

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV039050-910

JEFFERSON GRIFFIN,)
Petitioner,)
v.)
NORTH CAROLINA STATE)
BOARD OF ELECTIONS,)
Respondent.)

THIS MATTER WAS HEARD by the undersigned at the December 9, 2024 session of Wake County Superior Court upon Petitioner's Petition for a Writ of Mandamus, and the Court having carefully considered the written and oral arguments of counsel as well as the proffered and other relevant authority, the Court makes the following FINDINGS OF FACT.

1. On or about November 19, Petitioner and others filed protests of election results.
2. The North Carolina State Board of Elections assumed jurisdiction of some of those protests on November 20.
3. The Board set a schedule for hearing the matter on December 11 with briefs due from the protesters on November 27 and from the responding candidates on December 6, this past Friday.
4. On December 2, Petitioner jointly with other protesters filed with the Board a Motion to Expedite requesting that the Board issue a written decision on the protests over which the Board assumed jurisdiction on December 9, today.
5. On December 6, Petitioner filed this petition, and asked that it be heard today.
6. North Carolina General Statutes Chapter 163, Article 15A and North Carolina Administrative Code Title 8, Chapter 2 apply to election protests, and generally contemplate a hearing with adequate notice and appropriate due process.
7. The Board appears to be following the legislatively required process, and there are no allegations to the contrary.
8. There is no statutory or administrative time frame for the Board to act on protests.

9. Petitioner asks the Court to order the Board to render a decision on the protests by December 10, tomorrow.

IN CONSIDERATION OF THE FOREGOING, the Court makes the following CONCLUSIONS OF LAW.

1. Mandamus generally is only appropriate when (1) the party seeking relief has a clear legal right to the act requested; (2) the respondent has a legal duty to perform the act requested; (3) performance of the act at issue is ministerial in nature and does not involve the exercise of discretion; (4) the respondent did not perform the act requested and the time for performance of the act has expired; and (5) no alternative, legally adequate remedy is available.

2. Petitioner has no legal right to have the act performed by a certain time arbitrarily set by him.

3. While the Board has a legal duty to make a decision, it does not have a legal duty to make a decision one day prior to the date it set for hearing.

4. The time for performance has not expired.

5. Alternative, legally adequate legal remedies are available.

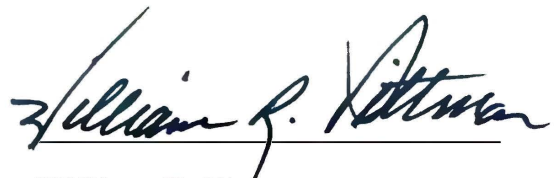
5. The Board's actions are reasonable.

6. There is no legal reason for the writ to issue.

NOW, THEREFORE, the Petition for a Writ of Mandamus is denied.

IT IS SO ORDERED this the 9th day of December, 2024.

12/9/2024 12:37:12 PM

A handwritten signature in black ink, appearing to read "William R. Pittman", written over a horizontal line.

William R. Pittman
Superior Court Judge