

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-cv-578

VIRGINIA WASSERBERG, NORTH
CAROLINA REPUBLICAN PARTY, and
REPUBLICAN NATIONAL COMMITTEE,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, et al.,

Defendants.

**DEFENDANTS’
MOTION TO DISMISS
PLAINTIFFS’ COMPLAINT**

[Fed. R. Civ. P. 12(b)(6)]

Defendant North Carolina State Board of Elections, et al. (State Board), by and through undersigned counsel, hereby moves the Court to dismiss claims brought against the State Board pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of this motion, Board Defendants state the following:

1. The State Board’s guidance to county boards of election challenged in Plaintiffs’ Complaint reflects a correct application of state and federal law. The State Board’s interpretation of N.C. Gen. Stat. § 163-231 is the best reading of the statute’s text, particularly in the context of other relevant state statutes, and in any event, is the only possible reading of the statute that would not violate the materiality provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B).
2. Plaintiffs can prove no set of facts that would entitle them to relief.
3. The Complaint fails to state a claim for relief under any legal theory.
4. Dismissal is appropriate under Fed. R. Civ. P. 12(b)(6).

In support of this motion, the State Board relies on the arguments and authorities contained in the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss.

Respectfully submitted, this the 16th day of October, 2024.

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