defendants.

From Wake County
No. 19 CVS 15941
(Related COA P22-153)

**STATE BOARD DEFENDANTS’ RESPONSE TO
PLAINTIFFS’ PETITION FOR
DISCRETIONARY REVIEW AND
MOTION TO SUSPEND THE APPELLATE RULES**

**TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE
JUSTICES OF THE SUPREME COURT OF NORTH
CAROLINA.**

The North Carolina State Board of Elections and its members (“State Board Defendants”) provide this response to Plaintiffs’ Petition for Discretionary Review of the superior court’s 28 March 2022 order and Motion to Suspend the Appellate Rules.

STATE BOARD DEFENDANTS' POSITION

Without conceding that N.C.G.S. § 13-1 is unlawful, the State Board Defendants acknowledge the importance of preventing substantial harm to any individual's right to exercise the franchise. *See Stephenson v. Bartlett*, 355 N.C. 354, 378, 562 S.E.2d 377, 393 (2002) ("It is well settled in this State that the right to vote on equal terms is a fundamental right.") (citation and internal quotation marks omitted). It is for this reason that State Board Defendants stand ready to continue their efforts in implementing the superior court's 28 March 2022 order as expeditiously as possible, should this Court direct it to do so. State Board Defendants nonetheless defer to the Court's discretion and, thus, take no position on Plaintiffs' Petition for Discretionary Review or Motion to Suspend the Appellate Rules.

Currently, the superior court's 28 March 2022 order, enjoining the Board "from preventing any person convicted of a felony from registering to vote or voting due to probation, parole, or post-release supervision" (Mar. 28, 2022 Order p. 64, ¶ 2), has been temporarily stayed by the Court of Appeals, pending that court's consideration of Legislative Defendants' petition for writ of supersedeas. (*See also* Legislative Defs.' Pet. for Writ of supersedeas and Mot. for Temporary Stay, attached to Plns.' Pet. for Disc. Review as Ex. E). In its order granting the temporary stay, the Court of Appeals directed the State Board to order that voter registration applications from nonincarcerated felons

be held and not be acted on until further order of that court. (Order Granting Temporary Stay, No. P22-153 (Apr. 5, 2022)). The State Board is following that directive. (See Apr. 5, 2022 Email to Cty. Bds., Exhibit A to Affidavit of State Bd. Executive Director Karen Brinson Bell, attached to this Resp.). It is the State Board Defendants' understanding that, but for an order from the Court of Appeals denying the petition for writ of supersedeas and dissolving the temporary stay, or an order by this Court, the temporary stay order will remain in place.

Plaintiffs have requested, as part of their Petition for Discretionary Review, that this Court "assume immediate jurisdiction" not only over just the appeal of the superior court's 28 March 2022 order, but also over all "motions, petitions, or other matters stemming from that appeal." (Plns.' Pet. for Disc. Review pp. 5-6). In light of Plaintiffs' broad request, the State Board Defendants submit the following information to ensure the Court has full knowledge regarding (1) the administrative steps that the State Board has put in place to comply with the superior court's 28 March 2022 order; and (2) the additional administrative steps that would be required to implement the superior court's 28 March 2022 order for those individuals who are on felony probation, parole, or post-release supervision for the 17 May 2022 primary and municipal elections.

First, within less than 24 hours of receiving the superior court's 28

March 2022, the State Board sent instructions to county boards to comply with that order by ensuring that no one affected by that order will be denied registration. (See Mar. 29, 2022 Email to Cty. Bds., attached as Exhibit A to Plns.' Pet. Ex. C; see also Bell Aff., ¶¶ 3-4). The State Board instructed county boards to hold, pending further instruction, any registration applications they receive from voters who are on felony probation, parole, or post-release supervision. *Id.* Pursuant to the Court of Appeals' Order granting the temporary stay, the State Board has continued to order the county boards to hold those application and not act on them, pending further order from the Court of Appeals or this Court. (See Apr. 5, 2022 Email to Cty. Bds., attached as Exhibit A to Bell Aff.). The State Board also took additional, preliminary steps toward implementation. (See Apr. 1, 2022 State Board Defendants' Response to Notice of Alleged Violation of March 28, 2022 Injunction and Request for Emergency Hearing, attached to Plns.' Pet. as Ex. C, pp. 4-6).

These steps demonstrate compliance both with the superior court's 28 March 2022 order and the subsequent stay issued by the Court of Appeals. No one covered by the superior court's order is being denied registration status. (Bell Aff., ¶ 6). As Plaintiffs reference in their petition, the State Board Defendants complied with the superior court's order in this manner in a good-faith attempt to avoid any possible conflict with this Court's 10 September 2021 order staying enforcement of the superior court's expanded preliminary

injunction order. (Sept. 10, 2021 N.C. Sup. Ct. Order, No. 331P21-1, attached as Exhibit A to Plns.’ Pet. Ex. C). In that order, this Court required that the “status quo be preserved pending defendant’s appeal of the expanded preliminary injunction issued initially by the trial court on 23 August 2021 in open court by maintaining in effect the original preliminary injunction issued on 4 September 2020 as it was understood at the time and implemented for the November 2020 elections.” (*Id.*) Although the appeal of the preliminary injunction about which this Court entered its 10 September 2021 order is now likely moot, there is no order dismissing that appeal. The appeal therefore remains pending. State Board Defendants of course welcome any guidance from this Court with regards to compliance with the superior court’s 28 March 2022 order, in light of this Court’s 10 September 2021 order.

Second, the State Board Defendants wish to apprise this Court of dates relevant to the 17 May 2022 primary and municipal elections and the administrative steps required to be taken for those individuals who are on probation, parole, or post-release supervision due to felony convictions to vote in those elections.

Absentee ballot distribution began on 28 March 2022.¹ See N.C.G.S. § 163-227.10(a). Based on discussions with vendors and county elections

¹ [Mailing of Absentee Ballots | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

directors, State Board staff have determined that it would almost certainly be infeasible for all counties to procure new absentee envelope stock for the ongoing primary election. (*See Bell Aff.*, ¶ 9) Voter registration before the primary will end on 22 April 2022.² *See id.* § 163-82.6(d) (providing that voter registration ends 25 days prior to the primary). Early voting for the primary, during which eligible individuals may register and vote at the same time, starts on 28 April 2022.³ *See id.* § 163-227.2(b).

State Board staff estimate that they will need seven business days to input software changes into the Statewide Election Information Management System (“SEIMS”) software, plus one day to update county computers, in order to have the system prepared for the start of early voting on 28 April. (*See Bell Aff.*, ¶ 11) This would allow time to modify the language about voter qualifications related to felony status on attestation forms in the State Board’s electronic pollbook utilized when voters check in or register to vote at early voting sites and on Election Day. *Id.*

To implement the trial court’s decision for the primary, the State Board would also need to immediately instruct the county boards to reprint or reprocur any pre-printed voter-facing materials that include voter eligibility

² [Voter Registration Deadline | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

³ [One-Stop Early Voting Period Starts | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

language, to the extent possible. *Id.*, ¶ 12. These include voter registration forms for same-day registration during early voting, provisional voting applications, large signage for polling places that communicates voting eligibility, and authorization-to-vote forms that are used for voter check-in on Election Day. *Id.* This will present differing levels of burden for different counties as explained in the attached affidavit. *Id.*, ¶ 13.

While altering language on voter registration forms online can be accomplished quickly, there are currently hundreds of thousands of registration forms in circulation, and even the most expeditious implementation will not be able to completely replace these forms, resulting in multiple versions of the forms in circulation. *Id.*, 14. Thus, while every effort will be made to communicate accurate information in the voting process, there will likely be some degree of lack of uniformity in voting materials that cannot be fully addressed at this stage in the primary election process. *Id.*, ¶ 15.

Moreover, if implementation is ordered, the State Board will need to direct the county boards to issue remedial instructional materials to the thousands of poll workers who will work during the election and prepare remedial signage that would be posted at voting sites. *Id.*, ¶ 16. As explained in Executive Director Bell's attached affidavit, given the proximity to the 17 May election, some level of voter and poll worker confusion can be expected if the trial court's order were to be implemented for the primary. *Id.*, ¶¶ 17, 18.

To ameliorate such confusion, the State Board would immediately change all public facing information on its website, direct county boards to change their websites, instruct staff to inform voters about the change in law, place new signage at polling sites, and direct voters with questions to the appropriate election official on site who is educated on the change in law. (See Bell Aff., ¶¶ 18, 22).

In addition, the State Board must work with other agencies to accomplish many tasks if implementation is ordered. This includes updating the data feed received from the Department of Public Safety *Id.*, ¶ 19, working with the Department of Motor Vehicles to update the online voter registration system and in-person registration at DMV offices *Id.*, ¶ 20, and working with the Department of Health and Human Services and the county agencies it oversees to update their registration processes. *Id.*, ¶ 21.⁴

Third, based on those remaining administrative steps, the State Board estimates that any directive to implement the superior court's order issued prior to 18 April 2022 would allow enough time to complete many of these tasks ahead of the start of in-person voting—particularly the software coding required to have updated voter eligibility attestation language available before early voting—but some contradictory materials will remain in circulation

⁴ These agencies are required to offer voter registration services under the National Voter Registration Act, 52 U.S.C. §§ 20504, 20506.

leading to a risk of confusion. (*See* Bell Aff., ¶ 22). For the remaining tasks described above and in the accompanying affidavit that are not possible before the election, such as entirely replacing voter-facing materials, elections staff will take as many ameliorative steps as possible to educate staff and the public. *Id.*, ¶¶ 17, 18, 22. Thus, while certain implementation actions can be taken immediately, others are often time consuming, have an associated cost that has not been budgeted for, and cannot be fully implemented for weeks or even months. *Id.*, ¶ 22. Should implementation be ordered on or after 18 April, the risk of confusion grows the closer we get to the 17 May primary. *Id.*

Nonetheless, the State Board will strive to accomplish any and all implementation tasks as expeditiously as possible, and implement remedial training, education, new signage, and other steps to ameliorate resulting confusion to the greatest extent possible should this Court order implementation. *Id.*, ¶ 18, 22.

CONCLUSION

The State Board Defendants take no position on Plaintiffs' Petition for Discretionary Review and Motion, and defer to the discretion of the Court.

Electronically submitted this the 13th day of April, 2022.

JOSHUA H. STEIN
ATTORNEY GENERAL

Electronically Submitted
Mary Carla Babb
Special Deputy Attorney General
N.C. State Bar No. 25731
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N.C. R. App. P. 33(b) Certification:
I certify that the attorney listed
below has authorized me to list his
name on this document as if he had
personally signed it.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the forgoing document was served on the parties to this action via email and was addressed to the following counsel:

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Counsel for Legislative Defendants

Electronically submitted this the 13th day of April, 2022.

Electronically Submitted

Mary Carla Babb

Special Deputy Attorney General

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ATTACHMENT

Affidavit of North Carolina Board of Elections Executive Director Karen Brinson Bell

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SUPREME COURT OF NORTH CAROLINA

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TIMOTHY K. MOORE, et al.,

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From Wake County
No. 19 CVS 15941
(Related COA P22-153)

AFFIDAVIT OF KAREN BRINSON BELL

I, Karen Brinson Bell, swear under penalty of perjury, that the following information is true to the best of my knowledge and state as follows:

1. I am over 18 years old. I am competent to give this affidavit, and have personal knowledge of the facts set forth in this affidavit. I am the Executive Director of the State Board of Elections, which is a role I have held since June 2019. I have consulted with senior staff at the State Board in the preparation of this affidavit, and we have consulted with county directors of elections, as well.

2. This affidavit provides administrative matters for the Court's

consideration in the event that it chooses to grant the pending Petition for Discretionary Review and expedite this action.

3. In less than 24 hours of the issuance of the 28 March 2022 superior court final judgment, the State Board sent instructions to county boards to comply with that order by ensuring that no one who is serving a felony sentence outside of prison or jail will be denied registration status. (See Mar. 29, 2022 Email to Cty. Bds., attached to Plns.' Pet. as Exhibit B) Counties were instructed to hold voter registration applications from such individuals pending further clarification from the courts.

4. Among many other steps taken internally to prepare for implementation, the State Board instructed the county boards not to generate or send felon denial letters to prospective registrants and not to send registration removal letters to voters who are on probation, parole, or post-release supervision.

5. On 5 April 2022, the Court of Appeals issued a temporary stay and ordered that the "North Carolina State Board of Elections shall not order the denial of felon voter registration applications received pursuant to the 'Final Judgment and Order' but shall order such applications to be held and not acted on until further order of this Court."

6. On the same day, the State Board sent instructions to county boards to comply with that order by continuing to hold registration for

individuals who are not incarcerated, including those on felony probation, parole and post-release supervision, and not to print any letters for the removal of non-incarcerated felons who are existing registrants. (See Apr. 5, 2022 Email to Cty. Bds., attached hereto as Exhibit A) The State Board noted that it would continue “to organize plans to implement the trial court’s judgment, in the event that the Court of Appeals or the state Supreme Court orders that we proceed with implementation.” *Id.*

7. Those plans include, but are not limited to, preparing revised voter registration forms—of which there are 19 varieties, depending on the method of registration—that could be placed into circulation as soon as possible; preparing revised voting forms and other documents with updated eligibility language; and developing plans to carry out the various other administrative processes that would be required to implement new eligibility rules, including coding revisions to the statewide software used for in-person voting by county elections officials in thousands of locations across the state and working with other state agencies to update registration forms and practices at those agencies.

8. If this Court is inclined to enter an order reinstating the trial court’s order or otherwise altering the status quo, there are several important dates and administrative issues for the Court’s consideration related to the upcoming 17 May 2022 primary election.

9. Absentee ballot distribution began on 28 March 2022.¹ *See* N.C.G.S. § 163-227.10(a) (providing that absentee ballots are distributed 50 days before the primary). The county boards have already procured, printed, and sent out absentee ballots to voters who have requested them. New requests for absentee ballots are fulfilled on a rolling basis. The absentee ballot application appears on the ballot envelope and includes felon eligibility language that a voter must attest to. State Board staff have contacted vendors and county elections directors and have determined that it would almost certainly be infeasible for all counties to procure new absentee envelope stock for the ongoing primary election.

10. Voter registration before the primary will end on 22 April 2022.² *See id.* § 163-82.6(d) (providing that voter registration ends 25 days prior to the primary). Early voting for the primary, during which eligible individuals may register and vote at the same time, starts on 28 April 2022.³ *See id.* § 163-227.2(b).

11. State Board staff estimate that they will need seven business days to input software changes into the Statewide Election Information

¹ [Mailing of Absentee Ballots | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

² [Voter Registration Deadline | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

³ [One-Stop Early Voting Period Starts | 2022 Statewide Primary | NCSBE](#) (Last visited Apr. 13, 2022).

Management System (“SEIMS”) software in order to have the system prepared for the start of early voting, plus an additional day for the county computers to be refreshed with those changes. This would allow time to modify the language about voter qualifications related to felony status on attestation forms in the State Board’s electronic pollbook utilized when voters check in or register to vote at early voting sites and on Election Day. The current attestation requires voters to attest, under penalty of a felony, that they are not currently serving a felony sentence under any type of supervision, unless they are serving an extended term of supervision due to outstanding monetary obligations. That attestation would be incorrect for any voters deemed newly eligible under the trial court’s decision.

12. To implement the trial court’s decision for the primary, the State Board would also need to immediately instruct the county boards to reprint or reprocur any pre-printed voter-facing materials that include voter eligibility language, to the extent possible. These include voter registration forms for same-day registration during early voting, provisional voting applications, large signage for polling places that communicates voting eligibility, and authorization-to-vote forms that are used for voter check-in on Election Day.

13. Some counties would not face significant difficulty correcting their voter-facing materials, either because they have sufficient resources

available to procure what they need and/or the volume of materials they would need to change is low enough (given a small population, for example) that the board's staff could manage. However, many counties would face challenges in procuring these materials at the volume required to replenish their existing supplies, especially given a current paper shortage.⁴ For example, for the many county boards that preprint their Election Day forms, they have already procured authorization-to-vote forms, likely in an amount sufficient to cover every registered voter in the county. Additionally, the county boards are unlikely to have the funds in their budgets to procure a new set of voter-facing forms for in-person voting and may have to seek emergency appropriations from their county boards of commissioners. Given these challenges, the county boards may need to resort to alternative means of correcting voter-facing forms, including using stick-on labels with the correct attestation language that could be placed over top of the existing language, or absent that option, providing prominent signage at the voting site indicating that a court order has superseded the attestation language on the forms and has deemed county residents serving felony sentences outside of jail or prison eligible to vote.

14. While it requires minimal steps to adjust the attestation

⁴ <https://www.politico.com/news/2022/03/18/supply-chain-ballot-paper-shortage-00018460>.

language on voter registration forms so that those forms are updated on the State and county board websites, distributing those forms in usable quantities to the county boards and the public takes a significant amount of time. There are likely hundreds of thousands of voter registration forms currently in circulation. They are in every county board office, Department of Motor Vehicles (“DMV”) office, local Department of Social Services (“DSS”) and Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”) offices, and in the hands of dozens of political and civic organizations throughout the state. While changes to these forms have been prepared, it is not possible at this stage of the primary election to procure and distribute an amount of forms that would even come close to replacing the current stock of registration forms in circulation. To carry out their statutory duties to accept voter registrations from the public at large, the elections boards will have to mostly rely on their existing stock of forms for the near future. Accordingly, there will need to be multiple versions of voter registration forms in circulation and lawfully recognized by elections officials for the many months it would take to fully replace the current stock. Additionally, the State Board will have to identify substantial funds that have not been allocated for this purpose, since the State Board is responsible for the printing and distribution of voter registration forms.

15. Accordingly, although the State and county boards will make

every effort to communicate accurate information in the voting process, there will likely be some degree of lack of uniformity in voting materials that cannot be fully addressed at this stage in the primary election process, especially given the varying budgetary and administrative constraints faced by the 100 county boards. And the closer we get to Election Day, the greater the risk of lack of uniform materials.

16. Many counties have begun training poll workers for in-person voting in the May primary. There are thousands of poll workers who will work during the election, whether during early voting or on Election Day. Some counties had begun such training before the trial court issued its decision, and training has been ongoing throughout the state since that time. If the decision is to go into effect before the primary, the State Board will need to direct the county boards to issue remedial instructional materials to poll workers to accompany any remedial signage that would be posted at voting sites.

17. Given the proximity to the primary election, some level of voter and poll worker confusion can be expected if the trial court's order were to be implemented for the primary. The elections boards will make every effort to alleviate that confusion. If a decision is made to move forward with new felon eligibility rules, the closer we get to one-stop voting (and certainly Election Day), the greater the potential is for confusion and administrative error.

18. If poll workers and/or voters do not have the correct information about the requirements for voters serving a felony sentence, there is a risk that a voter serving a felony sentence could decide to leave rather than voting. If a poll worker provided the wrong information, this could potentially form the basis for an election protest if the number of voters who received the wrong information and therefore did not vote could have been outcome-determinative in a contest. See G.S. § 163-182.10(d)(2) and § 163-182.13(a)(2) (grounds for a new election include: “Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.”). Should implementation be ordered, it will result in the use of different forms containing different language. To ameliorate these conflicts, the State Board would immediately change all public facing information on its website. They would further direct county boards to change their websites, instruct staff to inform voters about the change in law, and to direct any voters with questions to the appropriate election official on site who is educated on the change in law.


19. Finally, it is not just State Board systems that would need to be changed. The State Board will work with the Department of Public Safety (“DPS”) to have them update the data feed the State Board receives to remove from the felon reports those who are now eligible to register under the trial court’s order.

20. The State Board will also need to work with the DMV to update its system, which is used for online voter registration. A large portion of registration occurs via online registration through the DMV. The DMV and its vendor typically require extensive documentation and months for the State Board to accomplish changes to the online voter registration system.

21. The State Board will also have to ensure that the Department of Health and Human Services, and the many county DSS and WIC agencies that it oversees, get the right information and implement the changes correctly when they are conducting registration. The same is true with local DMV offices.

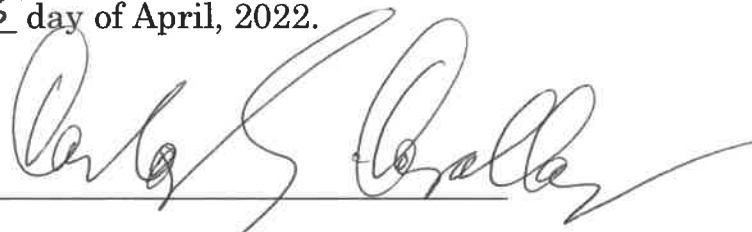
22. This additional information is provided to inform the Court that while certain implementation actions can be taken immediately, others are often time consuming and cannot be fully implemented for weeks or even months. It is also provided to inform the Court that, if the State Board were ordered to implement changes prior to 18 April, many of the tasks described above can be implemented, but there will still be contradictory materials in circulation, resulting in a risk of confusion. And it should be noted that the risk of confusion grows the closer we get to the 17 May primary because the amount of contradictory materials in circulation will be greater. Nonetheless, the State Board stands ready to implement any directive from this Court.

This the 13th day of April, 2022.


Karen Brinson Bell, Executive Director
N.C. State Board of Elections

Sworn to and subscribed before me this 13th day of April, 2022.





(Notary Public)

My commission expires: 08/20/22

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EXHIBIT A

Apr. 5, 2022 Email to Cty. Bds

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Babb, Mary Carla (Hollis)

From: Love, Katelyn <Katelyn.Love@ncsbe.gov>
Sent: Tuesday, April 5, 2022 7:54 PM
Cc: SBOE_Grp - Legal
Subject: RE: Update Regarding Court Order Restoring Felon Voting Rights
Attachments: Order P22-153.pdf

Directors (bcc State Board members),

The NC Court of Appeals today issued a temporary stay of the trial court's order that restored the voting rights of felons who are not incarcerated. The court also ordered that voter registration forms received from voters who would be eligible to register under the trial court's order not be denied but instead be held and not acted on until further order of the court. The stay will last while the court considers a petition filed by the legislative defendants seeking to permanently stay the trial court's order while this case is on appeal.

You should continue to follow the original guidance we sent in the email below, to **hold registrations for individuals who are not incarcerated**, including those on felony probation, parole and post-release supervision. Also, **do not print any letters in the I-Queue for the removal of non-incarcerated felons** who are existing registrants.

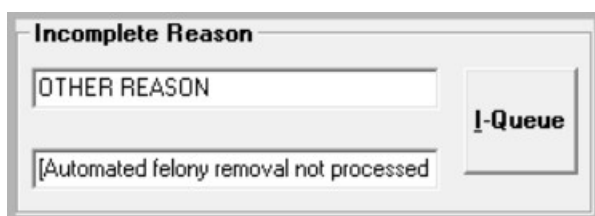
Below are two additional updates on carrying out the current stay:

State Board Pause to Automated 35-Day Removals

On March 30, the State Board ran a SEIMS script to stop the automatic removal of existing registrants who were matched for a felony conviction and were sent a notice of their ineligibility, as long as these registrants were not inmates. Typically, after 35 days have elapsed after printing these notices from the I-Queue and the voter has not appealed, SEIMS automatically removes the registrant. We stopped this automated process for approximately 800 registrants across the state who are not inmates, according to Department of Public Safety data. We worked individually with a small group of counties to clarify the inmate status of approximately 40 registrants that were in the removal process, as well.

Pre-Election Incomplete Letters

As a result of this pause in the 35-day removal process, some counties are noticing that these individuals are appearing in the I-Queue to receive a pre-election notice because of incomplete registration information. These records/notices list the incomplete reason of **Other Reason: [Automated felony removal not processed due to court order on 3/28/22]**. In accordance with previous guidance, **these notices need to be manually removed from VoterScan and not sent to voters**. Please note that printing these letters will not start the 35-day countdown for removal or denial of registration.



The screenshot shows a software window titled "Incomplete Reason". It contains a text input field with the text "OTHER REASON" and a button labeled "I-Queue". Below the input field, there is a text box containing the text "[Automated felony removal not processed]".

The State Board is continuing to organize plans to implement the trial court's judgment, in the event that the Court of Appeals or the state Supreme Court orders that we proceed with implementation.

Sincerely,

Katelyn Love | General Counsel
o: 919-814-0756 | f: 919-715-0135



From: Love, Katelyn <Katelyn.Love@ncsbe.gov>
Sent: Tuesday, March 29, 2022 4:19 PM
Cc: SBOE_Grp - Legal <Legal@ncsbe.gov>
Subject: Update Regarding Court Order Restoring Felon Voting Rights

Directors (bcc State Board members),

Yesterday afternoon, a North Carolina Superior Court ruled that [the state law](#) restricting persons with felony convictions who are not incarcerated from voting or registering to vote is unconstitutional. Under this ruling, people who are serving a felony sentence outside a jail or prison are now eligible to register to vote in North Carolina. This includes people on felony probation, parole, or post-release supervision. The decision is attached.

We are currently working to determine how to implement this decision in light of (1) an imminent appeal of the decision; and (2) an apparently conflicting [order](#) from the North Carolina Supreme Court last year in the same case. That decision ordered that “the status quo be preserved” pending appeal of the expanded preliminary injunction, an appeal that is still ongoing.

Until further instruction, county boards of elections should keep registration applications of voters who are on probation, parole, or post-release supervision it receives in the Incomplete Queue. Do not generate or send felon denial letters to these voters, regardless of whether the application was received before or after Monday, March 28. Do not send a removal letter to voters who are on probation, parole, or post-release supervision.

To complete this process, counties can refer to the [DOC Felon County List](#), the [DOC Felon State Matching List](#) and the [N.C. DPS Offender Search](#) to confirm a registrant's status. The DOC Felon County List contains a “DOC Placement” column that will show whether the person is an inmate or on probation/parole. If a person is an **inmate** serving a felony conviction, they are ineligible to register to vote and you may proceed with your regular processes. Note that the DOC Felon State Matching List does not show whether a person is an inmate; therefore, you will need to also refer to the DOC Felon County List before processing a denial or a removal.

For registrants with **any status other than inmate**, the county should hold these registrations in the Incomplete Queue until further guidance is available. Counties should continue with the felony denial and removal processes for those classified as an inmate.

For the federal felon records found on Filezilla, the counties may use the [Federal Bureau of Prisons' Search](#). If a felon's record identifies a prison in the “Location” column, they are ineligible to register to vote and may be removed/denied registration per current processes.

Counties should not remove or deny a voter registration application unless they can confirm the person is an inmate serving a felony conviction. If you are unsure, please keep the record in the Incomplete Queue.

We will send further instructions as soon as possible to address how to ultimately process these records in the Incomplete Queue, and whether registration and voting forms will be updated.

Sincerely,

Katelyn Love | General Counsel
o: 919-814-0756 | f: 919-715-0135



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