

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV031557-910

TELIA KIVETT, *et al.*,

Plaintiffs,

v.

THE NORTH CAROLINA STATE
BOARD OF ELECTIONS, *et al.*,

Defendants,

and

DEMOCRATIC NATIONAL
COMMITTEE,

Intervenor-Defendant.

**MOTION FOR SUMMARY
JUDGMENT**

Plaintiffs Telia Kivett, Wanda Nelson Fowler, the Republican National Committee, and the North Carolina Republican Party (“Plaintiffs”), by and through undersigned counsel and pursuant to Rule 56 of the North Carolina Rules of Civil Procedure, move for summary judgment against Defendants the North Carolina State Board of Elections; Sam Hayes, in his official capacity as Executive Director of the North Carolina State Board of Elections; and Francis X. De Luca, Stacy “Four” Eggers IV, Jeff Carmon, Siobhan O’Duffy Millen, and Angela Hawkins, each in their official capacities as members of the North Carolina State Board of Elections. Summary judgment is appropriate because there is no genuine issue of material fact that Defendants’ application of N.C. Gen. Stat. § 163-258.2(1)(e) to permit individuals

who have never resided in North Carolina (“Never Residents”) to register to vote and cast ballots in North Carolina elections—whether state, local, or federal—violates the North Carolina Constitution. *See, e.g., Griffin v. N.C. State Bd. of Elections*, 298 N.C. App. 436, 455–57 (2025); *see also Hall v. Wake Cnty. Bd. of Elections*, 280 N.C. 600, 605 (1972) (“Since 1868 our Constitution has required a voter to be a person who has ‘resided’ in the State.”).

Federal law does not address or authorize voting by Never Residents, and it is well-established that the United States Constitution entrusts states with primary authority to design and administer their electoral systems and set qualifications for voters. Accordingly, in the absence of any federal statutory directives, any ability for such individuals to register or vote in North Carolina elections must arise, if at all, under state law. But the North Carolina Constitution expressly limits the franchise to residents of the State. N.C. Const. art. VI, § 2. Construing N.C. Gen. Stat. § 163-258.2(1)(e) in a manner that purports to extend the franchise beyond those clear limits is therefore unconstitutional as applied. The North Carolina Court of Appeals recently held that Never Residents are constitutionally prohibited from registering or voting in North Carolina’s state contests. *See Griffin*, 298 N.C. App. at 455-57; *see also Griffin v. N. Carolina State Bd. of Elections*, 387 N.C. 542, 545 (2025) (denying review of the Court of Appeals’ holding concerning Never Residents). The same constitutional reasoning likewise precludes Never Residents from voting in North Carolina’s federal election contests. Accordingly, Plaintiffs are entitled to summary judgment as a matter of law.

In support of this motion, Plaintiffs rely upon their forthcoming Memorandum of Law in Support of their Motion for Summary Judgment, along with any exhibits attached thereto.

Respectfully submitted this, the 11th day of March, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 11th day of March, 2026, I filed a true and accurate copy of the foregoing document with the Clerk of Superior Court using the Odyssey e-file and serve feature, which will cause a copy of the same to be served upon all counsel of record in this matter.

**NELSON MULLINS RILEY &
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