

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

No. 21 CVS 015426

No. 21 CVS 500085

2022 JAN -6 A 9:30

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, INC. et al.,

WAKE CO. C.S.C.

REBECCA HARPER, et al.,

COMMON CAUSE,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.

Defendants.

**MOTION FOR CLARIFICATION
OF THE ELECTION SCHEDULE**

NOW COMES Defendants the North Carolina State Board of Elections, its Members, and Executive Director (“State Defendants”), through undersigned counsel, to request clarification of the upcoming election schedule from this court as authorized in the December 8, 2021 Order of the Supreme Court of North Carolina. In support of this motion, State Defendants rely upon the Supplemental Affidavit of Karen Brinson Bell, attached hereto, and the following:

1. On December 8, 2021, the Supreme Court issued an order in this matter in which it suspended candidate filing and delayed the March 8, 2022 elections to May 17, 2022. Included within that directive, the Supreme Court stated, “[t]he trial court is authorized to issue any orders necessary to accomplish the resulting changes in the election schedule, including implementing shortened filing periods and other administrative adjustments.”

2. Accordingly, State Defendants hereby request two adjustments to the election schedule to (1) set the date for resumption of candidate filing, which must be conducted ahead of

the May 17, 2022 election, and to (2) set a date certain for the second municipal election in the absence of a second primary. See the Supplemental Affidavit of Karen Brinson Bell.

3. The requested relief is necessary for the following reasons.

4. First, absentee ballots must be prepared for distribution by county boards of election by March 28, 2022, 50 days before the May 17, 2022 election as required by N.C.G.S. § 163-227.10(a), or April 1, 2022, if shortened to 45 days before the election and as required by 52 U.S.C. § 20302(a)(8)(A). Bell Supp. Aff. ¶ 4. Additionally, staff require approximately 17 to 21 days after the end of candidate filing to prepare those ballots. *Id.*, ¶¶ 5-6. As a result, and assuming staff can prepare ballots in 17 days only, candidate filing must be concluded by March 11, 2022 or March 15, 2022, depending on which of the above absentee ballot distribution deadlines is in effect. *Id.*, ¶ 6. However, if candidate filing were to run up to these last-chance dates, it would place strain on State and county board staff, whereas a period that concluded on March 4, 2022 would allow for a more orderly preparation for the election. *Id.*

5. Moreover, setting the candidate filing deadline at this time will also provide the advance notice necessary for the State and county boards, and candidates to prepare for the opening of the filing period. *Id.*, ¶¶ 7-8.

6. Finally, when the Supreme Court suspended candidate filing in its Wednesday, December 8, 2021 order, the filing period had been open since noon on Monday, December 6, 2021. Previously, the Court of Appeals had suspended candidate filing for the challenged races only for the first half-day before reversing that decision.

7. Therefore, State Defendants respectfully request that the court enter an order that the candidate filing period for the May primary and municipal elections shall resume from 8:00 A.M. on Thursday, February 24, 2022 to 12:00 noon of Friday, March 4, 2022. Previously, the

State Board notified the parties and the Court that maps would need to be resolved by February 14th or February 18th in order to allow for orderly preparation for the May 17, 2022 primary election. See the November 23, 2021 Affidavit of Karen Brinson Bell, ¶ 23, previously filed in this matter and attached to the Supplemental Affidavit of Karen Brinson Bell. Therefore, a candidate filing period that resumes on February 24, 2022 should not have any impact on the timeline for resolution of this litigation.

8. Second, when the primary and municipal elections scheduled for March 8, 2022 were delayed to May 17, 2022, a potential issue arose under N.C. Session Law 2021-56. Bell Supp. Aff., ¶ 10. The session law delayed certain municipal elections scheduled to take place in 2021 to March 8, 2022 to accommodate late census data. In subsection 1(e), the law directs that if any second municipal election is required, it shall take place on the same day as any second primary for non-municipal offices as contemplated by N.C.G.S. § 163-111(e). However, in the event that no second primary for a non-municipal office is required, subsection 1(e) expressly directs that any second municipal election must take place on April 26, 2022. As the March 8 election has now been delayed to May 17, a second election on April 26 is no longer possible, and the State and county boards need clarity as to when that election should be held if that scenario arises (*i.e.*, in the absence of a second primary).

9. State Defendants respectfully recommend and request that the second municipal election date in the absence of a second primary be set for July 26, 2022, which is consistent with the second primary date for federal contests in N.C.G.S. § 163-111(e), and avoids an election day immediately following the July 4th holiday, which would be the case if the non-federal second primary date of July 5 were used. Bell Supp. Aff., ¶ 10.

10. The undersigned advised the Plaintiffs and Legislative Defendants about the relief to be requested by this motion, but has not yet received their response on the requested relief.

11. A copy of the proposed order granting the requested relief is attached hereto.

WHEREFORE, State Defendants respectfully request that this Court enter an order scheduling the resumption of the candidate filing period from February 24, 2022 to March 4, 2022, and if no second primary is required, the second municipal election shall be held on July 26, 2022.

Respectfully submitted, this 6th day of January, 2022.

NORTH CAROLINA
DEPARTMENT OF JUSTICE



Terence Steed
Special Deputy Attorney General
N.C. State Bar No. 52809
tsteed@ncdoj.gov

Mary Carla Babb
Special Deputy Attorney General
N.C. State Bar No. 25713
mcbabb@ncdoj.gov

Stephanie Brennan
Special Deputy Attorney General
N.C. State Bar No. 35955
sbrennan@ncdoj.gov

Amar Majmundar
Senior Deputy Attorney General
N.C. State Bar No. 24668
amajmundar@ncdoj.gov

Post Office Box 629
Raleigh, NC 27602
Phone: (919) 716-6900
Fax: (919) 716-6763

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing document in the above titled action upon all parties to this cause by via email and addressed as follows:

ROBINSON, BRADSHAW & HINSON, P.A.

Stephen D. Feldman
434 Fayetteville St.
Suite 1600
Raleigh, NC 27601
sfeldman@robinsonbradshaw.com

Adam K. Doerr
101 North Tryon St.
Suite 1900
Charlotte, NC 28246
adoerr@robinsonbradshaw.com

Erik R. Zimmerman
1450 Raleigh Rd.
Suite 100
Chapel Hill, NC 27517
ezimmerman@robinsonbradhsaw.com

JENNER & BLOCK, LLP

David J. Bradford
353 North Clark Street
Chicago, IL 60654
dbradford@jenner.com

Sam Hirsch
Jessica Ring Amunson
Kali Bracey
Zachary C. Schauf
Karthik P. Reddy
Urga Mittal
1099 New York Ave., NW
Suite 900
Washington, DC 20001
shirsch@jenner.com
zschauf@jenner.com

Counsel for NCLCV-Plaintiffs

NELSON MULLINS RILEY &
SCARBOROUGH LLP

Phillip J. Strach
Tom Farr
Alyssa Riggins
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
Glenlake One, Suite 200
4140 Parklake Avenue
Raleigh, NC 27612

BAKER HOSTETLER

Mark Braden
Kate McNight
Richard Raile
MBraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com
1050 Connecticut Avenue, NW
Suite 1100
Washington, D.C. 20036

*Counsel for Defendants Philip E. Berger,
Timothy K. Moore, Ralph E. Hise, Jr., Warren
Daniel, Paul Newton, and Destin Hall*

PATTERSON HARKAVY LLP

Burton Craige
Narendra K. Ghosh
Paul E. Smith
100 Europa Dr., Suite 420
Chapel Hill, NC 27517
bcraige@pathlaw.com
nghosh@pathlaw.com
psmith@pathlaw.com

ARNOLD and PORTER

KAYE SHOLER LLP

Elisabeth S. Theodore
R. Stanton Jones
Samuel F. Callahan
601 Massachusetts Ave., NW
Washington, DC 20001-3743
elisabeth.theodore@arnoldporter.com
stanton.jones@arnoldporter.com
sam.callahan@arnoldporter.com

ELIAS LAW GROUP LLP

Marc E. Elias
Aria C. Branch
Lalitha D. Madduri
Jacob D. Shelly
Graham W. White
10 G Street, NE, Suite 600
Washington, DC 20002
MElias@elias.law
ABranch@elias.law
LMadduri@elias.law
JShelly@elias.law
GWhite@elias.law

Abha Khanna

1700 Seventh Ave., Suite 2100
Seattle, WA 98101
AKhanna@elias.law

Counsel for Harper-Plaintiffs

**SOUTHERN COALITION
FOR SOCIAL JUSTICE**

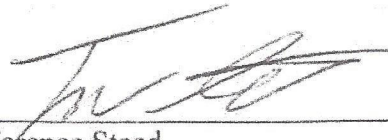
Allison J. Riggs
Hilary H. Klein
Mitchell Brown
Katelin Kaiser
Jeffrey Loperfido
1415 W. Highway 54, Suite 101
Durham, NC 27707
919-323-3909
allison@southerncoalition.org
hilaryhklein@scsj.org
Mitchellbrown@scsj.org
Katelin@scsj.org
jeffloperfido@scsj.org

HOGAN LOVELLS US LLP

J. Tom Boer
Olivia T. Molodanof
3 Embarcadero Center, Suite 1500
San Francisco, California 94111
415-374-2300
tom.boer@hoganlovells.com
olivia.molodanof@hoganlovells.com

Counsel for Common Cause-Plaintiff

This the 6th day of January, 2021.

A handwritten signature in black ink, appearing to read 'Terence Steed', written over a horizontal line.

Terence Steed
Special Deputy Attorney General

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 21 CVS 015426
No. 21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, INC. et al.,

REBECCA HARPER, et al.,

COMMON CAUSE,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.

Defendants.

SUPPLEMENTAL AFFIDAVIT OF KAREN BRINSON BELL

I, Karen Brinson Bell, swear under penalty of perjury, that the following information is true to the best of my knowledge and state as follows:

1. I am over 18 years old. I am competent to give this affidavit, and have personal knowledge of the facts set forth in this affidavit. I have consulted with senior staff at the State Board in the preparation of this affidavit.
2. This affidavit supplements the affidavit I provided on November 23, 2021, in the matter *N.C. State Conf. of NAACP v. Berger*, No. 21 CVS 14476 (Wake Cty. Super. Ct.), a copy of which is attached hereto.
3. In my earlier affidavit, I outlined the timelines and deadlines involved in preparing to conduct the primary and general election using new electoral districts in 2022. This

affidavit applies those same timelines to considerations regarding the filing period for the May 17, 2022, primary and municipal elections.

4. Under N.C.G.S. § 163-227.10(a), the State Board must begin mailing absentee ballots 50 days prior to the primary election day, unless the State Board authorizes a reduction to 45 days or there is “an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal.” The federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) requires that absentee ballots that include elections for federal office be made available by 45 days before a primary election, *see* 52 U.S.C. § 20302(a)(8)(A), unless I request a waiver of this requirement based on a legal contest delaying the preparation of ballots (or another enumerated hardship), and that waiver is granted by the federal official designated to administer UOCAVA, *see id.* § 20302(g). Based on the current primary date of May 17, 2022, 50 days before the primary election falls on March 28, 2022. The 45-day federal deadline falls on April 2, 2022 for the primary election; but because that day is a Saturday, in practice, the federal ballot distribution deadline is Friday, April 1, 2022.

5. Before ballots can begin to be distributed by these deadlines, county board and State Board staff need to finalize ballot styles for use across the state, a process that involves the preparation and proofing of all ballot styles. A ballot style is the specific combination of contests that appears on a voter’s ballot, based on that voter’s voting jurisdictions. There are typically thousands of unique combinations of contests that are possible across the state, meaning that there are typically thousands of ballot styles that must be prepared.

6. The preparation and proofing of these ballots takes approximately 17 to 21 days (including holidays and weekends), and it cannot occur until candidate filing concludes, since the

elections boards must know which candidates will appear on the ballot before preparing those ballots. Consequently, candidate filing must conclude, at the latest, on March 11, 2022, if absentee ballots are to be distributed 50 days prior to the primary, or on March 15, 2022, if absentee ballots are to be distributed 45 days prior to the primary. These last-chance dates would place some strain on State and county board staff, however. A candidate filing period that concluded on March 4, 2022, for example, would be preferable for the administration of the May primary and municipal election.

7. There is currently no schedule to resume candidate filing for the May 17 primary. The State and county boards require some advance notice to resume candidate filing in their offices. In particular, the boards need to ensure that they have sufficient facilities and staff to manage the filing period when it resumes, and they need to provide notice to local media, candidates, political parties, and the general public regarding the filing dates.

8. Additionally, candidates would likely appreciate having advance notice of the resumption of the filing period. This is true for any candidate planning to file a petition in lieu of payment of a filing fee, which must be delivered to the relevant board of elections on the Monday prior to the end of the filing period. *See* N.C.G.S. § 163-107.1. Knowing the candidate filing period also helps candidates calculate the date by which they must have been affiliated with a political party if they are filing for the primary nomination from that political party (*i.e.*, 90 days prior to filing). *See id.* § 163-106.1. And sheriff candidates especially need advance notice of the resumed filing period because they may need to obtain an updated felony disclosure statement from the North Carolina Sheriffs' Education and Training Standards Commission under Session Law 2021-107 prior to filing, since any such statement they obtained prior to the December filing period would expire 90 days after issuance. In other words, because of the

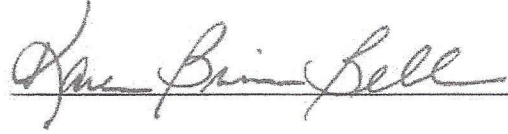
suspension of candidate filing, many sheriff candidates will likely need to obtain a new disclosure statement, but that would depend on exactly when candidate filing resumes and when each candidate originally obtained their disclosure statement.

9. Therefore, consistent with the time period for candidate filing required by N.C.G.S. § 163-106.2 and accounting for the three days of filing that occurred in December 2021, State Board staff recommends scheduling the upcoming candidate filing period to run from 8 a.m. on Thursday, February 24 to 12:00 noon on Friday, March 4, 2022.

10. The postponement of the primary and municipal elections until May 17, 2022, has generated uncertainty regarding the timing of municipal second elections in 2022 (*i.e.*, runoffs or municipal general elections following the May 17 primary) if there is no second primary. The session law that postponed certain municipalities' elections from 2021 until 2022 states that if a second primary is triggered for a non-municipal contest under N.C.G.S. § 163-111, the municipal second election date will be the same date as the second primary. *See* N.C. Session Law 2021-56. This would be July 5 or July 26—the latter of which would occur only if there is a second primary for a federal office. If no second primary is triggered by the May 17 primary, however, the date for any municipal second election is uncertain. Under the session law, that date was expressly set at April 26, which is no longer possible since the initial municipal election will occur in May. The State and county boards therefore need clarity on when to hold any municipal second election in the event that a second primary is not called for under N.C.G.S. § 163-111. State Board staff recommends that such a date be set for July 26, 2022, which is consistent with the second primary date for federal contests in statute and avoids an election day immediately following a holiday, which would be the case if the non-federal second primary date of July 5 were used.

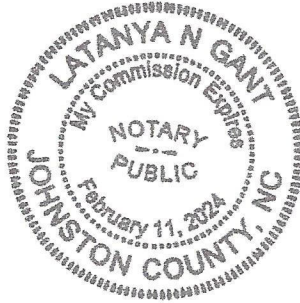
This concludes my affidavit.

This the 5th day of January, 2022.



Karen Brinson Bell, Executive Director
N.C. State Board of Elections

Sworn to and subscribed before me this 5th day of January, 2022.



(Notary Public)

My commission expires: February 11, 2024

General Assembly, state judicial contests at all levels, district attorneys, and county offices. Additionally, voters in roughly a third of North Carolina's counties will have municipal contests on their ballot, due to special legislation delaying certain municipal contests due to delays in receiving U.S. Census data. *See* N.C. Sess. Law 2021-56. For the non-municipal contests, if no candidate reaches the vote share necessary to become the party nominee after the first primary (at least 30% of the vote plus one), a second primary may be held on April 26, or May 17 if a federal office is involved. *See* N.C.G.S. § 163-111. For municipal contests that use the primary-and-election or election-and-runoff methods of voting, the second municipal election will be held on April 26, unless a second primary is being held in a federal contest, in which case the municipal second election will also be held on May 17.¹

4. In our state, the county boards of elections administer elections in each county, including, among other things, providing for the distribution of voting systems, ballots, and pollbooks, training elections officials, conducting absentee and in-person voting, and tabulation and canvassing of results. The State Board is responsible for development and enhancement of our Statewide Elections Information Management System ("SEIMS"), which includes managing functions that assign voters to their relevant voting districts, a process known as "geocoding." The State Board also supports the county boards and their vendors in the preparation and proofing of ballots.

5. For North Carolina electoral districts, the geocoding process starts when the State Board receives district shapefiles from the legislature, which include geographic data setting the boundaries for legislative districts. The State Board's staff then works with county board staff to

¹ North Carolina municipalities conduct elections using one of four election methods: nonpartisan plurality, nonpartisan election and runoff, nonpartisan primary and election, and partisan primary and election. *See* N.C.G.S. §§ 163-291, -292, -293, -294.

use the shapefiles to update the voting jurisdictions that are assigned to particular addresses in SEIMS. This process then allows the State Board to work with county board staff and ballot-preparation vendors to prepare ballots. The State Board must perform an audit of the geocoding to ensure its accuracy before ballot preparation.

6. The amount of time required for geocoding generally corresponds with the number of district boundaries that are redrawn within the counties. In this case, most counties will experience changes to their districts following decennial redistricting—including state legislative, congressional, and local jurisdiction districts—and a significant number of those counties are likely to have newly drawn district boundaries within the counties' borders. Staff estimates that, given what we currently know, geocoding would likely take at least 21 days (including holidays and weekends) for the 2022 primary.

7. Ballot preparation and proofing can begin after geocoding is complete and candidate filing closes. For the 2022 primary elections, candidate filing occurs between noon on December 6, 2021, and noon on December 17, 2021. *See* N.C.G.S. § 163-106.2(a). The process of generating and proofing ballots is complex and involves multiple technical systems and quality-control checkpoints that precede ballot printing and the coding of voting machines. This includes proofing each ballot style for content and accuracy, ballot printing, and delivery of all ballot materials to county boards. Staff estimates that, given what we currently know, ballot preparation and proofing would likely take between 17 and 21 days (including holidays and weekends) for the 2022 primary, depending on the number of ballot styles to prepare, which largely depends on the degree of change to intracounty district lines, and the number of contested nominations.

8. Geocoding and candidate filing may occur concurrently, although that is not ideal

because the completion of geocoding permits candidates and county boards to verify if a candidate desiring to file for election lives in a particular district. It is possible, however, to check candidate eligibility while geocoding is still taking place.

9. In contrast, geocoding and ballot preparation must occur consecutively. Ballots cannot be prepared until the proper geographical boundaries for voting districts are set in SEIMS and the candidates are known after the candidate-filing period closes. Additionally, the end-of-year holidays could pose difficulties for available staff time for the State Board, county boards, and vendors. Therefore, the total time required for geocoding and ballot preparation is likely between 38 and 42 days (including holidays and weekends).

10. Under N.C.G.S. § 163-227.10(a), the State Board must begin mailing absentee ballots 50 days prior to the primary election day, unless the State Board authorizes a reduction to 45 days or there is “an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal.” The federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) requires that absentee ballots that include elections for federal office be made available by 45 days before a primary election, *see* 52 U.S.C. § 20302(a)(8)(A), unless I request a waiver of this requirement based on a legal contest delaying the preparation of ballots (or another enumerated hardship), and that waiver is granted by the federal official designated to administer UOCAVA, *see id.* § 20302(g). The state requesting a waiver must present a comprehensive plan that provides absentee UOCAVA voters sufficient time to receive and submit absentee ballots they have requested in time to be counted in the federal election.² Based on the current primary date of March 8, 2022, 50 days before the primary election falls on January 17, 2022; but because that

² https://www.fvap.gov/uploads/FVAP/EO/2012_waiver_guidance.pdf.

day is a holiday, the county boards must be prepared to begin distributing absentee ballots on the prior business day, which is January 14, 2022. The 45-day federal deadline falls on January 22, 2022 for the primary election; but because that day is a Saturday, in practice, the federal ballot distribution deadline is Friday, January 21, 2022.

11. In sum, the State Board would need to receive the shapefiles for geocoding and ballot preparation between now and 38 to 42 days before the deadline for distributing absentee ballots. Currently, that deadline is January 14, 2022, which means any new shapefiles must arrive between now and December 3–7, 2021. If that deadline were moved to January 21, 2022, new shapefiles would need to arrive between now and December 10–14, 2021.

12. If the deadlines for distributing absentee ballots were extended beyond what is required by UOCAVA, the State Board would also have to factor in additional administrative steps that must be prepared before in-person voting occurs. Currently, in-person early voting is set to begin on February 17, 2022 for the 2022 primary.

13. Before in-person voting occurs, the State Board must work with county boards to load data onto physical media cards that are placed in voting tabulation machines, a process called “burning media.” The media cards ensure that the tabulators anticipate the layout of ballots and properly attribute votes based on the ballot markings. The county boards must also conduct logic and accuracy testing to ensure that tabulation machines accurately read ballots and to correct any errors in coding. Staff estimates that burning media, preparing ballot marking devices and tabulators, and logic and accuracy testing would likely take the counties 14 days. After that process, the State Board works with the county boards to conduct a mock election, which takes one day, and generally affords two weeks thereafter to remedy any technical problems identified during the mock election. That two-week period could be reduced, but the

State Board generally believes that the two-week period fully insures against risks associated with technical problems that may be identified in the mock election.

14. Accordingly, regardless of when the absentee ballot distribution deadline falls, allowing 29 days after ballots have been prepared to prepare for in-person election voting is preferable. Under the current deadlines for distributing absentee ballots, which falls roughly a month before early voting begins, these processes can be accommodated. The time requirements for these processes would only become relevant if the absentee distribution deadline is shortened to less than what is currently required by statute.

15. If the Court were to order a separate primary for the challenged contests, a different set of administrative requirements would be triggered that could ultimately lead to disruption of the general election in the fall.

16. First, it is not technically possible to perform geocoding while in-person voting is occurring, and it is difficult to perform geocoding during the canvass period after the election. This is because making changes in SEIMS related to geocoding inhibits the actual voting process. County canvass takes place 10 days following an election. Generally, at that point, geocoding may begin, assuming no recount has been ordered. Accordingly, we recommend that geocoding for any delayed primary not begin any earlier than March 19, 2022. Relying on the aforementioned estimates, it would take between 38 and 42 days to geocode and prepare ballots for a separate primary. Candidate filing could occur before or simultaneous with geocoding.

17. However, if this Court chose to delay only the contests challenged by this action and allowed the other races to proceed on March 8, 2022 (judicial, prosecutorial, county, and municipal races), in order to accommodate a second primary or second municipal election for those races (see paragraph three above) on April 26 or May 17, the geocoding time period would

be interrupted as there will be a second blackout period for geocoding from April 7 to May 6 (if the election is April 26), or April 28 to May 27 (if the election is May 17). This represents an interruption in geocoding of 30 days, resulting in the work of geocoding and ballot preparation not being completed until approximately May 26-30, 2022, at the earliest. At that point, absentee ballots could be distributed pursuant to N.C.G.S. § 163-227.10(a).

18. Second, state law regarding the deadline for distributing absentee ballots would again require 50 days' time prior to the primary election day, unless the State Board reduced that time to 45 days or there is "an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal." N.C.G.S. § 163-227.10(a). The federal UOCAVA deadline would not apply if the primary did not involve federal offices. Therefore, accounting for absentee ballot distribution deadlines, the earliest that a separate primary could occur is 45 days later, which would result in a primary election day of Tuesday, July 12, 2022.

19. Third, one-stop early voting would have to begin 20 days before the primary election day under N.C.G.S. § 163-227.2(b). Accordingly, all of the administrative processes that must occur before in-person voting begins (geocoding, ballot preparation, burning media, preparing touch-screen ballots, logic and accuracy testing, mock election, and technical fix period, among other things), which are estimated to take between 67 and 71 days total, would need to occur between March 19, 2022, and 20 days before the date of the separate primary, with an additional 30 day delay caused by the blackout period around the second primary as described in paragraph 17 above. Therefore, even putting aside absentee ballot distribution deadlines and then accounting for in-person voting timelines, the earliest that separate primary could occur is, again, Tuesday, July 12, 2022.

20. Such a late date for a primary would make any second primary, if triggered and requested under N.C.G.S. § 163-111, infeasible. A second primary under this scenario would occur on either August 30, 2022 or September 20, 2022 (*i.e.*, 7 or 10 weeks after the initial primary, depending on whether there was a federal contest involved). This would interfere with the August 19 to August 23 deadline to begin preparing ballots for the general election. Absentee ballots must be mailed out for the general election on September 9, 2022 pursuant to N.C.G.S. § 163-227.10(a), and staff require 17-21 days to prepare those ballots ahead of that date as described in paragraph 7 above.

21. Fourth, there are additional administrative challenges that counties would face if a separate primary were held. Among these challenges would be recruiting poll workers and securing voting locations, along with the associated costs. Increasingly, county elections officials have found it necessary to spend more time recruiting early voting and election day poll workers, especially because of statutorily mandated early voting hours and technological advances in many counties that require elections workers to be familiar with computers. Additionally, a large portion of precinct voting locations in the state are housed in places of worship or in schools, with still others located in privately owned facilities. Identifying and securing appropriate precinct voting locations and one-stop early voting sites requires advance work by county board staff and coordination with the State Board.

22. In sum, enjoining and delaying only the challenged primary contests would result in significantly greater administrative burden on the boards of elections, could result in significant voter confusion, and could potentially lead to an administratively infeasible timeline in late summer. In contrast, if all currently scheduled contests set for March 8, 2022 were moved to a later date, this would still raise significant administrative burdens, but it would be possible to

implement as geocoding of any new shapefiles can begin immediately upon receipt by the State Board, without blackout interruptions, and voters would not need to keep track of multiple primary dates for the 2022 elections.

23. Under those circumstances, and backtracking from the earliest relevant deadline for the general election—the ballot preparation deadline of August 19 to August 23³—the second primary can occur no later than Tuesday, July 26, 2022,⁴ and the first primary can occur no later than Tuesday, May 17, 2022,⁵ which in turn requires that the State Board be provided with any new shapefiles no later than February 14 to 18, 2022.⁶

³ Absentee ballots must be mailed out for the general election on September 9, 2022 pursuant to N.C.G.S. § 163-227.10(a), and staff require 17-21 days to prepare those ballots ahead of that date as described in paragraph 7 above.

⁴ 21 days are required by the State Board to complete statewide canvass and certify the election results, which must be completed prior to preparing ballots. This results in a date range of Friday, July 29 to Sunday, August 2, with Tuesday, July 26 being the nearest feasible day to hold the election.

⁵ The allowance of 10 weeks is required between the first and second primaries, pursuant to N.C.G.S. § 163-111(e).

⁶ 38 to 42 days to geocode and prepare ballots plus the 50 days before the election when absentee ballots must be mailed.

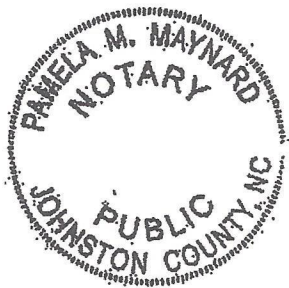
This concludes my affidavit.

This the 23rd day of November, 2021.



Karen Brinson Bell, Executive Director
N.C. State Board of Elections.

Sworn to and subscribed before me this 23rd day of November, 2021.



(Notary Public)

My commission expires: 11-2-23

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

No. 21 CVS 015426

No. 21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, INC. et al.,

REBECCA HARPER, et al.,

COMMON CAUSE,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.

Defendants.

**ORDER CLARIFYING
ELECTION SCHEDULE**

This matter comes before the Court on motion by State Defendants, for an Order clarifying the election schedule as authorized by the December 8, 2021 Order of the Supreme Court of North Carolina. Pursuant to that order, and for good cause shown, the Motion for Clarification of the Election Schedule is GRANTED.

IT IS ORDERED that the candidate filing period for the May 17, 2022 election shall resume at 8:00 A.M. on Thursday, February 24, 2022 and conclude at 12:00 noon of Friday, March 4, 2022; and

IT IS FURTHER ORDERED that if no second primary is required following the May primary, the date of the second municipal election following the May municipal elections shall be July 26, 2022.

Dated: _____

A. Graham Shirley, Superior Court Judge

Nathaniel J. Poovey, Superior Court Judge

Dawn M. Layton, Superior Court Judge