

No. COAP25-104

No. _____

DISTRICT 10

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,
24CV040622-910

RULE 2 MOTION TO EXPEDITE APPEAL

EXPEDITED DECISION REQUESTED

Pursuant to Rules 2 and 40 of the Rules of Appellate Procedure, Appellant Jefferson Griffin respectfully requests that this Court expedite this appeal by modifying the appellate deadlines and rules governing this appeal. In support, Appellant shows the following:

PROCEDURAL BACKGROUND

In the 2024 general election, the Honorable Jefferson Griffin and the Honorable Allison Riggs were candidates for Seat 6 on the Supreme Court of North Carolina. After the election, Judge Griffin filed election protests with all 100 county boards of election. Three categories of protests were consolidated and heard before the State Board of Elections. The State Board entered a final agency decision on the protests on 13 December 2024. On 20 December 2024, Appellant filed appeals and petitions for judicial review in Wake County Superior Court, seeking review of the State Board's decision under N.C. Gen. Stat. § 163-182.14.

The matter before this Court involves three same categories of election protests, each of which involve separate as well as overlapping legal issues. The appeals in superior court were filed as three actions, each of which corresponded to one of those categories of election protests. The actions were docketed in the superior court with case numbers 24CV040619-910, 24CV040620-910, 24CV040622-910. The actions were administratively consolidated in that court for the purpose of filing the administrative record from the State Board. Justice Riggs was permitted to intervene as a respondent in the superior court actions.

Meanwhile, Judge Griffin also filed a petition for a writ of prohibition with the Supreme Court of North Carolina to stop the State Board from counting

unlawful ballots and certifying the election results. On 22 January 2025, the Supreme Court denied the petition, instructing Judge Griffin to seek review of the State Board's decision through the normal appellate process, which begins with the superior court. However, the Court stayed certification of the election results during the pendency of the superior court actions and until all appeals therefrom have been exhausted. That stay remains in place.

The Court also mandated that the superior court action "proceed expeditiously."

After an expedited briefing schedule, the superior court held arguments on Judge Griffin's appeal on 7 February 2025 before the Honorable William R. Pittman. Later that day, the superior court entered orders in all three cases, which affirmed the decision of the State Board.

On 10 February 2025, Judge Griffin gave notice of appeal to this Court in each of the three actions. Copies of those notices of appeal are attached to this motion. That same day, the court reporter delivered a copy of the transcript from the 7 February 2025 hearing.

MODIFICATION OF APPELLATE DEADLINES

The typical deadlines set forth in the Rules of Appellate Procedure are not consistent with the Supreme Court's mandate that this action proceed

expeditiously. The parties have acted under expedited briefing schedules in each of the many actions involving this election dispute, including proceedings before the State Board, the Supreme Court, the superior court, a federal district court, and the Fourth Circuit. Expedited treatment of the dispute remains appropriate.

To that end, Judge Griffin proposes the following schedule for the relevant appellate deadlines with this Court:

Event	Proposed Deadline
Appellant serves proposed record on appeal	Thursday, February 13, 2025
Appellees serve objections and amendments	Friday, February 14, 2025
Appellant files record and transcripts	Monday, February 17, 2025
Appellant files opening brief	Wednesday, February 19, 2025
Appellees file response brief	Friday, February 21, 2025
Appellant files reply	Tuesday, February 25, 2025

Appellant proposes that all filings in this appeal be filed in the P-number docket assigned to this motion, unless the Court instructs the parties otherwise.

Counsel for Appellant has conferred with counsel for Appellees regarding the proposed schedule. Appellees believe Appellant should have 7 days for the opening brief, Appellees have 7 days for response briefs, and then 3 business days for a reply. Appellees also informed Appellant that they intend to file a bypass petition with the Supreme Court and want to postpone briefing until after a ruling on the

bypass petition. Appellant believes that postponing briefing is inconsistent with the Supreme Court's order to proceed expeditiously.

CONSOLIDATION

Judge Griffin proposes that the three actions in the superior court be consolidated as one appeal in this Court. The State Board determined the three categories of election protests in one order and after one consolidated hearing. The superior court ordered that the cases be consolidated for purposes of filing the administrative record, and then heard all three actions in one hearing.

The merits of each action are distinct. But the appellees have raised common defenses in all three actions. Consolidation, therefore, is appropriate.

Counsel for Appellant has conferred with counsel for Appellees, and Appellees agree to consolidate the cases.

OTHER MODIFICATIONS TO THE APPELLATE RULES

Word limits. Appellant proposes that the word limit for the parties' briefs be expanded to 17,500 words for the opening brief and response briefs and 7,500 words for the reply brief. The parties have filed extensive briefs on the same issues with both the Supreme Court and the superior court, and no word limits applied to the briefs filed in either of those courts. The issues in this case are complicated, and it would not be possible for the parties to submit briefs that are helpful to this Court

within the current word limits. See N.C. R. App. P. 28(j). That's especially true if the cases are consolidated.

Appellees agree with this request to expand the word limit.

Submission of original or electronic exhibits. Judge Griffin also proposes a change to the process for filing the record on appeal. Typically, if any party wishes to submit an original exhibit, it is that party's responsibility to submit such exhibit to the Clerk of the Court of Appeals. See N.C. R. App. P. 9(d)(2). One party in this case filed electronic recordings in the superior court action, but it is unclear under Appellate 9(d)(2) whose responsibility it is to file this electronic recording with the Court of Appeals.

Given the time-constraints on this appeal, Judge Griffin proposes the following modification of that rule: If any party wishing to make original exhibits or electronic files, such as recordings, part of record on appeal, the party seeking the inclusion of such material is responsible for submitting it to the Court of Appeals.

Appellants take no position on the electronic components of the record.

WHEREFORE, Judge Griffin respectfully requests that the Court grant this motion in its entirety.

Respectfully submitted this the 11th day of February, 2025.

DOWLING PLLC

Electronically submitted

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N.C. App. R. 33(b) Certification: I certify that the attorneys listed below have authorized me to list their names on this document as if they had personally signed.

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Counsel for the Honorable Jefferson Griffin

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically filed
and served this day by email as follows:

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This the 11th day of February, 2025.

/s/ Troy D. Shelton
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WAKE COUNTY

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Case No. 24CV040619-910

NOTICE OF APPEAL

TO THE HONORABLE NORTH CAROLINA COURT OF APPEALS:

Petitioner Jefferson Griffin, through his undersigned counsel, hereby gives notice of appeal to the North Carolina Court of Appeals from the Order affirming the final decision of the State Board of Elections, such Order being signed and filed on 7 February 2025 by the Honorable William R. Pittman, Superior Court Judge. Petitioner also gives appeal from any other intermediate order involving the merits and necessarily affecting the judgment.

This the 10th day of February, 2025.

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The undersigned hereby certifies that a copy of the foregoing document was served by email on the following counsel:

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Counsel for Allison Riggs

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