

NORTH CAROLINA COURT OF APPEALS

JEFFERSON GRIFFIN)
)
 Petitioner-Appellant,)
 v.)
)
 NORTH CAROLINA STATE BOARD)
 OF ELECTIONS,)
)
 Respondent-Appellee;)
)
 and)
)
 ALLISON RIGGS,)
)
 Intervenor-Respondent-)
 Appellee)

From Wake County

Nos. 24CV040619-910
 24CV040620-910
 24CV050622-910

**BRIEF OF *AMICUS CURIAE* DANE C. BEAVERS, DEBORAH J.
 BEDFORD, DEBRA B. BLANTON, ET AL.
 (FORMER DIRECTORS OF COUNTY BOARDS OF ELECTIONS)**

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 (FORMER DIRECTORS OF COUNTY BOARDS OF ELECTIONS)**

Pursuant to Rule 28.1 of the North Carolina Rules of Appellate Procedure,
 Dane C. Beavers, Deborah J. Bedford, Debra B. Blanton, et al. (Former Directors
 of County Boards of Elections)¹ (hereinafter “Amici”) submit this brief as amicus
 curiae to assist the Court in its consideration of the election protests filed by Judge

¹ The names of the former directors, the county where each served, and the years served by each as director are listed in Appendix A.

Jefferson Griffin by providing an independent perspective on the administration of election laws in North Carolina.²

IDENTITY AND INTEREST OF *AMICUS CURIAE*

Amici are a nonpartisan group of 42 former directors of county boards of elections from across the State of North Carolina. They write to provide the Court with a shared perspective on the administration of state election laws and the harm that would be created if candidates were allowed to re-write the rules of an election after the election has passed. Two-thirds of the Amici served as county directors for at least 15 years. Collectively, Amici have more than 750 years of experience in managing elections for the public. They have served in every region of the state, in small rural counties and in large urban counties, in so-called “red” counties and “blue” counties, and in offices with small budgets and in those with more significant public resources. Each former director served for at least several years following the General Assembly’s 2003 modification of North Carolina’s voter registration process and has first-hand experience implementing the voter registration rules at issue in this case.

In their private lives, Amici are not united politically—some are registered Republicans, some registered Democrats, and some Unaffiliated. In the 2024 North

² No person or entity other than Amici Curiae, their members, or their counsel, directly or indirectly, either wrote this brief or contributed money for its preparation.

Carolina Supreme Court election, some voted for Judge Jefferson Griffin, and some voted for Associate Justice Allison Riggs. What they have in common is a shared investment and belief in the value of a professionally managed, impartial election system that serves North Carolina voters with integrity and fairness. They are speaking out now because of the significant impact this case could have on that system.

ISSUES ADDRESSED

Amici address the following issues in this brief: (1) the consequences of changing election rules post-election to invalidate votes, and (2) the administration of those election rules, based on the submitting directors' collective experience.

ARGUMENT

Amici write not because they collectively desire a particular candidate to win this election, but because they understand, and urge the Court to reinforce, the crucial need for stability and uniformity in the administration of our elections. Importantly, the election laws that voters relied on to cast their ballots in 2024 were in place and effective for years before the election. Elections directors relied on those laws to administer the election.

Election officials have a legal duty to administer election laws as they are written, not how others wish they might be. County election officials take an oath to obey the Constitution and laws of North Carolina. *See* N.C. Gen. Stat. § 153A-

26; N.C. Const. Article VI, Sec. 7. Each aspect of managing the election process—from voter registration to counting ballots to hearing protests—is governed by laws as well as rules developed in accordance with those laws. Administering the election process in a transparent and consistent manner, without favoritism or bias, is essential to maintaining the public’s trust in an impartial and secure election system. By following the administrators’ guidance of the laws as written, voters can have confidence that their ballots will count. *See Griffin v. Burns*, 570 F.2d 1065, 1075-76 (1st Cir. 1978) (holding that votes could not be invalidated post-election when they were cast pursuant to “long-standing practice” and “the instructions of the officials charged with running the election.”). Amici ask this Court to affirm that bedrock principle.

A. Allowing a Candidate of an Election to Selectively Change the Rules post-Election Would Greatly Harm Election Administration.

Each of the directors associated with this brief has experienced a variety of post-election complaints from unhappy candidates and voters who wanted to reinterpret the law after-the-fact to suit their cause. In those cases, having clear and consistent rules provided the foundation to address disputes and differing opinions. Confidence in the impartial administration of elections would be undermined if the rules and laws that voters followed to vote in an election were changed after the election and voters’ ballots were nullified.

Throughout the election process, voter registration applications are accepted and denied, existing registrations are maintained and removed, absentee ballot applications are accepted and denied, provisional ballots are accepted and denied, and so forth. Each part of the election process requires the consistent, impartial application of established laws and rules in order to sustain the public's confidence and participation in the process. Changing these laws and rules in the middle of an election is disruptive; changing them *after* an election to apply to the election already held is chaos. How can the public trust the election if the rules can be changed after the results are known in order to produce a different outcome? Sanctioning post-election changes of well-established rules that change an election's results opens a Pandora's box of partisan maneuvering and undermines the efforts of administrators to conduct an orderly and fair election. As North Carolina Supreme Court Justice Richard Dietz recently noted, "Because of the chaos that can emerge from repeated court-compelled changes to how we administer elections, at some point the rules governing an election must be locked in." Am. Order at 4 (Jan. 7, 2025) (Dietz, J., dissenting).

Former Directors encourage the Court to adopt the position of the Respondent State Board that Judge Griffin's post-election challenges to election rules violate North Carolina's version of the *Purcell* principle. See *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam). "The *Purcell* principle recognizes that as elections draw

near, judicial intervention becomes inappropriate because it can damage the integrity of the election process.” Am. Order at 1 (Jan. 7, 2025) (Dietz, J., dissenting). As summarized eloquently by Justice Dietz:

Permitting post-election litigation that seeks to rewrite our state’s election rules—and, as a result, remove the right to vote in an election from people who already lawfully voted under the existing rules—invites incredible mischief. It will lead to doubts about the finality of vote counts following an election, encourage novel legal challenges that greatly delay certification of the results, and fuel an already troubling decline in public faith in our elections.

Id. at 5. Based on the collective experience of the participating group of elections administrators, Amici affirm Justice Dietz’ wise and measured perspective and urge this Court to adopt it.

B. County Elections Directors Have Followed Clear Guidance Regarding Each of the Challenged Voter Categories for Numerous Election Cycles.

The election rules challenged by Judge Griffin have been in place for many years, providing unambiguous guidance to citizens about how to register and vote. The job of elections administrators is to implement election laws and rules, as well as explain them to voters, candidates, and the public at-large. While this brief will leave it to others to provide in-depth legal analysis of the various rules at issue, the perspective of experienced elections administrators in how these rules have actually been applied for many elections should carry weight in that analysis.

i. Voters with Alleged Incomplete Registrations

Judge Griffin has challenged 60,273 ballots cast by registered voters with allegedly incomplete voter registrations.³ The dispute regarding these votes stems from a law passed by the General Assembly in 2003 that requires voter registration forms to “request” either an applicant’s driver’s license number or the last four digits of their social security number. *See* N.C. Gen. Stat § 163-82.4(a)(11). Notably, even if an application was missing this information, elections administrators were directed by the same statute to process this application. The same was true if an application was missing information regarding party affiliation or ethnicity. By contrast, in accordance with subsection (e) of the same statute, administrators could not move forward with processing an application if it was missing the applicant’s birth date or citizenship status. Another statute specifies how a voter’s registration can be completed when the *requested* driver’s license number or the last four digits of an applicant’s social security number is missing or fails to verify, for whatever reason, as belonging to the registrant. That statute says that if an application received “by mail or by another means” does not contain a verified *identity number*, then the applicant can register to vote and the applicant’s vote will be counted as long as the

³ Amici note that there are many more voters statewide whose registrations could be labeled incomplete based on Judge Griffin’s interpretation that state law “requires” a driver’s license number or the last four numbers of a social security number in the applicant’s registration record. A central principle in administering elections is the uniformity in the application of elections laws and treatment of voters.

applicant submits an *identifying document* (e.g., a utility bill or photo identification) “in the first election in which the individual votes.” See N.C. Gen. Stat. § 163-166.12(d). During the collective service of the directors submitting this brief, thousands of voters were registered in accordance with these clear rules. Those voters’ registrations were lawful and complete in accordance with statutes adopted by the General Assembly, despite lacking a verified identification number on the registration form—they were not “incomplete.”

ii. Overseas Voters

Judge Griffin also challenged several hundred ballots cast by citizens residing overseas who have never resided within the United States. While this issue is less common, elections directors addressing these ballots have for more than a decade relied upon clear statutory guidance from The Uniform Military and Overseas Voters Act adopted by the General Assembly in 2011. N.C. Gen. Stat. § 163-258.2(1) lists the individuals who are covered by the Act and entitled to vote. Subsection (e) describes individuals who are sometimes called “non-residents” of North Carolina, namely: “An overseas voter who was born outside the United States, is not described in sub-subdivision c. or d. of this subdivision, and, except for a State residency requirement, otherwise satisfies this State’s voter eligibility requirements, if: (1) The last place where a parent or legal guardian of the voter was, or under this Article would have been, eligible to vote before leaving the United States is within this State;

and (2) The voter has not previously registered to vote in any other state.” Thus, by state law, non-residents who meet the criteria in subsection (e) are permitted to vote in North Carolina elections. The directors submitting this brief uniformly applied this law, and voters relied upon their guidance and instruction to have their ballots counted.

iii. Military and Overseas Voters Who Did Not Include Voter Identification with their Ballots

Finally, Judge Griffin challenges 5,509 military and overseas voters who did not include a copy of a photo identification with their ballots. The Uniform Military and Overseas Voters Act of 2011 replaced and reestablished a separate Article in Chapter 163 with a set of election laws for administrators to follow with regard to these individuals. Two provisions address verification of the voter’s identity. N.C. Gen. Stat. § 163-258.13 requires a signed declaration from the voter as to their identity and other material information, with a false statement “grounds for a conviction of perjury.” N.C. Gen. Stat. § 163-258.17(b) states that additional “authentication” or identity documentation beyond the declaration is “not required” to process the ballot request and ballot.

These provisions may help explain why military and overseas voters were exempted from submitting a copy of their photo ID under a rule adopted by the State Board of Elections and approved by the North Carolina Rules Review Commission. As administrators, the directors submitting this brief routinely processed ballot

requests and ballots from overseas and military voters fairly and securely based on the signed declaration attesting to the voter's identity, along with the provision in N.C. Gen. Stat. § 163-258.17(b) that "the declaration may be compared against information on file to ascertain the validity of the document."

CONCLUSION

Elections directors from across the state do not dispute that some parts of state law require clarification through rules and the guidance of the State Board of Elections. However, from the perspective of officials charged with administering North Carolina elections for decades, the state laws at issue in this case are straightforward and unambiguous regarding identification numbers in registration applications, non-resident overseas voters, and identity authentication of military and overseas voters. The decisions of elections administrators who followed these laws faithfully should not now be called into question. The citizens of North Carolina who obeyed the laws and the direction of the elections administrators should not have their votes discarded. Amici urge this Court to affirm the importance of the impartial, uniform administration of elections and the right of voters who follow the law to have their ballots counted.

Respectfully submitted, this the 27th day of February 2025.

THARRINGTON SMITH, L.L.P.

Electronically submitted

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 28(j) and 28.1(b)(3)(d) of the North Carolina Rules of Appellate Procedure, counsel for *Amici* Dane C. Beavers, Deborah J. Bedford, Debra B. Blanton, et al. (Former Directors of County Boards of Elections) certify that the foregoing brief, which was prepared using 14-point proportionally spaced font with serifs, is less than 3,750 words (excluding covers, caption, indexes, tables of authorities, counsel's signature block, certificates of service, this certificate of compliance, and appendixes) as reported by word-processing software.

Electronically submitted
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served by electronic mail
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APPENDIX A

Identification of Amici Curiae

Dane C. Beavers, Director of Elections, Wayne County, 2015-2020

Deborah J. Bedford, Director of Elections, Rutherford County, 1995-2020

K. Gregory Bellamy, Director of Elections, Brunswick County, 2004-2014

Debra B. Blanton, Director of Elections, Cleveland County, 1986-2013

Dennis E. Boyles, Director of Elections, Pender County, 2003-2018

Catherine T. Bradshaw, Director of Elections, Haywood County, 1991-2006

Cindy B. Carawan, Director of Elections, Hyde County, 2001-2012

Judy B. Caudill, Director of Elections, Lincoln County, 1969-2011

Glenda M. Clendenin, Director of Elections, Moore County, 1986-2021

Kathie C. Cooper, Director of Elections, Forsyth County, 1974-2006

Beverly W. Cunningham, Director Elections, Henderson County, 1999-2019

Dale Y. Edwards, Director of Elections, Polk County, 1982-2013

Nancy S. Evans, Director of Elections, Rowan County, 1992-2019

George N. Gilbert, Director of Elections, Guilford County, 1988-2013

Lisa P. Goswick, Director of Elections, Franklin County, 2013-2019

Martha R. Griego, Director of Elections, Montgomery County, 2003-2015

Linda C. Grist, Director of Elections, Cabarrus County, 1992-2013

Julie A. Hall, Director of Elections, Clay County, 2000-2018

Larry R. Hammond, Director of Elections, Bladen County, 1993-2011

Karen W. Hebb, Director of Elections, Henderson County, 2019-2023

G. Steven Hines, Director of Elections in Pitt, Forsyth, Greene, Carteret & Lenoir
Counties, 2003-2023

Kathy H. Holland, Director of Elections, Alamance County, 2003-2021

Susan S. Jarrell, Director of Elections, Surry County, 2009-2020

Dana W. King, Director of Elections, Lenoir County, 1996-2019

Judy G. Mathews, Director of Elections, Transylvania County, 1993-2011

Janet H. Odell, Director of Elections, Rockingham County, 1979-2012, 2020

Sheila E Ollis, Director of Elections, Avery County, 2006-2024

Cherie R. Poucher, Director of Elections, Wake County, 1991-2015

Kathy M. Ray, Director of Elections, Madison County, 2011-2020

Sandra P. Rich, Director of Elections, Caldwell County, 1995-2020

Lisa Lovedahl Ries, Director of Elections, Jackson County, 1994-2024

John L. Shepherd, Director of Elections, Ashe County, 1994-2021

Suzanne W. Southerland, Director of Elections, Wayne and Duplin Counties,
1994-2014

Susie V. Squire, Director of Elections, Northampton County, 2007-2018

Emma E. Tate, Director of Elections, Pasquotank County, 2020-2024

Jackie M. Taylor, Director of Elections, Halifax County, 2000-2009

Ashley Pate Tew, Director of Elections, Sampson County, 2014-2019

Sylvia C. Thornton, Director of Elections, Sampson County, 1971-2010

Jackie J. Tillett, Director of Elections, Dare County, 2020-2024

Joan C. Weeks, Director of Elections, Swain County, 1983-2020

John W. Whitley, Director of Elections, Union County, 2008-2017

Meloni M. Wray, Director of Elections, Craven County, 2013-2022