

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2014 OCT 13 PM 4:06 14 CVS 012648

STELLA ANDERSON, PAM)
WILLIAMSON, MARIANNE)
CLAWSON, ALAINA DOYLE,)
LAUREN LARUE JOYNER, IAN)
O'KEEFE, AND DAVID SABBAGH,)

Petitioners,)

v.)

THE NORTH CAROLINA STATE)
BOARD OF ELECTIONS,)

Respondent.)

**ORDER DENYING RESPONDENT'S
MOTION TO DISMISS AND REMANDING
THE MATTER TO RESPONDENT**

THIS CAUSE was heard by the undersigned Superior Court Judge at the 13 October 2014 Civil Session of Wake County Superior Court on Petitioner's 19 September 2014 Petition for Judicial Review and Respondent's 6 October 2014 Motion To Dismiss. After reviewing the motion, the petition, Respondent's Memorandum of Law in Support of the Motion, Petitioner's Brief in Support of Petition for Judicial Review and in Opposition to Respondent's Motion To Dismiss, Respondent's certified record, and all other filings submitted by the parties and after considering the arguments of counsel for both parties, it appears to the Court that Respondent's Motion To Dismiss on the basis of seven enumerated grounds should be denied in its entirety and the matter should be remanded to Respondent for adoption of an early voting plan for Watauga County consistent with this Order.

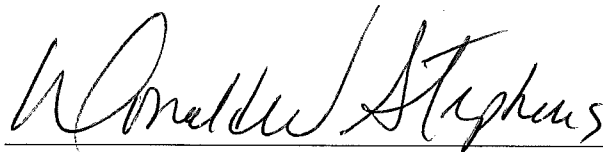
Upon review of the whole record, the Court makes the following conclusions:

1. Under the unique circumstances in this case, Respondent's early voting plan for Watauga County is subject to judicial review by the Wake County Superior Court under N.C. Gen. Stat. § 163-22(1).
2. The Court has jurisdiction to exercise judicial review of this matter.
3. Upon review, questions of law are considered *de novo*.
4. The early voting plan Respondent adopted for Watauga County affects not only a substantial right, but a constitutional right of young voters in that county who are students at Appalachian State University (ASU).
5. The majority plan of the Watauga County Board of Elections on its face appears to have as a major purpose the elimination of an early voting site on the ASU campus. Based on this record, the court can conclude no other intent from that board's decision other than to discourage student voting. A decision based on that intent is a significant infringement of students' rights to vote and rises to the level of a constitutional violation of the right to vote.
6. The early voting plan submitted by the majority members of the Watauga County Board of Elections was arbitrary and capricious. All the credible evidence indicates that the sole purpose of that plan was to eliminate an early voting site on campus so as to discourage student voting and, as such, it is unconstitutional.

IT IS THEREFORE ORDERED that Defendant's Motion To Dismiss is DENIED in its entirety, that this matter is REMANDED to Respondent and that, upon remand, Respondent is

directed to adopt an early voting plan for Watauga County for the 2014 November general election that includes at least one early voting site on the ASU campus.

This the 13th day of October, 2014.

A handwritten signature in cursive script, reading "Donald W. Stephens". The signature is written in black ink and is positioned above a horizontal line.

Donald W. Stephens, Presiding Superior Court Judge

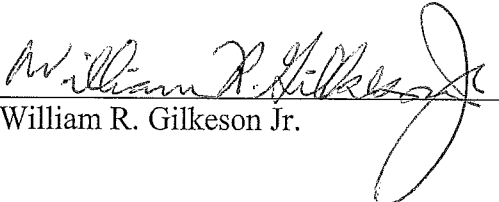
CERTIFICATE OF SERVICE

The undersigned attorney for Petitioners hereby certifies that on this day the foregoing Order was served upon counsel for Respondent by electronic service at the following address:

Ms. Katherine Murphy
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Raleigh, North Carolina 27602
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This the 13th day of October, 2014.



William R. Gilkeson Jr.