

DAVIDSON COUNTY BOARD OF ELECTIONS

November 26, 2024

The Davidson County Board of Elections met on Tuesday, November 26, 2024 at 6:00 p.m. at Davidson County Governmental Center in the Commissioner's Meeting Room located at 913 Greensboro Street Lexington, North Carolina 27292.

Mr. Cunningham called the meeting to order at 6:00 p.m. with the following members present: Belinda Clark, Secretary and Board Members Kathy Hunt, Richard Johnson, and Chad Freeman. Director Andrew Richards and Deputy Director Adam Moore were present along with Ryan Hargrave, Assistant County Attorney. There was one visitor.

The Board considered the Election Protest filed by the campaign of The Honorable Jefferson Griffin in relation to the Associate Justice of the North Carolina Supreme Court Seat 6 contest.


Secretary Clark swore-in Director Andrew Richards to provide testimony based on staff findings of the five voters being challenged in the election protest. Director Richards provided testimony and presented evidence to the board, the Assistant County Attorney, and counsel for the protestor.

Secretary Clark swore-in Christian Fraley, counsel for the protestor, to provide testimony.

After hearing testimony, Ms. Clark made a motion to dismiss the Election Protest and was seconded by Mr. Freeman. The board voted 5-0 in favor of dismissing the Election Protest. The board issued an official written Order, in accordance with state law, directing the dismissal of the election protest. That order is included in these minutes.

Mr. Freeman made the motion to adjourn at 6:45 p.m. was seconded by Mr. Johnson. It was unanimously approved.

Respectfully Submitted,

 Belinda Clark, Secretary

DAVIDSON COUNTY BOARD OF ELECTIONS

STATE OF NORTH CAROLINA
DAVIDSON COUNTY

BEFORE THE DAVIDSON COUNTY
BOARD OF ELECTIONS

IN THE MATTER OF THE ELECTION
PROTEST(S) OF JEFFERSON
GRIFFIN

DECISION AND ORDER

THIS MATTER CAME BEFORE THE DAVIDSON COUNTY BOARD OF ELECTIONS ("County Board") on November 26, 2024, pursuant to its authority under N.C.G.S. § 163-182.10, upon the filing of an election protests of Jefferson Griffin. The County Board conducted an evidentiary hearing on November 26, 2024 and concluded that the protest should be dismissed because there is no substantial evidence of a violation of the election law or other irregularity or misconduct.

Based upon the review of relevant information, matters of record, evidence and testimony presented at the hearing in this matter, the County Board makes the following findings of facts and conclusions of law:

FINDINGS OF FACT

1. The Protester, a candidate for the NC Supreme Court Associate Justice Seat 6 contest, filed a election protests with the county board on November 19, 2024.
2. The basis for the protest(s) was that: five (5) voters in Davidson County, North Carolina were removed from Davidson County's voter registration list.
3. The protests were heard by the County Board on November 26, 2024. The County Board duly notified counsel for the protester and the opposing candidate of the hearing, and provided notice to all voters who the protester contended were ineligible to have their ballots counted, except for those whose ballots were not included in the official count, based on official county records.
4. The following members of the County Board were in attendance at the hearing: J. Calvin Cunningham, Chairman; Iley Belinda Clark, Secretary; Kathy Hunt, Board Member; Chad Freeman, Board Member; Richard Johnson, Board Member; Andrew Richards, Director; Adam Moore, Deputy Director, Ryan Hargrave, Assistant County Attorney.
5. Counsel, Christian Fraley, for the protester and opposing candidate attended the hearing and presented evidence and argument.
6. At the hearing on the challenge, the following testimony and/or documents were accepted into evidence from County Board staff: "Staff Findings – Griffin

Election Protest” which included the Voter Registration Form for Lucina Laureano Everhart; Early Voting Applications for Alice Kilby Hedrick and Alicia Ferguson Hedrick; Same-Day Voting Application for Alicia Hedrick; Early Voting Application for Ashley Nichole Pierce; Early Voting Application for Garland Bryce Alford; and an Early Voting Application for John Fuller Harman, III.

- a. The Director of the County Board testified that on October 21, 2024, Lucina Laureano Everhart’s voter registration (Everhart-Exhibit A) was denied due to two verification cards that came back from the USPS as undeliverable. It was found that the original Voter Registration Form was not properly processed by Temporary Staff and the post office box was left off of the voter’s profile. Due to this error the mail was sent to the physical address rather than the correct mailing address. Staff corrected the error and sent the card to the correct mailing address. Lucina Laureano Everhart was properly registered and due to the administrative error, was denied. This voter is eligible and qualified to vote in Davidson County.
- b. The Director of the County Board testified that on October 22, 2024 Alice Kilby Hedrick presented to vote (Hedrick-Exhibit A). The Check-In Precinct Official accidentally checked in a voter with a similar name. Instead of selecting Alice Kilby Hedrick, the Check-In Official pulled Alicia Ferguson Hedrick. The Precinct Official changed the name and address to the profile of Alicia Ferguson Hedrick, and in doing so, took over the profile of Alicia Ferguson Hedrick. Alicia Ferguson Hedrick presented to vote on October 30, 2024 (Hedrick-Exhibit B) and due to the error at Thomasville Library, caused Alicia Ferguson Hedrick not to be registered to vote. Upon submission of a Same-Day Registration (Hedrick-Exhibit C), the State Election Information Management System removed the Alice Kilby Hedrick due to having the same Driver’s License Number on both profiles. Staff corrected the error and moved the voted made by Alice Kilby Hedrick to the correct profile. Both individuals are eligible and qualified voters in Davidson County.
- c. The Director of the County Board testified that on October 30, 2024, Ashley Nichole Pierce presented at the Arcadia Community Center Early Voting site (Pierce-Exhibit A) and completed a Same-Day Registration (Pierce-Exhibit B). Voter had gone to the DMV to update her driver’s license and the DMV failed to update voter’s address, submitting the Voter Registration Form with voter’s old Forsyth County address. Therefore, the Voter Registration form was sent to Forsyth County Board of Elections, where it was processed after the Voter Registration deadline (Pierce-Exhibit C). Director of the County Board personally spoke with voter and verified that voter resides in Davidson County and that the DMV did not properly update her address. This administrative error by the NCDMV and Forsyth County

led voter to be improperly removed from the Davidson County Registration. Voter's registration was administratively reactivated in Davidson County.

- d. The Director of the County Board testified that on October 29, 2024, Garland Bryce Alford presented to vote at the Thomasville Library Early Voting Site (Alford-Exhibit A) after submitting a Voter Registration Form through the DMV on October 7, 2024 (Alford-Exhibit B). Voter has been registered in Davidson County since 2014 (Alford-Exhibit C). The Voter Registration Form had the incorrect residence address for voter, which was sent to Forsyth County Board of Elections and processed by administrative error as it was submitted after the registration deadline on October 20, 2024 (Alford-Exhibit D). Forsyth County Board of Elections staff spoke with voter and verified that voter resides in Davidson County and has never lived at the address on the Voter Registration Form. Voter was improperly removed from the Davidson County Voter Registration Database by administrative error of NCDMV and Forsyth County Board of Elections. Voter is eligible and qualified to vote in Davidson County.
 - e. The Director of the County Board testified that on October 30, 2024, John Fuller Harman, III, presented to vote at the Board of Elections Early Voting Site (Harman-Exhibit A) as voter has been registered in Davidson County since 2009 (Harman-Exhibit B). Voter went to NCDMV to renew voter's driver's license and completed a Voter Registration Form that had an address that was not voter's address and was completed on October 30, 2024 after the Voter Registration deadline (Harman-Exhibit C). Staff for Forsyth County Board of Elections spoke with voter and verified that voter lives in Davidson County and has never lived at the address presented on the Voter Registration Form. Administrative error was made by NCDMV and Forsyth County Board of Elections, leading voter to be improperly removed from Davidson County Voter Registration Database. Voter is eligible and qualified to vote in Davidson County.
7. Testimony was offered on behalf of Protestor challenging the sufficiency and process of information obtained by Davidson County Board of Elections and Forsyth County Board of Elections staff, however no evidence or documents were presented.
 8. No further documents were presented or accepted into evidence from other persons with information concerning the subject of the protest, pursuant to G.S. § 163-182.10(c)(2).
 9. Based on the evidence and testimony received by the County Board, the County Board finds that:

- a. Voter Lucina Laureano Everhart, whose eligibility was challenged by the Protester, has a ballot in the official count, and that ballot was eligible to be counted, because she is eligible and qualified to vote in Davidson County.
- b. Voter Alice Kilby Hedrick, whose eligibility was challenged by the Protester, has a ballot in the official count, and that ballot was eligible to be counted, because she is eligible and qualified to vote in Davidson County.
- c. Voter Ashley Nichole Pierce, whose eligibility was challenged by the Protester, has a ballot in the official count, and that ballot was eligible to be counted, because she is eligible and qualified to vote in Davidson County.
- d. Voter Garland Bryce Alford, whose eligibility was challenged by the Protester, has a ballot in the official count, and that ballot was eligible to be counted, because he is eligible and qualified to vote in Davidson County.
- e. Voter John Fuller Harman, III, whose eligibility was challenged by the Protester, has a ballot in the official count, and that ballot was eligible to be counted, because he is eligible and qualified to vote in Davidson County.

CONCLUSIONS OF LAW

10. The protest was timely filed, notice of the hearing was properly given, and procedures for the hearing of protests were followed in accordance with N.C.G.S. § 163-182.10, Rule 08 NCAC 02 .0110, and the State Board's Election Protest Procedures Guide.
11. The burden of proof for an election protest is on the protester. *Appeal of Harper*, 118 N.C. App. 698 (1995) ("When an unsuccessful candidate seeks to invalidate an election, the burden of proof is on him to show that he would have been successful had the irregularities not occurred.").
12. In a multicounty contest where the protester has alleged that enough voters statewide are ineligible which, if true, would cast doubt on the results of the election, but the challenged voters in this county alone would not cast doubt on the results, the protester's burden before the County Board is to establish that there is "substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur." N.C.G.S. § 163-182.10(d)(2)d. If the protester meets this burden, the County Board "shall order that the protest and the county board's decision be sent to the State Board for action by it." N.C.G.S. § 163-182.10(d)(2)d.

13. The qualifications for all voters, including early and absentee voters, are judged as of Election Day. N.C.G.S. §§ 163-55, -59.

14. Based on the above findings of fact, which are substantiated by evidence in the record, the County Board concludes there is not substantial evidence to believe that any of the voters challenged in the protest cast an ineligible ballot that is included in the official count. Accordingly, the protest should be dismissed because there is not substantial evidence of a violation of the election law or other irregularity or misconduct.

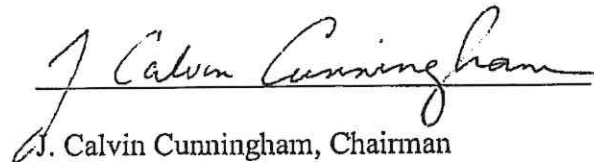
ORDER AND DECISION

Based on the foregoing findings of fact and conclusions of law, and by a 5-0 vote by the County Board, it is therefore **ORDERED** that:

The protest is dismissed.

County board staff shall immediately serve this decision, in accordance with Rule 08 NCAC 02 .0110(e)(2), on the protester, any candidate likely to be affected, any election official alleged to have acted improperly, and those persons likely to have a significant interest in the resolution of the protest.

This, the 4th day of December, 2024.


J. Calvin Cunningham, Chairman

Davidson County Board of Elections