

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:25-cv-00003**

TELIA KIVETT; KARYN MULLIGAN;
WAKE COUNTY REPUBLICAN PARTY;
REPUBLICAN NATIONAL COMMITTEE;
and NORTH CAROLINA REPUBLICAN
PARTY,

Plaintiffs,

v.

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

Defendants,

DEMOCRATIC NATIONAL COMMITTEE,

Intervenor-Defendant.

**MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE
BY THE DEMOCRATIC NATIONAL
COMMITTEE**

The Democratic National Committee (“DNC”) is the nationwide coalition of voters, volunteers, party officers, and elected officials dedicated to strengthening our democracy and preserving every voter’s right to vote. Plaintiffs—Republican National Committee (“RNC”), state and local Republican party organizations, and two Republican voters—threaten that purpose with their lawsuit. Many of the North Carolinians targeted by the Plaintiffs belong to the broad coalition

of Democrats, Republicans, independents, and third-party voters who cast votes for Democratic candidates in the November 5, 2024 election. Accordingly, the DNC was permitted to intervene by the state court in this matter. On February 13, 2025, Defendant State Board of Elections moved this Court for an indicative ruling, which motion the DNC joins in full. In anticipation of potential further proceedings in this Court, the DNC respectfully moves to intervene in this lawsuit pursuant to Federal Rule of Civil Procedure 24 as a matter of right, or in the alternative by permission, to protect its unique interests in North Carolina's 2024 general election results being upheld in accordance with North Carolina and federal law.

BACKGROUND

This lawsuit follows four materially attempts to disenfranchise voters based on allegations that those voters did not list their driver's license number or last four digits of their social security number when they registered to vote. First, a Republican voter filed an administrative complaint with the State Board alleging that the State Board's practice of processing voter registration forms without driver's licenses or social security numbers violated federal law in December 2023. Nine months later, the Republican National Committee and North Carolina Republican Party (who are also plaintiffs in the instant litigation) sued the State Board and demanded that voters who did not include their driver's license number or social security digits when they first registered must be either removed from the voter rolls or given provisional ballots that could later be discounted. The DNC was permitted to intervene in this case as of right. *See RNC v. NCSBE*, No. 24-cv-547 (E.D.N.C.).

After the election, Judge Jefferson Griffin—a losing candidate for North Carolina Supreme Court—filed a series of administrative protests to retroactively disenfranchise more than 60,000 voters on the same grounds as the Plaintiffs in this case (as well as other voters on other grounds).

The State Board dismissed the protests, and Judge Griffin petitioned for judicial review. He first petitioned the North Carolina Supreme Court directly. *Griffin v. NCSBE*, No. 320P24 (N.C.) (“*Griffin I*”). He then petitioned for judicial review in North Carolina Superior Court. *Griffin v. NCSBE*, No. 24CV040620-910 (N.C. Super. Ct.) (“*Griffin II*”). Both cases were removed to this Court and remanded. On appeal, the Fourth Circuit modified and affirmed and ordered this Court to retain jurisdiction over several federal issues implicated in that case, while allowing the state courts to proceed on state issues. *See Griffin v. NCSBE*, No. 25-1018 (4th Cir. Feb. 4, 2025).

In state court, the North Carolina Supreme Court dismissed *Griffin I*. No. 320P24 (N.C. Jan. 22, 2025). The North Carolina Superior Court then affirmed the State Board’s dismissal of Judge Griffin’s protests. *Griffin II*, No. 24CV040620-910 (N.C. Super. Ct. Feb. 7, 2025). Judge Griffin appealed, which appeal is pending.

In the meantime, rather than seek expedited relief in their pending lawsuit before this Court or intervene in any of the myriad lawsuits involving the exact same issue, Plaintiffs instead filed the instant lawsuit on December 31, 2024 in North Carolina Superior Court. Defendants removed the action to this Court. (DE 1.) This Court remanded *sua sponte* based on the same grounds that it remanded the *Griffin* cases, and the State Board appealed that remand order, which appeal is pending. (DE 19, 21.) The DNC moved to intervene shortly after remand. The North Carolina Superior Court granted the DNC’s motion to intervene on January 14, 2025. It further denied Plaintiffs’ motion for a temporary restraining order. *Kivett v. NCSBE*, No. 24cv041789-910 (N.C. Super. Ct. Jan. 10, 2025). Plaintiffs appealed, and the North Carolina Court of Appeals stayed consideration of Plaintiffs’ appeal. *Kivett*, No. P25-30 (N.C. Ct. App. Jan. 17, 2025). Plaintiffs have now since petitioned the North Carolina Supreme Court to lift the stay and take jurisdiction

over their motion for a temporary restraining order, which petition is pending. The State Board and DNC oppose the petition.

The State Board moved this Court for an indicative ruling on February 13, 2025. (DE 24, 25.) The DNC joins in this motion.

LEGAL STANDARD

Rule 24(a)(2) of the Federal Rules of Civil Procedure allows a timely movant that makes three showings to intervene in a civil action as of right. *also N.C. State Conf. of NAACP v. Berger*, 970 F.3d 498, 502 (4th Cir. 2020). Intervention as of right requires the movant to show that “(1) an interest in the subject matter of the action; (2) that the protection of this interest would be impaired because of the action; and (3) that the applicant’s interest is not adequately represented by existing parties to the litigation.” *Teague v. Bakker*, 931 F.2d 259, 260–61 (4th Cir. 1991). A party who lacks a right to intervene may still be allowed to intervene in the court’s discretion if it has a claim or defense that shares with the main action a common question of law or fact. Fed. R. Civ. P. 24(b)(1)(B).

ARGUMENT

The DNC—the oldest continuing party committee in the United States—is the Democratic Party’s national committee as defined by 52 U.S.C. §30101(14). The DNC’s organizational purposes and functions are to communicate the Democratic Party’s position and messages on issues; protect voters’ rights; and aid and encourage the election of Democratic candidates at the national, state, and local levels, including by persuading and organizing citizens not only to register to vote as Democrats but also to cast their ballots for Democratic nominees and candidates. The DNC’s leadership is composed of the chair, vice chairs, and over 200 members elected by Democrats in every U.S. state and territory and the District of Columbia, including North Carolina.

The DNC’s motion—filed just five days after the State Board reopened this case in federal court with its motion for an indicative ruling—is timely. As an intervenor-defendant in this action in state court, the DNC has a clear and significant interest in any federal court proceedings that could affect its interests in the state court proceedings where it is a party. The DNC is also an intervenor-defendant in *RNC v. NCSBE*, No. 24-cv-547 (E.D.N.C.), which raises materially identical claims and seeks similar relief.

Additionally, as a political organization representing and campaigning for candidates who stood for office in the November 5, 2024 election, the DNC has a clear and direct interest in the election and its proper administration. “[V]oting is of the most fundamental significance under our constitutional structure.” *Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173 184 (1979). The DNC has a substantial interest in protecting the right of its members who do choose to vote (and of others who will support Democratic candidates) to have those votes counted in accordance with federal and North Carolina law. These members include individuals qualified to vote in (and candidates for offices in) every county in this state. The DNC and its members thus “stand to gain or lose by the direct legal operation of the district court’s judgment.” *Teague*, 931 F.2d at 261.

The Complaint’s alternative requested relief—a belated “cure” process—would require the DNC to expend and divert significant funds and resources that it would otherwise spend on voter outreach and mobilization efforts toward informing and educating voters about their rights under federal and North Carolina law, in order to ensure that those voters are not erroneously prevented from having their votes counted. The likely erroneous denial of Democratic voters’ right to cast a ballot and have it counted, and the likely erroneous removal of Democratic voters from the voting

rolls, each further injures the DNC by reducing the number of registered Democrats able to cast a ballot in North Carolina that will be counted.

Further, the complaint challenges the administration of the election by seeking to invalidate the voter registrations and votes of tens of thousands of North Carolinians. Such a challenge is a practical impairment to the DNC's interests in running successful campaigns to elect its candidates to public office and defending their electoral wins. It is also contrary to "the object of elections," which is "to ascertain the popular will, and not to thwart it." *Owens v. Chaplin*, 228 N.C. 705, 711, 47 S.E.2d 12, 17 (1948). And it is contrary to another "object of election laws," which is "to secure the rights of duly-qualified electors, and not to defeat them." *Id.*

Third, the parties in this action do not adequately represent the DNC's interests in seeing Democratic candidates elected. Respondents are public officeholders focused on efficient administration of elections. They do not share the DNC's particularized interest in helping Democratic candidates win elections or its members' particularized interest in ensuring that their votes are each counted. The DNC thus should be allowed to represent its interests as of right in this action.

In recognition of the substantial interests in the outcome of cases affecting the electoral rights of Democratic voters held by Democratic party organizations, courts across the country routinely grant intervention to political party committees such as the DNC in cases like this—particularly cases that threaten to undermine the ability of one party's voters to vote or harm the electoral prospects of the party's candidates. For example, the DNC intervened in *RNC v. NCSBE*, No. 24-cv-547 (E.D.N.C.), as discussed above. The U.S. Court of Appeals for the Third Circuit also recently granted the motion of the DNC and other Democratic Party committees to intervene in a lawsuit challenging a Pennsylvania state voting requirement as violating the federal Voting

Rights Act. Order Granting Motion To Proceed As Intervenor, *Pennsylvania State Conference of NAACP Branches v. Northampton County Board of Elections*, No. 23-03166 (3d Cir. Dec. 7, 2023). Other such cases are legion.¹

In the alternative, the DNC should be granted permissive intervention for the reasons stated above.

CONCLUSION

The DNC respectfully requests that the Court grant its motion and allow it to intervene in this matter.

¹ *E.g.*, *Paher v. Cegavske*, 2020 WL 2042365, at *4 (D. Nev. Apr. 28, 2020) (granting the DNC intervention in an election-law case brought by a conservative interest group); Order (ECF No. 35), *Donald J. Trump for President v. Bullock*, No. 6:20-cv-66 (D. Mont. Sept. 8, 2020) (granting the Democratic Congressional Campaign Committee (“DCCC”), the Democratic Senatorial Campaign Committee, and the Montana Democratic Party intervention in a lawsuit brought by four Republican party entities); *Donald J. Trump for President, Inc. v. Murphy*, 2020 WL 5229209, at *1 (D.N.J. Sept. 1, 2020) (granting the DCCC intervention in a lawsuit by a Republican candidate and party entities); Minute Entry (ECF No. 37), *Cook County Republican Party v. Pritzker*, No. 20-cv-4676 (N.D. Ill. Aug. 28, 2020) (granting the DCCC intervention in a lawsuit by a Republican party entity); *Issa v. Newsom*, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting the DCCC and the California Democratic Party intervention in a lawsuit by a Republican congressional candidate).

Respectfully submitted, this 18th day of February, 2025.

/s/ James W. Whalen

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed using CM/ECF, which serves all parties who have appeared in this matter.

This the 18th day of February, 2025.

/s/ James W. Whalen
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