

NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. _____

JEFFERSON GRIFFIN,

Petitioner,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS,

Respondent.

**PETITION FOR A WRIT OF
MANDAMUS**

**EMERGENCY RELIEF
REQUESTED**

The Honorable Jefferson Griffin, judge of the North Carolina Court of Appeals, petitions this Court to issue a writ of mandamus to the State Board of Elections. Judge Griffin is a candidate for Seat 6 on the Supreme Court of North Carolina. That Board has assumed jurisdiction over three categories of election protests that Judge Griffin has filed. However, the Board is unreasonably delaying a decision on these protests. A decision is required immediately so that any aggrieved party can seek judicial review—which is certain to occur given the outcome-determinative nature of the protests at issue. By delaying a decision on these protests, a winner of the election cannot be certified. And the delay in certifying a winner undermines the public’s trust in the electoral process.

Judge Griffin, therefore, respectfully requests that the Court immediately issue a writ of mandamus to the State Board of Elections. Judge Griffin asks the Court to issue an order on this mandamus petition no later than 9 December 2024.

PARTIES, JURISDICTION, AND VENUE

1. The Honorable Jefferson Griffin is a judge on the North Carolina Court of Appeals. He is the Republican candidate in the 2024 general election for Seat 6 of the Supreme Court of North Carolina.

2. The Honorable Allison Riggs currently holds the office of Seat 6 of the Supreme Court of North Carolina. Justice Riggs is the Democratic candidate for that office in the 2024 general election.

3. The State Board of Elections (the “Board” or “Respondent”) is an administrative agency with the legal duty to certify electoral winners from the 2024 general election.

4. The superior courts of this state have the power to issue remedial writs to any lower tribunal over which the superior court has appellate jurisdiction.

5. By statute, Wake County Superior Court has appellate jurisdiction over a “final decision of the State Board of Elections on an election protest.” N.C. Gen. Stat. § 163-182.14.

6. The Board is being served with a summons and the petition pursuant to Rule 4(j)(3). Justice Riggs’s counsel will also receive a copy of this petition.

BACKGROUND

7. On the evening of Election Day 2024, Judge Griffin maintained a sizeable lead over his opponent, Justice Allison Riggs. However, as ballots continued to be counted over the next week, Justice Riggs took the lead in the votes.

8. On 19 November 2024, Judge Griffin filed election protests in each of North Carolina's 100 counties. In total, Judge Griffin filed six categories of election protests. However, only three categories of protests are relevant here. Those three relevant categories are described briefly below.

9. *Incomplete Voter Registrations.* Since 2004, the General Assembly has required someone registering to vote to provide his drivers license or last four digits of his social security number on his voter registration application. N.C. Sess. Law 2003-226, § 9 (amending N.C. Gen. Stat. § 163-82.4). However, until December 2023, the State Board of Elections failed to enforce this law. And even when the Board admitted its decades of lawlessness, it refused to cure the improper registrations, and only began requiring the information from new registrants. In the Supreme Court contest, over 60,000 people cast ballots who had never provided the statutorily required information to become lawful voter registrants. Under state law, unless someone is lawfully registered to vote, he cannot vote. N.C. Const. art. VI, § 3(1); N.C. Gen. Stat. § 163-82.1(a).

10. *Never Residents.* Our state constitution limits voters for state offices to people who actually reside in North Carolina. N.C. Const. art. VI, § 2(1); *Bouvier v. Porter*, 386 N.C. 1, 4 n.2, 900 S.E.2d 838, 843 n.2 (2024) (explaining that “nonresidents” are “categorically ineligible to vote” for state offices). Nonetheless, the State Board allowed approximately 289 people to vote in the protested election who have never resided in North Carolina or anywhere else in the United States. These voters self-identified themselves as such,

stating on a form “I am a U.S. citizen living outside the country, and I have never lived in the United States.” Counting these ballots is unlawful.

11. *No Photo ID*. It’s well known that photo identification is required for all voters, both those voting absentee ballots and those voting in person. N.C. Gen. Stat. § 163-230.1(a)(4), (b)(4), (e)(3), (f1) (absentee ballots); *id.* § 163-166.16(a) (in-person voting); N.C. Const. art. VI, §§ 2(4), 3(2) (same). Yet the State Board decided not to require photo identification for absentee ballots cast by voters who live overseas. State law, however, doesn’t exempt overseas voters from the photo-identification requirement. Thousands of such ballots were unlawfully cast in the election.

12. After Judge Griffin filed his protests, the State Board took over jurisdiction from the county boards for the three categories of protests just described. The Board then entered a briefing schedule for these protests. Per that schedule, Judge Griffin filed his brief on 27 November, and other parties, including Justice Riggs, were ordered to file responsive briefs on 6 December 2024. A copy of this order from the State Board is attached as Exhibit A.

13. On 2 December 2024, Judge Griffin moved the Board to issue a final decision on the protests before it on an expedited basis. In his motion to expedite, Judge Griffin requested that the Board render its decision no later than Monday, 9 December 2024. A copy of this motion is attached as Exhibit B.

14. Instead of ruling on the motion to expedite, the Board instead set a hearing on the election protests for 11 December 2024, two days after Judge Griffin had requested

a *decision* on the protests. A copy of that (informal) notice of hearing is attached as Exhibit C. That notice constituted a denial of Judge Griffin's motion to expedite, since the Board set arguments for a date after which Judge Griffin had requested a final decision.

15. In the interest of expediency, Judge Griffin (as well as the other candidates who filed protests) waived oral argument and elected to rely on the arguments set forth in their briefs. A true and accurate copy of those communications is included in Exhibit C.

16. Mandamus is appropriate when issued to command a lower tribunal to perform its duty in a timely manner. That's especially true when, as here, there is no other remedy provided by law.

17. A disputed election to our state's highest court is itself an exceptional circumstance of immense public interest. A speedy determination of that contest is not just important to the candidates, but is critical to the public's trust in the electoral process itself. Everyone has a strong interest in the fair and speedy determination of election results.

18. This Court need not let the public trust in the electoral process crumble further. Judge Griffin respectfully requests that the Court issue a writ of mandamus to the State Board of Elections, ordering it to enter a final decision on the three categories of election protests before it no later than 5:00pm on 10 December 2024.

RELIEF SOUGHT

Judge Griffin respectfully requests that the Court grant the following relief:

1. Issue a temporary restraining order, preliminary injunction, and/or expedited and final mandamus relief immediately, ordering that the State Board of Elections

enter a final decision on the three categories of election protests before it no later than 5:00pm on 10 December 2024.

2. Grant such other and further relief as the Court deems appropriate.

This the 6th day of December, 2024.

/s/ Craig D. Schauer
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Counsel for the Honorable Jefferson Griffin

VERIFICATION OF COUNSEL

Pursuant to N.C. Gen. Stat. § 7A-98, counsel submits the following declaration:

I declare under penalty of perjury under the laws of North Carolina that the statements of fact in the foregoing document are true and correct to the best of my knowledge.

Executed on December 6, 2024.



Craig D. Schauer

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