

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

WAKE COUNTY

NO. 24CV026820-910

NORTH CAROLINA REPUBLICAN  
PARTY and REPUBLICAN NATIONAL  
COMMITTEE,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF  
ELECTIONS; ALAN HIRSCH, in his  
official capacity as Chair of the North  
Carolina State Board of Elections; JEFF  
CARMON III, in his official capacity as  
Secretary of the North Carolina State  
Board of Elections; STACY EGGERS IV,  
in his official capacity as Member of the  
North Carolina State Board of Elections;  
KEVIN N. LEWIS, in his official capacity  
as Member of the North Carolina State  
Board of Elections; SIOBHAN O'DUFFY  
MILLEN, in her official capacity as  
Member of the North Carolina State  
Board of Elections; and KAREN  
BRINSON BELL, in her official capacity  
as Executive Director of the North  
Carolina State Board of Elections,

Defendants.

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

NOW COME Plaintiffs North Carolina Republican Party ("NCGOP") and the Republican National Committee ("RNC") (collectively "Plaintiffs") and, pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, hereby submits this Motion for a Preliminary Injunction requesting that this Court enter an order enjoining

Defendants from violating Section 44 of North Carolina Session Law 2023-140, formerly S747 (“Section 44”). The facts relied upon in support of this Motion for Preliminary Injunction are set forth in Plaintiffs’ Verified Complaint, which is incorporated herein by reference.

1. Plaintiffs are the state and national political committees for the Republican Party, one of the two major political parties in North Carolina.

2. Defendants are the state agency charged with implementation and enforcement of election law, both state and federal, in North Carolina, as well as the administration of elections in North Carolina.

3. Session Law 2023-140 became law on October 10, 2023.

4. Section 44 of Session Law 2023-140 amended a number of North Carolina statutes<sup>1</sup> to facilitate the sharing of information between Defendant NCSBE and the county clerks of court regarding (1) whether individuals who have received jury summons self-identified as non-citizens in order to avoid jury service, and (2) how such information is required to be used by the NCSBE and the county boards of elections which the NCSBE supervises for purposes of determining whether individuals who self-identified as non-citizens are on North Carolina’s registered voter list and, if so, whether they should remain on North Carolina’s registered voter list.

5. Section 44 went into effect on July 1, 2024.

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<sup>1</sup> Section 44 amended or added the following statutes: N.C. Gen. Stat. § 9-3 (qualifications of prospective jurors), § 9-6 (Jury service a public duty; excuses to be allowed in exceptional cases; procedure), § 9-6.1 (Requests to be excused), § 9-6.2 (Reports of excusals from jury duty based on disqualification) (new), 163-82.14 (List maintenance). Section 44(a) – (e).

6. On July 10, 2024, Plaintiffs sent a demand letter to Defendants regarding compliance with Section 44 for the 2024 election cycle and a Public Records Act request for documents related thereto. Defendants did not respond to the demand letter other than to open two Public Records Act request matter portals.

7. On August 22, 2024, Plaintiffs filed this lawsuit.

8. On August 23, 2024, Defendants produced thirty-four (34) documents via one of the Public Records Act matter portals.

9. Among the documents produced by Defendants is correspondence to the Executive Director of the North Carolina Conference of County Clerks setting the schedule for production of information pursuant to Section 44. A true and accurate copy of the June 28, 2024 letter from NCSBE is attached hereto as **Exhibit A**.

10. Defendants did not, however, produce the information it received from the county clerks of court on or about August 5, 2024.

11. In correspondence received from Defendants since the filing of the Complaint, Defendants appear to be taking the position that Section 8 of the NVRA, 52 U.S.C. § 20507, prevents the NCSBE from implementing Section 44 prior to the November 5, 2024 election.

12. However, in press statements since the lawsuit was filed, the NCSBE appears to be taking the position that (1) it received information from county clerks that nine (9) people self-identified as non-citizens in the jury excuse process, and (2) that it will be taking action to determine if those people should be removed from the voter rolls,

although it is unclear if such action will be taken prior to the November 5, 2024 election.

13. Implementation of Section 44 by Defendant is not prohibited by 52 U.S.C. § 20507.<sup>2</sup> Section 44 is not a “program, the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters” and, in any event, non-citizens never should have been on the official lists of eligible voters and, as such, the protections of 52 U.S.C. § 20507(c) do not apply to non-citizens who should never have been placed on the official lists of eligible voters.

14. At the very least, Defendants should be using the information sent to them as of August 5, 2024 – three months (and more than 90 days) before election day – to ensure that self-identified non-citizens are not on North Carolina’s registered voter list for the 2024 election cycle.

15. As such, Plaintiffs are substantially likely to succeed on their claim for Declaratory Judgment that Defendants have violated North Carolina law through failing to implement Section 44.

16. Plaintiffs submit this Motion for Preliminary Injunction to seek a Court Order requiring that:

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<sup>2</sup> 52 U.S.C. § 20507(c)(2)(A) states that “A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.” Section 20507(c)(2)(B) provides that paragraph A does not preclude correction of registration records pursuant to Chapter 205 of Subtitle II of Title 52, nor does it preclude the removal of names from the official lists of voters at the request of the registrant, by reason of criminal conviction or mental incapacity as may be provided by state law, at the death of the registrant, or due to a change in residence of the registrant.

- a. Defendants take all efforts necessary to comply with Section 44 prior to the November 5, 2024 election;
- b. Defendants must use the information sent to them by the county clerks on or about August 5, 2024 to comply with Section 44 before the November 5, 2024 election;
- c. Defendants must immediately transmit the reports required by N.C. Gen. Stat. § 163-82.14(c1)(b) to the respective county boards of election;
- d. Defendants, and the county boards of election they supervise, must expedite compliance with Section 44 given Defendants' delayed compliance to date;

17. Absent a preliminary injunction, Plaintiffs will suffer immediate and irreparable harm. Because of Defendants' refusal to enforce Section 44 (and to provide the requested public records associated with Section 44), Plaintiffs are committing and will need to continue to commit added time and resources into monitoring North Carolina's voter rolls and voter activity, and responding to instances of potential voter fraud in upcoming elections, tasks Section 44 requires the NCSBE to undertake. Plaintiffs' organizational and voter outreach efforts have been and will continue to be significantly stymied due to NCSBE's ongoing failures to enforce Section 44. As a result, Plaintiffs will have no choice but to expend increased amounts of time and money, beyond what they would have already spent, in order to combat this unwarranted interference with their central activities.

18. Further, Plaintiffs are harmed in their ability to compete in the electoral process. If the preliminary injunction is not granted, it will make the competitive

environment worse for Plaintiffs and more difficult for their candidates (and voters) to win in the upcoming election. Plaintiffs should not be forced to compete in an illegally structured voting environment, in which people claiming non-citizenship are not investigated and potentially removed from voter rolls in accordance with the law. Elections in North Carolina are often very competitive, and the allowance of even a relatively smaller number of illegal votes can turn even a statewide election.

19. In addition, the NCGOP's members will suffer immediate and irreparable harm absent issuance of a preliminary injunction. NCGOP represents millions of registered Republican voters across the state of North Carolina, including at least one registered Republican voter in every one of the state's one hundred counties, which is a matter of public record. NCGOP's members are harmed by inaccurate voter rolls due to the NCSBE's failure to enforce Section 44 prior to the November 5, 2024 election. These NCGOP members' votes are undoubtedly diluted as a result of ineligible voters participating in elections due to NCSBE's refusal to enforce Section 44 prior to the election. Additionally, these members' rights to participate in a fair and secure electoral process, free from voter fraud, will be significantly hindered. Such harm, absent issuance of a preliminary injunction, would be immediately and irreparable harmful.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the Court enter a preliminary injunction enjoining Defendants from violating Section 44 and requiring Defendants to take all actions necessary to comply with Section 44

prior to the November 5, 2024 election, including using the information sent to them by the county clerks of court at or around the NCSBE's August 5, 2024 deadline.

This the 28th day of August, 2024.

**BAKER DONELSON BEARMAN,  
CALDWELL & BERKOWITZ, PC**

By: /s/ John E. Branch III

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**CERTIFICATE OF SERVICE**

I, the undersigned attorney of the law offices of Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, hereby certify that I have served all parties in this action with a copy of the foregoing document via FedEx, addressed to the following:

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Submitted this the 28th day of August 2024.

**BAKER, DONELSON, BEARMAN,  
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/s/ John E. Branch, III

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