

STATE OF NORTH CAROLINA BY: S. Smallwood

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV031557-910

COUNTY OF WAKE

TELIA KIVETT, *et al.*,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD
OF ELECTIONS, *et al.*,

Defendants,

and

DEMOCRATIC NATIONAL COMMITTEE,

Intervenor-Defendant.

ORDER GRANTING PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT

THIS MATTER came before the undersigned for a hearing upon Plaintiffs Telia Kivett, Wanda Nelson Fowler, Republican National Committee, North Carolina Republican Party, and Wake County Republican Party (“Plaintiffs”) March 11, 2026 Motion for Summary Judgment, (ECF No. 48), seeking an order granting summary judgment in Plaintiffs’ favor on Count I to the Verified Complaint pursuant to N.C. R. Civ. P. 56. Specifically, the Motion concerned Plaintiffs’ request for a declaratory judgment that persons who have never been domiciled in North Carolina are ineligible to register or cast ballots in any of the State’s election contests, and that any interpretation or application of state law permitting such registrations or ballots is unlawful.¹

¹ Based upon representations by Plaintiffs’ counsel at the hearing, the Court construes Count I to be limited to a request for a declaratory judgment as phrased herein, and the Court’s Order and Judgment relates solely to this requested relief.

Also brought for argument at the same hearing was Defendant North Carolina State Board of Elections, along with its Executive Director and Members, each in their official capacities (“State Board Defendants”) Motion to Withdraw Attorney Terence Steed² and Motion to Dismiss Plaintiffs’ Verified Complaint, and Intervenor-Defendant Democratic National Committee’s (“DNC Defendant”) Motion to Dismiss Plaintiffs’ Verified Complaint and Motion to Transfer Count I to a Three-Judge Panel.

This Court conducted a duly noticed hearing on all motions on May 18, 2026. Plaintiffs were represented at the hearing by Phillip Strach and Jordan Koonts of Nelson Mullins Riley & Scarborough, LLP; State Board Defendants were represented at the hearing by Mary Lucasse and Mary Scruggs of the North Carolina Department of Justice; and DNC Defendant was represented by Shana Fulton and James Whalen of Brooks, Pierce, McClendon, Humphrey, and Leonard, LLP.

Having considered the pleadings, memoranda submitted by the parties and the evidence properly before the Court, along with arguments of counsel, the Court concludes as follows:

Although the State Board of Elections is acting consistently with N.C. Gen. Stat. § 163-258.2, the matters raised in Count I of Plaintiffs’ Complaint have been addressed by our State’s appellate courts, and no genuine disputed material facts exist. Therefore, Plaintiffs are entitled to summary judgment on Count I of the Verified Complaint as a matter of law. Accordingly, the Court orders as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs’ Motion for Summary Judgment on Count I of the Verified Complaint is **GRANTED**. All other Motions brought before the Court are **DENIED**.

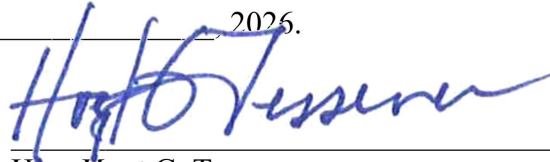
² This Motion was granted in open court and is reflected in a separate signed order. (ECF No. 76).

Persons who have never resided in North Carolina and who are only eligible to register and vote in North Carolina because they satisfy the definition of a “covered voter” in N.C. Gen. Stat. § 163-258.2(1)(e) of North Carolina’s Uniform Military and Overseas Voters Act are not eligible to register and vote in any North Carolina election contest, including state or federal contests.

JUDGMENT IS ENTERED in favor of Plaintiffs on Count I consistent with this Order.

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SO ORDERED. This, the ____ day of _____, 2026.



Hon. Hoyt G. Tessener
Superior Court Judge, Presiding