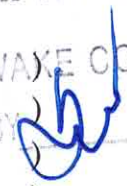


STATE OF NORTH CAROLINA
WAKE COUNTY

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2022 OCT -5 P 2:22 CVS10520

WAKE CO., C.S.C.

EX) 
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IN RE APPEAL OF
DECLARATORY RULING FROM
THE STATE BOARD OF
ELECTIONS

PETITIONERS' BRIEF IN
OPPOSITION TO NCARA'S
MOTION TO INTERVENE

NOW COME Petitioners, the North Carolina Republican Party, James H. Baker, and Jerry "Alan" Branson, by and through undersigned counsel and hereby submit this brief in opposition to the North Carolina Alliance of Retired Americans' ("NCARA") motion to intervene in the above captioned matter.

Under the Administrative Procedures Act ("APA"), only a person aggrieved may intervene. N.C. Gen. Stat. § 150B-46 (2022). The APA defines a person aggrieved as "Any person or group of persons of common interest directly or indirectly affected substantially in his, her, or its person, property, or employment by an administrative decision." N.C. Gen. Stat. § 150B-2(6).

Our appellate courts have interpreted the APA to require that a person or entity claiming person aggrieved status must be someone or a group whose rights have been adversely affected by the agency's decision: "A 'person aggrieved' is any person or group of persons whose rights have been adversely affected." *Gen. Motors Corp. v. Carolina Truck & Body Co.*, 102 N.C. App. 349, 350, 402 S.E.2d 139, 139-40


(1991) (citing *Matter of Wheeler*, 85 N.C.App. 150, 354 S.E.2d 374 (1987))
(dismissing appeal by a party that won their matter before the agency).

NCARA is not a person aggrieved. As is clear from NCARA's filings and the representations of its counselors, NCARA believes that the decision of the State Board should be upheld. That position is being adequately and competently represented by the agency through its legal counsel. NCARA seems to indicate that in the event the Court reverses or modifies the agency decision, then they would be aggrieved. That standard is incorrect. The question is whether NCARA is aggrieved *by the agency's decision*, not by what the Court may find.

Accordingly, the Court should DENY NCARA's motion to intervene.

RESPECTFULLY SUBMITTED, this 5th day of October, 2022.

ATTORNEYS FOR PETITIONERS
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CERTIFICATE OF SERVICE

This is to certify that the undersigned, on this day, served upon counsel for the State Board of Elections and counsel of record for the proposed intervenors by email as follows:

Terrance Steed, tsteed@ncdoj.gov
Mary Carla Babb, mcbabb@ncdoj.gov
Narendra Ghosh, nghosh@pathlaw.com

This, the 5th day of October, 2022.



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