

November 5, 2024 Election Protest of Jefferson Griffin
N.C. Supreme Court Associate Justice, Seat 6

PROTESTOR

1. Provide your preferred contact information:

Name: Jefferson Griffin County of Residence: Carteret
Email: jefferson@jeffersongriffin.com Phone: contact counsel
Mailing Address: PO Box 99780 Raleigh, NC 27624

NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you attach an addendum indicating otherwise.

2. Are you represented by counsel? ☒ Yes ☐ No

NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel Certification Addendum.

3. Mark all that describe you:

- ☒ Candidate for the office of Seat 6 of the Supreme Court of North Carolina
☐ Registered voter eligible to participate in the protested election contest
☐ Neither of the above*

**If you select this option, you are not eligible to file a protest.*

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

Protested Contest(s)	Current Vote Margin (subtract runner-up totals from apparent winner's totals)
N.C. Supreme Court Associate Justice, Seat 6	625

5. This protest alleges (*select at least one*):

- ☐ A defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.
☒ A violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.

FACTUAL BASIS & LEGAL ARGUMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge, and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

The county board of elections has accepted, processed, and counted votes from certain overseas voters who are not residents of this county. In fact, these voters have never resided in the state of North Carolina.

The North Carolina Constitution requires that only residents of the state may vote in the state's elections. N.C. Const. art. VI § 2(1). A North Carolina statute, however, provides that an overseas person who was born outside of the United States and has never resided in North Carolina can vote in North Carolina so long as the person's parent or legal guardian was an eligible North Carolina voter before leaving the United States. N.C.G.S. § 163-258.2(1)(e). The statute, therefore, allows persons to vote in North Carolina despite not being residents when they voted or registered to vote in North Carolina, which is a violation of the North Carolina Constitution's residency requirement for all voters. Upon information and belief, the county board of elections has not taken any actions to confirm the residency of the overseas voters who cast ballots pursuant to N.C. Gen. Stat. § 163-258.2(1)(e). These registrations and ballots of such overseas voters are readily identifiable through the Federal Post Card Application ("FPCA") and Federal Write-In Absentee Ballot ("FWAB") options stating "I am a U.S. citizen living outside the country, and I have never lived in the United States." In addition, there is no legitimate basis for imposing a residency requirement on some voters but not all voters.

We have identified overseas voters in the county who were allowed to vote in the contested election pursuant to N.C. Gen. Stat. § 163-258.2(1)(e). EXHIBIT A is an affidavit that includes a list created from information provided by the State Board of Elections that identifies such voters. It appears the county board of elections has accepted, processed, and counted votes from the persons identified on the list without taking any actions to establish the voter's residency. These actions violate North Carolina law and the state Constitution.

In addition, the State Board's information on self-identified non-residents using the FPCA process is limited to those who used the online portal, and does not include those who submitted a ballot request via mail. We therefore ask that the county board of elections, in furtherance of this protest, review the county's FPCA records to determine if anyone using the FPCA process via mail self-identified as a non-resident and, if so, those individuals should not have been entitled to vote.

7. List all individuals, if any, you may call as witnesses to substantiate facts listed in Prompt 6. If there are multiple individuals, summarize the facts of which the individual has personal knowledge.

Ryan Bonifay

8. Cite any statute or case, administrative rule or decisions, and election policy or procedure that supports your claim set out under Prompt 5.

N.C. Const. art. VI § 2; N.C. Const. art. I § 10; N.C. Const. art. I, § 19; N.C. Gen. Stat. § 163-258.2

RELIEF

9. What effect do you believe the facts alleged in response to Prompt 6, if proven, will have on the electoral outcome in the protested contest(s)? Your response should account for the current vote margin calculated in response to Prompt 4.

- ☐ The electoral outcome of the protested contest(s) will change.
- ☐ The electoral outcome of the protested contest(s) will not change.
- ☒ I am uncertain whether the outcome of the contest(s) will change. **(Due to other pending protests, these votes may be determinative of the outcome.)**
- ☐ Other _____

10. What relief do you seek?

- ☒ Correct the vote count
- ☐ A new election
- ☐ Other: _____

11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance provided:

See Counsel Certification Addendum

Note: For protestors represented by an attorney, this protest is the initial filing in a proceeding as defined by N.C. State Bar Rules. *See* 27 N.C.A.C. 02 Rule 1.00(n).

12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring this protest?

☐ Yes

☒ No

13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for filing this protest?

☐ Yes

☒ No

AFFECTED PARTIES & SERVICE

You must serve copies of all filings on every person with a direct stake in the outcome of this protest ("Affected Parties"). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of particular voters, all such voters are Affected Parties and must be served. Address information for registered voters is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the Affected Party's mailing address of record on file with the county board of elections or the State Board, or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all Affected Parties.

14. List all Affected Parties, including their service address:

<i>Affected Party</i>	<i>Service Address</i>
<u>Allison Riggs</u>	<u>1001 Wade Ave, Suite 323, Raleigh, NC 27605</u>
<u>See list attached to EXHIBIT A</u>	<u>See list attached to EXHIBIT A</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

PROTESTOR CERTIFICATION

15. By signing this protest application, you affirm the following:

I, Jefferson Griffin (full name), swear, under penalty of perjury, that the information provided in this protest filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

(initial)

JG
JG
JG
JG

I have reviewed the statutes and administrative rules governing election protests, including all deadlines.

My protest must originate with a filing at the county board of elections.

I must timely serve all Affected Parties.

I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct, either of which were sufficient to cast doubt on the apparent results of the election.

It is a crime to interfere unlawfully with the conduct and certification of an election.

It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote counted in the election.

JG
JG
JG

The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I have a good faith basis to protest the conduct and results of the election.

Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes. This notice is provided pursuant to S.L. 2013-381, s. 5.4.

Signature of Protestor: _____

Date: 19 NOV 24

(This signature must be signed in the presence of a notary)

State of North Carolina, County of WAKE

Sworn to (or affirmed) and subscribed before me this the 19th day of NOVEMBER, 2024.



Gregory M. Fornshell

Official Signature of Notary

GREGORY M. FORNSHELL, Notary Public
Printed Name

My commission expires: DECEMBER 6, 2027

.....
Date/Time Filed with County Board _____

(completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections & Ethics Enforcement, PO Box 27255, Raleigh, NC 27611-7255.

COUNSEL OF RECORD ADDENDUM

If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your Election Protest Application.

Attorney Must complete all of the following:

Protestor Name: Jefferson Griffin

Protestor County: Carteret (candidate challenge)

Attorney Name: Craig D. Schauer

Attorney Email: cschauer@dowlingfirm.com

Attorney Phone: 919-529-3351

☒ I am a member in good standing with the North Carolina State Bar

☐ I am not licensed to practice law in North Carolina but am a member in good standing in _____ (State or District of Columbia), and do hereby apply to appear pro hac vice and certify that I have or will file all appropriate documents required under G.S. 84-4.1.

Law Firm: Dowling PLLC

Bar Number: 41571

I (choose one) ☐ am ☒ am not:

Subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

I represent the Protestor whose name is provided above. I have read and understand the laws governing election protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest that the information I have provided in this Addendum is true and accurate to the best of my knowledge.



Attorney Signature

11/19/2024

Date

EXHIBIT A

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)
)
)
AFFIDAVIT OF RYAN BONIFAY)
)
)
)
)

I, Ryan Bonifay, being duly sworn, depose and say as follows:

Background and Experience

1. I am over 18 years of age and competent to make an affidavit.
2. I have personal knowledge of the matters described herein.
3. I am a citizen of the United States and a resident of Lexington, North Carolina.
4. I am employed as Director of Data and Analytics at Coldspark, a political consulting and strategy firm. I have been so employed since January 2023. Previously, I have been employed by the Republican Party as Regional Analytics Director and State Analytics Director for North Carolina, as Data Director for Engage Texas, and as Data Director on U.S. Senate, congressional, and gubernatorial campaigns. Altogether I have approximately 10 years of experience as a data analyst for political campaigns and parties, all of them Republican. I have previously worked on North Carolina elections during the 2016 and 2020 election cycles.
5. I was retained by the North Carolina Republican Party to review and compile publicly-available information from the North Carolina State Board of Elections, either on their website or received through public records requests, in connection with the filing of election protests.

6. In my professional work I have become familiar with public sources of data on voter registration and voter turnout in North Carolina, and with the inputs to and limitations of such sources.

Assignment

7. I was asked to submit this affidavit in support of election protests filed with county boards of elections across North Carolina.

8. I was asked by counsel to generate a list of individuals who cast an absentee ballot from overseas and who self-reported never residing in North Carolina, based on publicly available data.

9. In aid of compiling this data, lawyers for the North Carolina Republican Party made numerous requests for information under North Carolina's Public Records law. Once the relevant public agencies produced their responses, I attempted to match the produced records to public voting records to identify voters who may have cast a ballot but were ineligible as of Election Day. The process for doing so is described in more detail below.

10. As to overseas voters who self-reported never residing in North Carolina, the North Carolina Republican Party made the following public records requests to the North Carolina State Board of Elections on November 9, 2024:

- a. A list of voters who self-identified as having never lived in the United States while submitting a Federal Post Card Application ("FPCA"). If such a list does not exist, the North Carolina Republican Party requested the opportunity to inspect and obtain copies of all FPCAs, where the individual marked they have never lived in the United States, that have been submitted since January 1, 2024.

- b. A list of voters who self-identified as having never lived in the United States while submitting a Federal Write-in Absentee Ballot (“FWAB”). If such a list does not exist, the North Carolina Republican Party requested the opportunity to inspect and obtain copies of all FWABs, where the individual marked they have never lived in the United States, that have been submitted since January 1, 2024.

11. In response, on November 13, 2024 the North Carolina Republican Party received from NCSBE a file entitled “FPCA_online_portal_submissions_never_lived_US.csv”.

12. The NCSBE explained in their public records response that this spreadsheet consisted of “data on voters who submitted FPCA requests via our [i.e. NCSBE’s] online portal and who checked the box indicating that they never lived in the United States. The ‘overseasNoUsInd’ is the column that indicates if that checkbox was checked.” The NCSBE also explained that the spreadsheet was limited to overseas voters who submitted a ballot request through NCSBE’s online system. Overseas voters who mailed in a ballot request would have done so to a county board of elections, and are thus not included in the information I compiled.

13. FPCA refers to the federal post card application. My understanding is that the federal post card application is a form promulgated by the United States government, standardized across all states, that acts as both a voter registration application and as a request for an absentee ballot. A true and accurate copy of the FPCA form available on the NCSBE’s website is included as **ATTACHMENT 1**.

14. On the FPCA, voters may self-identify as having never lived in the United States.

15. This file “FPCA_online_portal_submissions_never_lived_US.csv” (the “NCSBE FPCA List”) is a list of individuals who submitted the FPCA in 2024 seeking a North Carolina ballot, and who self-identified as never having lived in the United States.

16. The file "FPCA_online_portal_submissions_never_lived_US.csv" contains a column "BallotSendMethod" that appears to reflect whether a ballot was sent to the individual electronically ("e") or by mail ("m").

17. I verified which of these overseas individuals actually voted by reference to the statewide voter list, filename ncvoter_Statewide.zip, and absentee voter list, filename absentee_20241105.zip.

18. I matched self-identified overseas never-resident voters in the NCSBE FPCA List to the list of North Carolina voters who cast a ballot in the November 2024 election in the statewide voter list based on voter registration number and NCID number.

19. This process resulted in a list of likely matches in this county, which is attached as **ATTACHMENT 2.**

20. I am unaware of any records indicating that any of these voters were challenged for being non-residents of North Carolina.

Further, the affiant sayeth not.

This 19 day of November, 2024.



RYAN BONIFAY

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Signed and sworn to (or affirmed) before me by Ryan Bonifay.

Date: 11/19/24 Gregory M. Forswell

[Official Seal]



[Official Signature of Notary]

GREGORY M. FORNSHELL

Notary Public

[Notary's printed or typed name]

My commission expires: 12/6/2017

Attachment 1

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

Print clearly in blue or black ink, please see back for instructions.

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your state's guidelines at FVAP.gov.

1. Who are you? Pick one.

I request an absentee ballot for all elections in which I am eligible to vote AND:

- ☐ I am on active duty in the Uniformed Services or Merchant Marine **-OR-** ☐ I am an eligible spouse or dependent.
☐ I am a U.S. citizen living outside the country, and I intend to return.
☐ I am a U.S. citizen living outside the country, and my intent to return is uncertain.
☐ I am a U.S. citizen living outside the country, and I have never lived in the United States.

Last name

Suffix (Jr., II)

☐ Mr.

☐ Miss

First name

Previous names (if applicable)

☐ Mrs.

☐ Ms.

Middle name

Birth date (MM/DD/YYYY)

/

/

Social Security Number

-

-

Driver's license or State ID #

2. What is your address in the U.S. state or territory where you are registering to vote and requesting an absentee ballot?

Your voting materials will not be sent to this address. See instructions on other side of form.

Street address

Apt #

City, town, village

State

County

ZIP

3. Where are you now? You MUST give your CURRENT address to receive your voting materials.

Your mailing address. (Different from above)

Your mail forwarding address. (If different from mailing address)

4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email:

Phone:

Alternate email:

Fax:

5. What are your preferences for upcoming elections?

A. How do you want to receive voting materials from your election office? (Select One)

- ☐ Mail
☐ Email or online
☐ Fax

B. What is your political party for primary elections?

6. What additional information must you provide?

Puerto Rico and Vermont require more information, see back for instructions. *Additional state guidelines* may be found at FVAP.gov. You may also use this space to clarify your voter information.

7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.

Sign here

X

Today's date
(MM/DD/YYYY)

/ /

You can vote wherever you are.

1. Fill out your form completely and accurately.

- Your U.S. address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your state of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. DO NOT write a PO Box # in section 2.
- Most states allow you to provide a Driver's License number or the last 4 digits of your SSN. New Mexico, Tennessee, and Virginia require a full SSN.
- If you cannot receive mail at your current mailing address, please specify a mail forwarding address.
- Many states require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- **Section 6 Requirements:** If your voting residence is Vermont, you must acknowledge the following by writing in section 6: "I swear or affirm that I have taken the Vermont Voter's Oath." If your voting residence is in Puerto Rico, you must list your mother's and father's first name.
- We recommend that you complete and submit this form every year while you are an absentee voter.

2. Remember to sign this form!

3. Return this form to your election official. You can find their contact information at FVAP.gov.

- Remove the adhesive liner from the top and sides. Fold and seal tightly. If you printed the form, fold it and seal it in an envelope.
- All states accept this form by mail and many states accept this form by email and fax. See your state's guidelines at FVAP.gov.

Agency Disclosure Statement

The public reporting burden for this collection of information, OMB Control Number 0704-0503, is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. DO NOT SUBMIT YOUR FORM TO THE E-MAIL ADDRESS ABOVE.

Privacy Advisory

When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

Questions?

Email: vote@fvap.gov

(Fill in the address of your election office.
The address can be found online at FVAP.gov.)

To

NO POSTAGE NECESSARY IN THE U.S. MAIL - DMM 703.8.0

OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL



International airmail postage is required if not mailed using the U.S. Postal Service, APO/FPO/DPO system, or diplomatic pouch.

From
(Your name and mailing address)

U.S. Postage Paid
39 USC 3406
PAR AVION



Attachment 2

NC FPCA With Votes - Swain

NCID	source_dt	lastName	nameSuffix	firstName	middleName	resAddr1	resAddr2	resCity	resState	resZip	NcCounty	contactPhone	contactFax	ballot_rtn_status
EC26464	10/24/2024	KENNEDY		LAURA	POLL	13076 US 19 W		BRYSON CITY	NC	28713	Swain			ACCEPTED