

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV040622-910

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STATE BOARD'S RESPONSE IN OPPOSITION TO PETITIONER'S PETITION FOR JUDICIAL REVIEW

V.

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Respondent.

[illegible]

In the petition at issue here, Petitioner protests votes cast by military and overseas voters who voted absentee without providing a copy of their photo identification. The Board rightly rejected this protest unanimously. The protest fails at the threshold for the same reasons that also defeat his protests concerning voters with allegedly incomplete registrations. On the merits, moreover, his protest fails because the Board correctly concluded that these voters cast ballots consistent with North Carolina law. The General Assembly chose to allow military and overseas voters to vote in state elections using the same rules that govern their participation in federal elections, for which these voters do not need to present a photocopy of their photo ID. In addition, the Board adopted a rule to this effect before the election, without any controversy or opposition. This Court should not grant Petitioner's request to disenfranchise these military and

overseas voters, who were never told before the election that they needed to submit a photocopy of their photo ID to vote.

DISCUSSION¹

I. Granting the Petition Would Offend the *Purcell* Principle.

The Board incorporates by reference the arguments in Part I of its response to Petitioner's brief concerning voters with allegedly incomplete registrations. *See* Bd. Resp. 13-23. As explained in that brief, the *Purcell* principle bars litigants, when an election is underway, from trying to make "substantial challenges to election rules" through "last-minute litigation." *Democratic Nat'l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring). As a result, when *Purcell* applies, litigants can seek only prospective relief for future elections, regardless of the merits of their claims.

Here, *Purcell* bars Petitioner's protest concerning military and overseas voters. Long before the election, the Board promulgated a rule that provided that the military and overseas voters whose votes Petitioner challenges were "not required to submit a photocopy of acceptable photo identification" with their absentee ballots. 08 N.C. Admin. Code 17 .0109(d). This rule came into effect, first as a temporary rule on August 1, 2023, and then as a permanent rule on April 1, 2024, after it was approved by the Rules Review Commission. (Agency R p 5404) The rule's provision explaining that military and overseas voters need not submit a copy of a photo ID with their absentee ballots was thus in effect over five different elections before this past November's general election.

¹ The Board incorporates by reference the statement of facts and standard of review in its response to Petitioner's brief concerning allegedly incomplete registrations in the related case of *Griffin v. North Carolina State Board of Elections*, No. 24CV040620-910 (Wake Cnty. Sup. Ct.). *See* Bd. Resp. 6-13.

Neither Petitioner nor his political party objected to this provision in the Board's rule when it was under consideration. Nor did he or his political party challenge the provision's validity, or the Board's reading of the statutes underlying it, before the election. (Agency R p 5404) Instead, Petitioner waited until *after* the election was over and the votes had been tallied to claim that the Board had misread the statutes that govern absentee voting, in an attempt to throw out the votes of certain military and overseas voters who followed the Board's guidance.

Purcell squarely prohibits such an attempt to make "substantial challenges to election rules" through "last-minute litigation." *Democratic Nat'l Comm.*, 141 S. Ct. at 31. Petitioner's protest with respect to military and overseas voters should be rejected for this reason alone.

II. Granting the Petition Would Violate the Fourteenth Amendment to the U.S. Constitution and the Voting Rights Act.

The Board incorporates by reference the arguments in Part II of its response to Petitioner's brief concerning voters with allegedly incomplete registrations. *See* Bd. Resp. 23-29.

As explained in that brief, the Due Process Clause prohibits states from refusing to count votes cast in accordance with "the instructions of the officials charged with running the election," even if doubts arise after an election about the correctness of those instructions. *Griffin v. Burns*, 570 F.2d 1065, 1075 (1st Cir. 1978); *see also Hendon v. N.C. State Bd. of Elections*, 710 F.2d 177, 182-83 (4th Cir. 1983). Refusing to count those votes, contrary to voter's expectations, introduces "patent and fundamental unfairness" into an election that denies voters due process. *Griffin*, 570 F.2d at 1077.

Here, again, the rule that the Board promulgated before the election unequivocally told military and overseas voters who cast absentee ballots that they were "not required to submit a photocopy of acceptable photo identification." 08 N.C. Admin. Code 17 .0109(d). Throwing out

votes cast consistent with this rule, and the guidance given to military and overseas voters in accordance with that rule, would deny voters due process.

As also shown in the Board's other brief, the Equal Protection Clause prohibits states from "valu[ing] one person's vote over that of another." *Bush v. Gore*, 531 U.S. 98, 104-05 (2000). Under this principle, "the standards for accepting or rejecting contested ballots" may not, consistent with equal protection, vary "from county to county." *Id.* at 106.

Here, however, were Petitioner to prevail, "the standards for accepting or rejecting" ballots would arbitrarily vary "from county to county." *Id.* Among the 32,033 military and overseas voters in the election, none of whom were told to provide a copy of their photo ID when casting absentee ballots, Petitioner challenged only 5,509 voters from four of North Carolina's 100 counties—Buncombe, Durham, Forsyth, and Guilford.² And only one of these protests (Guilford) was timely, meaning that only that one county's 1,409 votes were timely challenged. In other words, Petitioner asks this Court to cancel the votes of only a fraction of the military and overseas voters who he claims voted improperly. Granting Petitioner's request to arbitrarily cancel only certain identically situated voters' votes would violate equal protection.

Finally, in the Board's other brief, it also showed that the Voting Rights Act (VRA) bars election officials from failing "to tabulate, count, and report" the vote of "any person" who is "entitled" or "qualified" to vote. 52 U.S.C. § 10307(a). Here, Petitioner has never suggested that the military and overseas voters whose votes he challenges lacked the qualifications needed to vote under North Carolina law. *See* N.C. Gen. Stat. § 163-55 (statutory qualifications to vote); N.C. Const. art. VI, § 2 (constitutional qualifications). As a result, the VRA prohibits the Board from declining to count the votes cast by these voters.

² (See Agency R pp 349-58, 1102-11, 1238-47, 1504-51, 3792-831, 3893-924, 4008-42)

III. Granting the Petition Would Excuse Improper Service and Deny Voters Procedural Due Process.

The Board incorporates by reference the arguments in Part III of its response to Petitioner's brief concerning voters with allegedly incomplete registrations. *See* Bd. Resp. 29-34. As shown there, the Board's rules require election protesters to serve copies of their protests on voters when the protests dispute "the eligibility . . . of particular voters." 08 N.C. Admin. Code 02 .0111. Additionally, when a voter's "ballot [is] challenged," due process requires that voters be "given notice," so they can take steps to protect their vote. *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 228 (M.D.N.C. 2020).

Here, as shown in the other brief, Petitioner failed to properly serve challenged voters or give them notice that that was "reasonably calculated, under all the circumstances, to apprise" them of his challenges. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Petitioner therefore failed to provide adequate notice to these voters, denying them proper service and procedural due process.

IV. The Petition Fails on the Merits.

For the above reasons, Petitioner's petition fails at the threshold and this Court need not evaluate his claims on the merits. However, if this Court does consider the merits, it should deny the petition because the Board correctly dismissed Petitioner's protest for failing to set out a valid claim.

A. Military and overseas voters did not have to submit a copy of photo ID with their absentee ballots.

Petitioner seeks to cancel the votes of military and overseas voters who followed North Carolina statutory law and the Board's official guidance by not including a copy of their photo ID with their absentee ballot. Br. 13-22.³

As shown above, however, under the rules in place during the election, “[m]ilitary and [o]verseas [v]oters” were “not required to submit a photocopy of acceptable photo identification” or an affidavit explaining their reason for not doing so. 08 N.C. Admin. Code 17 .0109(d). If this Court declines to reject Petitioner's protest based on the arguments above, it should reject the protest on the merits because the Board's rule accurately described North Carolina law.

1. North Carolina law does not require military and overseas voters to submit a copy of a photo ID.

The Board's rule accurately reflects the statutes it implements because those statutes allow absentee ballots in North Carolina to be submitted under two different sets of rules—one for civilian residents, and another for military and overseas voters.

For civilian residents, absentee ballots must be cast under Article 20 of Chapter 163 of the General Statutes. Under that article, all absentee ballots must be “accompanied by a photocopy of [an] identification” or an exception “affidavit,” also known as a Photo ID Exception Form. N.C. Gen. Stat. § 163-230.1(f1). By its own terms, however, this requirement is limited only to voters who cast ballots under Article 20. The statutory requirement states that

³ Petitioner implies that he only seeks to cancel ballots cast by “overseas” voters. Br. 13. In fact, his protests explicitly challenge votes cast by members of our military, many of whom do not reside overseas. (See Agency R pp 1504-51, 3792-831, 3893-924, 4008-42) (challenging both military and non-military voters in Buncombe, Durham, Forsyth, and Guilford counties); *N.C. Absentee & Early Voting Statistics for the 2024 General Election* 2-4, N.C. State Bd. of Elections (showing that total votes that Petitioner challenges necessarily includes votes cast by military voters), <https://tinyurl.com/4jyz2fh8> (last visited Feb. 3, 2025).

“ballots [voted] *under this section* [in Article 20] shall be accompanied by a photocopy of identification.” *Id.* (emphasis added).

Military and overseas voters, however, may choose to cast absentee ballots under a distinct set of rules. In 2011, the General Assembly enacted model legislation known as the Uniform Military and Overseas Voters Act (“UMOVA”), which is today codified in Article 21A of Chapter 163. *See* Act of June 16, 2011, S.L. No. 2011-182, sec. 1, 2011 N.C. Sess. Laws 687, 687-92. UMOVA implements under state law a federal law, the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), which requires states to allow military and overseas voters to register, request ballots, and vote by mail in federal elections using specific federal forms. *See* 52 U.S.C. §§ 20301-11.

In implementing UOCAVA through UMOVA, the legislature chose to allow military and overseas voters to vote in both federal *and* state elections under UOCAVA’s rules. *See, e.g.*, N.C. Gen. Stat. § 163-258.3; *see also* Unif. Mil. & Overseas Voter Act, at 2 (Nat’l Conf. of Comm’rs on Unif. State Laws 2010) (explaining that UMOVA’s purpose is “to extend to state elections the assistance and protections for military and overseas voters currently found in federal law”), <https://tinyurl.com/4jnwh54k> (last visited Feb. 3, 2025).

Notably, nothing in UOCAVA requires that military and overseas voters present photo ID before they can cast ballots. *See* 52 U.S.C. §§ 20301-11. Given the lack of such a requirement, the forms that these voters use to register, request ballots, and vote by mail under UOCAVA do not direct them to submit a copy of any identification either.⁴ The instructions that

⁴ *See* Federal Post Card Application, <https://tinyurl.com/4rxkjvsx> (last visited Feb. 3, 2025); Federal Write-In Absentee Ballot, <https://tinyurl.com/3d2m72ry> (last visited Feb. 3, 2025).

inform eligible voters how to use the forms in elections governed by UOCAVA also do not inform voters that they must submit such identification.⁵

This lack of instruction is not surprising, because federal law exempts UOCAVA voters from other rules that require voters to present identification to vote. *See id.* § 21083(b)(3)(C). Accordingly, when certain states once considered imposing a state-law identification requirement on UOCAVA voters, the Trump Administration’s Federal Voting Assistance Program informed them that such a rule would violate federal law. It explained that military and overseas voters “face complexities in the voting process” that other voters “do not face,” and that requiring “additional identification” unlawfully “adds to the burden” that these voters already “face when attempting to vote.”⁶

Because it was designed to extend UOCAVA’s rules to state elections, UMOVA does not require military and overseas voters to provide a copy of a photo ID with their ballots either. *See* N.C. Gen. Stat. §§ 163-258.1 to -258.31. Rather, UMOVA contains distinct provisions that provide for a voter’s identity to be verified by other means, which do not require submission of copied identification. *See, e.g., id.* §§ 163-258.4(e), -258.13.

Thus, Petitioner is wrong to claim that state law required military and overseas voters to submit a copy of photo ID with their ballots. That requirement appears in a provision of the rules for *civilian* residents in Article 20, and it expressly applies only to persons who cast ballots “under [that] section.” *Id.* § 163-230.1(f1). In contrast, UMOVA contains no such rule, which

⁵ *See* Fed. Voting Assistance Program, VAG 24-25, 2024-25 Voting Assistance Guide (2023), <https://tinyurl.com/3dwvtykk> (last visited Feb. 3, 2025); (*see also* Agency R p 5404).

⁶ *See* Letter from David Beirne, Director, Fed. Voting Assistance Program, to Robert A. Brehm, Director, & Todd Valentine, Director, N.Y. State Bd. of Elections (Mar. 1, 2017), <https://tinyurl.com/yuv6dwau> (last visited Feb. 3, 2025); Letter from David Beirne, Director, Fed. Voting Assistance Program, to Edgardo Cortes, Comm’r, Va. Dep’t of Election (Feb. 6, 2017), <https://tinyurl.com/2me8w77n> (last visited Feb. 3, 2025).

would be inconsistent with federal law in any event. Given the weakness of Petitioner's arguments on this issue, the Board rejected this protest in a unanimous vote. (Agency R p 5406)

2. Petitioner fails to show that military and overseas voters had to submit a copy of their photo ID.

Petitioner advances a series of arguments to try to show that military and overseas voters, like other voters, had to present a copy of a photo ID with their absentee ballots. Br. 13-22. None of his arguments are persuasive.

First, Petitioner argues that “federal law” has no relevance with respect to the proper interpretation of UMOVA. Br. 22. As just shown, however, the General Assembly enacted UMOVA “to extend to state elections the assistance and protections for military and overseas voters currently found in federal law.” Unif. Mil. & Overseas Voter Act, at 2. UMOVA therefore applies to both “federal” and “[s]tate” elections uniformly, without distinction. N.C. Gen. Stat. § 163-258.3(1). The legislature therefore plainly meant for our State’s rules for state elections in this area to be applied consistently with the federal rules that govern federal elections. And those federal rules, as the Trump Administration has advised, do not impose identification requirements on UOCAVA voters in federal elections. *See supra* p 8. Nothing in UMOVA, moreover, says otherwise for military and overseas voters voting in state elections.

Second, Petitioner argues that the “general absentee voting provisions of Article 20 [for civilian residents] apply to overseas absentee voting under Article 21[A]”—where UMOVA is codified. Br. 14. In support of this argument, he cites Article 20’s final provision, entitled “Article 21A relating to absentee voting by military and overseas voters not applicable.” N.C. Gen. Stat. § 163-239. This provision states that “[e]xcept as otherwise provided therein, Article 21A of this Chapter shall not apply to or modify the provisions of this Article [20].” *Id.*

Petitioner reads this provision as applying all of Article 20's rules, including its photo ID requirement, to persons voting under UMOVA's provisions in Article 21A.

Petitioner has things backwards. On its face, the provision does not apply Article 20's rules to the military and overseas voters who cast absentee ballots under Article 21A. It does the opposite. It provides that the rules in "*Article 21A . . . shall not apply to or modify . . . Article [20].*" *Id.* (emphasis added). The provision thus simply serves to clarify that Article 21A is not applicable to those voters who must vote under Article 20's provisions alone. This point is made especially clear by the provision's title, which straightforwardly states that "Article 21A [is] not applicable" to Article 20. *Id.*; see *Sturdivant v. N.C. Dep't of Pub. Safety*, 909 S.E.2d 483, 488 (N.C. 2024) (explaining that "title" should be considered in assessing legislative intent). This provision thus does not somehow incorporate Article 20's photo ID rules into Article 21A.

Third, Petitioner asserts that Article 20 and its photo ID requirement apply to military and overseas voters because Article 20 "has many general provisions about absentee voting" that apply to UMOVA voters "even though Article 20 does not say so expressly." Br. 16.

At the outset, Petitioner is wrong to suggest that the provisions in Article 20 that he cites undisputably "apply to [military] and overseas voters." *Id.* Certain of them, for instance, actually state expressly that they apply *only* to Article 20. See, e.g., N.C. Gen. Stat. § 163-238 (expressly stating that it applies only to "Article [20]" and "its provisions").

But even if Article 20 did have such general provisions, that point would not show that Article 20's photo ID requirement applies to UMOVA voters. That requirement appears in section 163-230.1, and that requirement, as noted, expressly states that only "ballots [voted] *under this section* shall be accompanied by a photocopy of identification." *Id.* § 163-230.1(f1) (emphasis added). Section 163-230.1, moreover, is in Article 20—not Article 21A. The statute

thus expressly confirms that its application *is limited to* those ballots voted and submitted under a provision in Article 20, not ballots voted and submitted under the procedures for military and overseas voters in Article 21A. *Cf. State v. Alonzo*, 373 N.C. 437, 441, 838 S.E.2d 354, 357 (2020) (holding that statutory “language limiting the applicability” of a provision meant that it did not apply in other contexts).

Additionally, other clauses in section 163-230.1 make it even more clear that this provision in particular does not apply to voters who cast ballots under UMOVA. For instance, section 163-230.1 expressly states that it governs voters who “vote by absentee ballot under [section] 163-226,” which is the first provision in Article 20. N.C. Gen. Stat. § 163-230.1(a). Section 163-230.1 also sets deadlines for requesting absentee ballots that differ markedly from UMOVA’s deadlines. *Compare id.*, with *id.* § 163-258.8. Thus, section 163-230.1 and its photo ID requirement cannot possibly be read as a “general provision[] about absentee voting” that applies to UMOVA voters, as Petitioner wrongly suggests. Br. 16.

Fourth, Petitioner argues that Article 20’s provisions concerning “container-return envelopes” show that persons voting under UMOVA must provide a copy of their photo ID with their ballots. *Id.* at 14 (quoting N.C. Gen. Stat. § 163-231(b)(1)). Section 163-230.1(f1) in Article 20, he claims, mandates that all ballots in a “container-return envelope,” including those cast under UMOVA, “must contain a valid photo identification.” *Id.* at 15.

Again, however, section 163-230.1(f1) says nothing at all about what voters casting ballots under UMOVA’s distinct provisions in Article 21A must do. That provision, as noted, instead mandates that “voted ballots *under this section*” in Article 20 “shall be accompanied by a photocopy of identification.” N.C. Gen. Stat. § 163-230.1(f1) (emphasis added). Ballots cast

under UMOVA, however, are not cast under “th[at] section.” Thus, this provision actually undermines Petitioner’s argument rather than supports it.

Fifth, Petitioner argues that UMOVA’s provisions in Article 21A recognize that military and overseas voters “will need to provide photo-identification.” Br. 16. They do so, Petitioner claims, because Article 21A provides that military and overseas voters “may apply for an absentee ballot by using ‘the regular application provided by Article 20.’” *Id.* (quoting N.C. Gen. Stat. § 163-258.7(a)).

Petitioner is correct that military and overseas voters may, if they choose to do so, vote under Article 20’s rules. But there can be no real dispute that these voters may *instead* choose to vote under Article 21A’s rules. *See, e.g.*, N.C. Gen. Stat. § 163-258.7(a) (also allowing military and overseas voters to apply for ballots with “the federal postcard application, as prescribed under [UOCAVA], or the application’s electronic equivalent”). And those rules are clearly distinct from those set out in Article 20.⁷ Military and overseas voters thus may choose to vote under one of these two sets of rules, but that does not mean they vote under both sets of rules.

Sixth, Petitioner claims that if the General Assembly had meant to exempt UMOVA voters from the new photo ID rules in Article 20 that it enacted in 2019, it would have expressly said so. Br. 14. Petitioner again gets things backwards. If the legislature had meant to apply Article 20’s new photo ID rules to UMOVA’s provisions in Article 21A, then it would have amended Article 21A to provide so. But the 2019 session law that newly required voters to

⁷ *See, e.g.*, N.C. Gen. Stat. § 163-231(b)(1) (recognizing that absentee ballots may be “issued” under either “Article [20]” or “Article 21A”); *id.* § 163-232.1(a), (b) (requiring county boards to prepare separate lists of “all absentee ballots issued under this Article [20]” and “all military-overseas ballots issued under Article 21A”); *id.* § 163-234(2) (establishing distinct rules for counting “absentee ballots issued under Article 21A” and all other “absentee ballots”); *id.* § 163-258.7(f) (clarifying that “Article [21A] does not preclude [military and overseas voters] from voting an absentee ballot under Article 20”).

provide “a photocopy of identification” under N.C. Gen. Stat. § 163-230.1(f1) did not amend *any provision* in Article 21A, thereby leaving its preexisting rules in place. *See* Act of Nov. 6, 2019, S.L. No. 2019-239, 2019 N.C. Sess. Laws 1118.

Indeed, in 2019, the legislature very well may have chosen not to amend UMOVA to add a photo ID requirement because it knew that the Trump Administration had recently advised states that requiring military and overseas voters to present a copy of their identification in federal elections would violate federal law. *See supra* p 8. And it may have also understood that imposing divergent rules for state elections would defeat UMOVA’s purpose of extending “to state elections the assistance and protections for military and overseas voters currently found in federal law.” Unif. Mil. & Overseas Voter Act, *supra*, at 2. Thus, the enactment of Article 20’s photo ID requirement actually bolsters the conclusion that the photo ID requirement in Article 20 does *not* apply to UMOVA voters.

Seventh, Petitioner maintains that the Board’s administrative rule that confirms that military and overseas voters need not submit a copied photo ID with their ballots is based on an “unconstitutional” legislative “delegation.” Br. 20. As shown, however, the Board’s rule is entirely consistent with the statutes that the General Assembly has enacted on this subject. Indeed, the Rules Review Commission voted unanimously that this rule was “within the authority delegated to the [Board] by the General Assembly.” N.C. Gen. Stat. § 150B-21.9(a)(1); (*see also* Agency R p 5404). Petitioner’s makeweight claims to the contrary are meritless.

Eighth, Petitioner finally argues that allowing military and overseas voters to cast absentee ballots without providing a copy of photo ID is irrational and thus unconstitutional. Br.

21. He claims that there is “no legitimate reason to impose a greater burden—photo identification—on those living in North Carolina than is imposed on those living abroad.” *Id.*

At the outset, Petitioner misunderstands UMOVA. That law not only applies to persons residing abroad; it also applies to military voters on active duty (and their spouses and dependents) within the United States. *See* N.C. Gen. Stat. § 163-258.2(7).

The State, moreover, surely has a compelling interest in reducing the many “logistical obstacles” that military and overseas Americans face in voting. Unif. Mil. & Overseas Voter Act, *supra*, at 1. As the Trump Administration has explained, military and overseas voters “face complexities in the voting process” that other voters “do not face.” Letter from David Beirne, Director, Fed. Voting Assistance Program, to Robert A. Brehm, Director, & Todd Valentine, Director, N.Y. State Bd. of Elections (Mar. 1, 2017), <https://tinyurl.com/yuv6dwau> (last visited Feb. 3, 2025). Helping these voters participate in our democracy and addressing their unique challenges with acquiring and returning a ballot, as many other states have also done, is hardly irrational.

Petitioner therefore fails to show that military and overseas voters had to submit a copy of their photo ID with their absentee ballots.

V. The Petition’s Proposed Remedy Is Improper and Unlawful.

The Board finally incorporates by reference the arguments in Part V of its response to Petitioner’s brief concerning voters with allegedly incomplete registrations. *See* Bd. Resp. 44-48. As noted there, Petitioner asks this Court to throw out all of the votes that he has challenged in his protests. That relief is inappropriate, however, because the question here is limited to whether the Board’s decision on its “preliminary consideration” of Petitioner’s protests was legally correct. *See* N.C. Gen. Stat. § 163-182.10(a). If this Court disagrees with the Board’s legal decisions, the only appropriate remedy would be to remand to the Board for evidentiary

hearings. At such hearings, the Board or county boards would apply the substantial-evidence standard to resolve Petitioner's protests and determine what other remedial steps, if any, are appropriate. *Id.* §§ 163-182.10(d), -182.12, -182.13(a).

To comply with the Due Process Clause, moreover, any remedy would have to provide notice to affected military and overseas voters and give them an opportunity to cure any alleged problems with their ballots. *See supra* p 5. Petitioner himself concedes that, if his protests were accepted, such relief would be needed for his challenges to the votes cast by voters with allegedly incomplete registrations. (*See, e.g.*, Agency R pp 22-23) Because Petitioner does not dispute that the military and overseas voters whose votes he challenges are qualified to vote, *see supra* p 4, those voters are also entitled to an opportunity to cure their ballots.

Furthermore, to comply with the Equal Protection Clause, any remedy would also have to apply to all similarly situated voters. The "standards for accepting or rejecting contested ballots," as noted above, may not vary "from county to county." *Bush*, 531 U.S. at 106. As a result, a remedy could not be limited to cancelling votes in only four large, urban counties—while leaving intact the votes of military and overseas voters who also did not present a copy of their photo ID in the state's other ninety-six counties—as Petitioner proposes.

CONCLUSION

For the reasons stated above, this Court should deny Petitioner's petition for judicial review.

Electronically submitted this the 3rd day of February, 2025.

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the foregoing document with the Wake County Clerk of Court using the NC eCourts efile and serve system, which will send notification of such filing to Counsel of Record; and further served on this day, a copy of same upon Counsel by electronic mail transmittal, pursuant to N.C. R. Civ. P. 5(b)(1)(a), addressed as follows:

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This the 3rd day of February, 2025.

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