

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Case No. 5:21-cv-361

DISABILITY RIGHTS NORTH )  
CAROLINA, )

Plaintiff, )

v. )

**ANSWER  
TO COMPLAINT**

NORTH CAROLINA STATE BOARD OF )  
ELECTIONS, KAREN BRINSON BELL, )  
in her official capacity as Executive )  
Director of the NCSBOE, DAMON )  
CIRCOSTA, in his official capacity as )  
Chair of the NCSBOE, STELLA )  
ANDERSON, in her official capacity as )  
Secretary of the NCSBOE, JEFF CARMON )  
III, in his official capacity as Member of the )  
NCSBOE, STACY EGGERS IV, in his )  
official capacity as Member of the )  
NCSBOE, and TOMMY TUCKER, in his )  
official capacity as Member of the )  
NCSBOE, )

Defendants. )

NOW COME Defendants, the North Carolina State Board of Elections, Karen Brinson Bell, Damon Circosta, Stella Anderson, Jeff Carmon, III, Stacy Eggers, IV, and Tommy Tucker (collectively, the “State Board Defendants”), and provide the following in response to Plaintiff’s Complaint:

**INTRODUCTION**

1. Denied that North Carolina violates Section 208 of the Voting Rights Act.

**JURISDICTION AND VENUE**

2. Admitted that Plaintiff brought this action under the cited statutes.
3. Denied.

4. Admitted that the Court has the authority to grant injunctive relief.
5. Admitted.

#### **PARTIES**

6. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

7. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted that Plaintiff purports to sue as described.

#### **FACTS**

16. Denied. There are multiple methods by which a voter in North Carolina may vote absentee, some of which involve multiple steps occurring at the same time or during the same visit to a county board of elections office or early voting site. Please consult Articles 20 and 21A of Chapter 163 of the North Carolina General Statutes, and Chapter 18 of Title 08 of the North Carolina Administrative Code, in their entirety, for all methods and procedures of voting absentee.

17. Admitted.

18. Admitted that this accurately restates Section 208 of the Voting Rights Act.

19. Denied to the extent that this citation to N.C.G.S. § 163-230.2(e) ignores subsection (e1) of the same statute, which must be read together, and because N.C.G.S. § 163-230.3 expressly incorporates subsections (e) and (e1) of N.C.G.S. § 163-230.2.

20. Denied.

21. Admitted.

22. Admitted.

23. Admitted.

24. Denied. The quoted portion of subsection (a)(6) fails to include the prefatory statement that explains this prohibition does not apply when the voter requests assistance.

Subsection (a)(6) reads in full:

(6) Except as provided in subsections (1), (2), (3) and (4) of this section, G.S. 163-231(a), and G.S. 163-227.2(e), for any voter to permit another person to assist the voter in marking that voter's absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark that voter's absentee ballot.

N.C.G.S § 163-226.3(a)(6) (emphasis added). N.C.G.S. § 163-231(a)(6), cited above, states,

“[t]he persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests assistance and that person is otherwise authorized by law to give assistance.”

25. Admitted.

26. Defendants lack sufficient knowledge to admit or deny this allegation. To the extent a response is required, denied.

27. Denied.

28. Admitted.

29. Denied to the extent that the restrictions on who can assist a voter are minimal burdens serving a state interest and offset by exceptions and programs aimed at reducing or eliminating any barrier to the voter exercising their right to vote.

30. Denied to the extent that the restrictions on who can assist a voter are minimal burdens serving a state interest and offset by exceptions and programs aimed at reducing or eliminating any barrier to the voter exercising their right to vote.

31. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

32. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

33. Denied as Plaintiff has not identified any such person.

34. Denied that any voter's rights are being impaired, burdened, or harmed. Denied that Plaintiff has standing to the extent that Plaintiff has not identified any person injured.

35. Denied that any voter's rights are being impaired, burdened, or harmed, or that Plaintiff has suffered an injury as a result.

36. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

37. Neither admitted nor denied as this allegation is not directed at Defendants. To the extent a response is required, denied.

38. Defendants lack sufficient knowledge with respect to Plaintiff's efforts working with MATs, medical facilities, legislative or executive advocacy, or direct assistance to voters. Denied that any voter's rights are being impaired, burdened, or harmed, or that Plaintiff has suffered an injury as a result.

**CLAIM FOR RELIEF**

(Voting Rights Act, 52 U.S.C. § 10508 and 42 U.S.C. § 1983)

- 39. Defendants repeat each response above as if set forth fully herein.
- 40. Admitted that Plaintiff purports to bring suit under these statutes.
- 41. Denied.
- 42. Denied.
- 43. Denied.
- 44. Denied.

**THE STATE BOARD DEFENDANTS DENY ANY AND ALL ALLEGATIONS IN PLAINTIFFS' COMPLAINT EXCEPT AS ADMITTED ABOVE, INCLUDING THE RELIEF REQUESTED BY PLAINTIFFS.**

**FURTHER ANSWERING THE COMPLAINT AND AS FURTHER DEFENSES THERETO, STATE BOARD DEFENDANTS ASSERT THE FOLLOWING:**

**FIRST DEFENSE**

State Board Defendants are entitled to the immunity provided by the Eleventh Amendment to the United States Constitution and sovereign immunity.

**SECOND DEFENSE**

Plaintiffs fail to state a claim upon which relief can be granted against State Board Defendants and, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, this failure bars Plaintiffs' claims.

**THIRD DEFENSE**

This Court lacks subject matter jurisdiction over this claim pursuant to Rule 12(b)(1) and Defendants reserve the right to raise that defense at any stage in this proceeding.

**FOURTH DEFENSE**

State Board Defendants deny that they deprived Plaintiff, or any other person, of any right

under federal law.

**FIFTH DEFENSE**

State Board Defendants reserve the right to assert further defenses against Plaintiffs that may become apparent during the course of litigation and discovery.

WHEREFORE, State Board Defendants request as follows:

1. That the Complaint be dismissed;
2. That Plaintiff have and recover nothing from State Board Defendant;
3. That costs, including reasonable attorney's fee, be taxed to Plaintiff; and
4. For such other relief as the Court deems just and proper.

Respectfully submitted this the 20<sup>th</sup> day of May, 2022.

JOSHUA H. STEIN  
Attorney General

/s/ Terence Steed  
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