

IN THE MATTER OF THE ELECTION
PROTEST OF JEFFERSON GRIFFIN

DECISION AND ORDER

THIS MATTER CAME BEFORE THE CATAWBA COUNTY BOARD OF ELECTIONS (“County Board”) on November 19, 2024, pursuant to its authority under N.C.G.S. § 163-182.10, upon the filing of an election protest of Jefferson Griffin. The County Board conducted an evidentiary hearing on November 27, 2024 and concluded that there is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election.

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 North Carolina Supreme Court Associate Justice, Seat 6, filed an election protest with the county board on November 19, 2024.
2. The basis for the protest(s) was that:
 - a. County Board of Elections counted ballots cast by voters who were deceased on election day, specifically: Brentley Eugene Rudisill, and
 - b. County Board of Elections counted ballots cast by voters who had been removed, or who had their registrations denied and who were therefore ineligible to vote in the election, specifically: Caitlan Danielle Townsend, Kimber Lynn Lloyd, and Vincent Edwinallen Bouzek.
3. The protest was heard by the County Board on November 27, 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: Barry R. Cheney (Board Chair), David Hood (Board Secretary), Felicia Culbreath-Setzer (Member), Thomas Luckadoo (Member), and Jason White (Member). County Board staff were also in attendance.
5. Counsel for the protester attended the hearing and presented evidence and argument.
6. At the hearing on the challenge, the following testimony was accepted into evidence from County Board staff:
 - a. The Director of the County Board testified that voter Brentley Eugene Rudisill voted on October 18, 2024. Mr. Rudisill subsequently passed away on October 28, 2024, prior to election day. The County Board of Elections did not challenge Mr. Rudisill's ballot as the County Board of Elections did not receive notice of Mr. Rudisill's death in time to challenge the ballot during canvass. Mr. Rudisill's ballot was included in the official count.
 - b. The Director of the County Board testified that voters Caitlan Danielle Townsend, Kimber Lynn Lloyd, and Vincent Edwinallen Bouzek were each properly registered prior to early voting and voted during early voting. Subsequently, each was sent a confirmation mailing which was returned undeliverable. Pursuant to North Carolina law, each should have been sent a second confirmation mailing prior to any action being taken to remove or deny their registration. That pursuant to law, the second confirmation mailings were mailed out and the time for return does not run until 12/16/2024. That due to an error with the state system, each of the 3 voters had been denied in error, as the second confirmation mailing had not been sent at that time. Caitlan Danielle Townsend, Kimber Lynn Lloyd, and Vincent Edwinallen Bouzek's ballots were each included in the official count
7. The following testimony and/or documents were accepted into evidence from the Protester:
 - a. Protest Forms.
8. The following testimony and/or documents were accepted into evidence from the opposing candidate:
 - a. Letter submitted to the Board from Counsel for Riggs Campaign.

9. Based on the evidence and testimony received by the County Board, the County Board finds that:
 - a. Voter Brentley Eugene Rudisill voted on October 18, 2024. Mr. Rudisill subsequently passed away on October 28, 2024, prior to election day. Mr. Rudisill's ballot was included in the official count as the County Board of Elections did not receive notice of Mr. Rudisill's death in time to challenge the ballot during canvass.
 - b. Voters Caitlan Danielle Townsend, Kimber Lynn Lloyd, and Vincent Edwinallen Bouzek were each properly registered prior to early voting and each voted during early voting. Subsequently, each was sent a confirmation mailing which was returned undeliverable. Pursuant to North Carolina law, each should have been sent a second confirmation mailing prior to any action being taken to remove or deny their registration. That pursuant to law, the second confirmation mailings were mailed out to each voter, and the time for return of the second mailing does not run until 12/16/2024. That due to an error with the state system, each of the 3 voters' registrations were denied in error, as the second confirmation mailing had not been sent at that time of denial. Voters Caitlan Danielle Townsend, Kimber Lynn Lloyd, and Vincent Edwinallen Bouzek each had ballots that were properly included in the official count.

CONCLUSIONS OF LAW

10. The protest was timely filed, notice of 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 that there is substantial evidence to believe that one (1) voter’s ballot that is in the official count is ineligible. This voter is: voter Brentley Eugene Rudisill. Accordingly, there is substantial evidence to believe that a violation of the election law or other irregularity did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election.

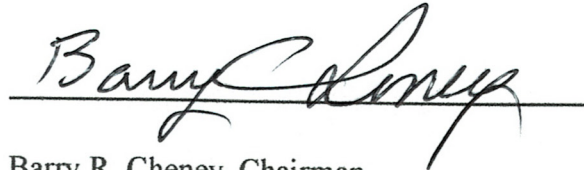
ORDER AND DECISION

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 and the county board’s decision shall be sent to the State Board for action by it.

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 11th day of December, 2024.



Barry R. Cheney, Chairman

Catawba County Board of Elections