

SUPREME COURT OF NORTH CAROLINA

COMMUNITY SUCCESS)
INITIATIVE; JUSTICE SERVED NC,)
INC.; WASH AWAY)
UNEMPLOYMENT; NORTH)
CAROLINA STATE CONFERENCE)
OF THE NAACP; TIMOTHY)
LOCKLEAR; DRAKARUS JONES;)
SUSAN MARION; HENRY)
HARRISON; ASHLEY CAHOON;)
SHAKITA NORMAN,)

Plaintiffs-Appellees,)
v.)

TIMOTHY K. MOORE, in his official)
capacity; PHILIP E. BERGER, in his)
official capacity; THE NORTH)
CAROLINA STATE BOARD OF)
ELECTIONS; DAMON CIRCOSTA, in)
his official capacity; STELLA)
ANDERSON, in her official capacity;)
KENNETH RAYMOND, in his official)
capacity; JEFF CARMON, in his)
official capacity; DAVID C. BLACK, in)
his official capacity,)

Defendants-Appellants.)

From Wake County
No. 19 CVS 15941
From Court of Appeals
P22-153

MOTION OF THE NORTH CAROLINA JUSTICE CENTER
AND DOWN HOME NC FOR LEAVE TO FILE AMICUS BRIEF
IN SUPPORT OF PLAINTIFFS-APPELLEES

The North Carolina Justice Center (“NCJC”) and Down Home NC (“Down Home”) respectfully move this Court for leave to file an *amicus curiae* brief in support of Plaintiffs-Appellees. The Plaintiffs and Defendants have consented to this motion. Amici are not seeking to argue the brief. The *amicus curiae* brief is attached to this motion. In support of this motion, NCJC and Down Home show the following:

Nature of Applicant’s Interest

NCJC is a non-profit legal services provider with a mission to eliminate poverty in North Carolina by ensuring that every household in the state has access to the resources, services, and fair treatment it needs to achieve economic security. NCJC is made up of a number of projects including the Fair Chance Criminal Justice Project, a team of lawyers and advocates that partners with impacted people, congregations, concerned community members, advocacy organizations, and decision-makers to change local and state policies and practices to make the criminal justice system more fair from arrest to reentry. The Fair Chance Criminal Justice Project’s mission is to improve procedures, practices, and policies throughout the criminal justice system to treat people more fairly and to ensure people can reintegrate with their families and communities when exiting the criminal justice system. NCJC has long worked on combating the collateral consequence of a criminal record including felony disenfranchisement. NCJC includes attorneys who have represented people prosecuted for voting while under supervision for a felony conviction in both Alamance and Hoke Counties.

Down Home is a community organization that works to build power for poor and working people of all races in rural North Carolina. Down Home is founded on the belief that small towns and rural areas cannot be ignored if we want to see positive change at the state and national level. Through their network of member-led, county-based chapters, they are engaged in year-round organizing, mutual aid programs, leadership development, multi-racial movement building, and civic engagement.

Reasons Why an Amicus Brief is Desirable

The issues raised by plaintiffs in the complaint are important because felony disenfranchisement and its enforcement methods efficiently strip away the political voice of entire geographical communities. Denying a person on felony probation or post-release the right to vote is a record-based disqualification that disproportionately impacts people of color. This brief will provide the Court insight about the chilling effect of prosecutions for voting while on felony probation or post-release. NCJC has experience defending people prosecuted for mistakenly voting while under supervision for a felony conviction. Down Home has experience registering people to vote and advocating for the rights of people prosecuted for voting while on felony probation or post-release. The brief will highlight the intent and actual chilling effect of the enforcement mechanism on voter turnout of people with criminal records.

Questions to be Addressed in the Amicus Brief

The question of law before this Court is whether felony disenfranchisement is unconstitutional under Article I, §§ 10, 11, 12, 14 and 19 of the North Carolina Constitution. The proposed amicus brief will discuss the intent and impact of a harmful byproduct of felony disenfranchisement—enforcement through criminal prosecutions. The chilling effect that criminal prosecutions for voting while under supervision for a felony conviction has on people with criminal records and their families should be contemplated by this Court while deciding the constitutionality of the state’s automatic record-based disenfranchisement scheme.

Position on Question Presented

Amici urge the Court to rule for Plaintiffs-Appellees.

Conclusion

For the reasons stated above, the North Carolina Justice Center and Down Home NC respectfully request this Court grant the motion for leave to file the attached *amicus curiae* brief in support of Plaintiffs-Appellees, Community Success Initiative, Inc., *et al.*

This the 17th day of August, 2022.

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1 No person or entity other than amici curiae or their counsel directly or indirectly, authored this brief in whole or in part or made a monetary contribution to the preparation or submission of this brief. See N.C. R. App. P. 28(i)(2).

The North Carolina Justice Center (“NCJC”) and Down Home NC (“Down Home”) respectfully submit this brief as *amici curiae* in support of Plaintiffs-Appellees.

INTRODUCTION

North Carolina is one of sixteen states that prevents individuals from registering and voting while serving an active sentence, probation, parole, or post-release for a felony conviction. National Conference of State Legislators, Felon Voting Rights, (Oct. 14, 2019), <https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>. This legal scheme has long served to disenfranchise African Americans in North Carolina and across the United States, not only because it actively bars the justice-involved population from voting but also because its enforcement—including through prosecution under N.C. Gen. Stat. §163-275(5)—instills fear in eligible voters and discourages them from exercising their fundamental right to vote. This amicus brief will discuss the explicit intent behind the current statute to disqualify from eligibility and suppress African American voters through prosecution of voting for persons on probation, parole, or post-release supervision, as well as the chilling effect that it has more broadly on African American communities in North Carolina.

ARGUMENT

I. The Criminalization of Voting for Persons on Probation, Parole, or Post-Release Supervision Was Designed to Disenfranchise the African American Electorate.

Under N.C. Gen. Stat. § 163-275(5), it is a Class I felony “[f]or any person convicted of a crime which excludes the person from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law.”² N.C.G.S. § 163-275(5). This statute is enabled by the corresponding felony disenfranchisement statute N.C. Gen. Stat. § 163-55(a)(2).³ Criminalized felony disenfranchisement has remained substantively unchanged since it was first passed as part of a broader effort to deny voting rights to African American North Carolinians in 1877.

A. The Racialization of Criminalized Felony Disenfranchisement Is Historically Rooted.

The racial motivation for criminalized felony disenfranchisement in North Carolina has been clear from the start and is demonstrated by the marked shift in attitude to felony disenfranchisement pre- and post-Civil War. Prior to the Civil War, with the Fifteenth Amendment not yet granting African Americans the right to vote, state legislators passed “An Act providing for restoring to the rights of citizenship

² For the purposes of this brief, the phrase “criminalized felony disenfranchisement” will refer to N.C. Gen. Stat. § 163-275(5), the enforcement mechanism of felony disenfranchisement.

³ North Carolina’s felony disenfranchisement statute provides that anyone “adjudged guilty of a felony” is barred from voting in the state until the person has had their rights fully restored. N.C.G.S. § 163-55(a)(2), *see also* N.C.G.S. § 13-1.

persons convicted of infamous crimes,” which would allow white individuals disenfranchised by reason of a felony conviction to restore their voting rights. 1840 N.C. Sess. Laws 68–69, Chap. 36

In the aftermath of the Civil War, felony disenfranchisement—and criminalized felony disenfranchisement—became a key strategy to limit the impact of newly enfranchised African American voters. Erin Kelly, “Racism & Felony Disenfranchisement: An Intertwined History,” Brennan Ctr. For Justice 1 (May 9, 2017). North Carolina legislators saw felony disenfranchisement and criminalized felony disenfranchisement as a practical dismantling of African American suffrage by the state. In a contemporary piece anticipating the Fifteenth Amendment, Carl Schurz highlighted North Carolina’s practice of felony disenfranchisement, noting that “[h]ow much time it would require thus to disfranchise every [African American] in the State is a mere arithmetical problem for the consciences of slavery-loving and negro-hating juries; and judges would probably not obstruct the operation.” Carl Schurz, “The True Problem,” *The Atlantic* 374 (March 1867). Indeed, mass whippings of African American men were conducted, as state law prohibited every man who had been whipped from voting. Pippa Holloway, “A History of Stolen Citizenship,” 12 *Origins Current Events in Hist. Perspective* 9, 13 (June 2019) (noting that North Carolina was “[a]rguably . . . ground zero for these [felony disenfranchisement] efforts”). Criminalized felony disenfranchisement further perpetuated this statutory scheme.

In 1877, as part of the practical dismantling of African American suffrage and in stark contrast to the statute restoring citizenship to individuals convicted of felonies, state legislators passed the criminalized felony disenfranchisement statute as part of “An Act to Regulate Elections.” 1876 N.C. Sess. Laws 516–44, Chap. 275; “The Legislature,” *The Morning Star* (Mar. 9, 1877). In addition to revoking voting rights of persons “adjudged guilty of felony or other crime infamous by laws of this state,” *Id.* at 519–20, Chap. 75, § 10, the act provided that:

If any person so convicted shall vote at any election, without having been legally restored to the rights of citizenship, he shall be deemed guilty of an infamous crime, and on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding two years, or both.

Id. at 537, Chap. 75, § 62. This conspicuous shift in approach to felony disenfranchisement demonstrates intent behind the criminalized felony disenfranchisement statute. So to do the comments of the politicians who spent the decades after the end of the Civil War committed to restoring the antebellum South. North Carolina Democrats “boldly asserted” that restrictions on Black suffrage were required to protect against “the honest vote of a white man in North Carolina . . . be[ing] off-set by the vote of some negro.” State Democratic Executive Committee of North Carolina Democratic Party, “The Democratic Hand Book,” 84 (1898). The history of this statute demonstrates the racist intentions of criminalized felony disenfranchisement and belies any purported objective of preserving the integrity of elections.

B. As A Strict Liability Offense, Criminalized Felony Disenfranchisement Is Disproportionately Punitive Compared to Other Acts Classified as Felonies by North Carolina Election Laws.

A voter's status of having a prior non-related felony conviction has not been correlated with integrity of the election process. Yet, criminalized felony disenfranchisement is disproportionately harsh when compared with other election enforcement laws. Unlike many of the other provisions in N.C. Gen. Stat. § 163-275(5) contains no intent element. N.C.G.S. § 163-275(5). This statutory provision is incongruous with much of the rest of the statute declaring felonious certain acts interfering with election integrity. *See, e.g.*, N.C.G.S. § 163-275(4) (“For any person *knowingly* to swear falsely with respect to any matter pertaining to any primary or election.”); *id.* at (6) (“For any person to take *corruptly* the oath prescribed for voters.”); *id.* at (7) (“For any person *with intent to commit a fraud* to register or vote at more than one precinct . . .”); *id.* at (14) (“For . . . any other individual to *knowingly and willfully* receive, complete, or sign an application to register. . .”); *see also* N.C.G.S. § 163-274(9) (“knowing”); (11) (“willfully or of malice”); (13) (“willfully and knowingly”).

The strict liability standard attached to the subsection that criminalizes voting after being convicted of a felony stands out for its lack of conformity with the surrounding subsections and has been identified as a way to disqualify African American voters since the statute was first introduced. *Compare* 1876 N.C. Sess. Laws 536–37, Chap. 75, § 61, (“Any person who shall . . . procure his name, or that of any other person, to be registered, *knowing* that he or the person whose name he has

procured . . . is not entitled to vote . . .”) (emphasis added) *with id.* at 537, § 62 (“[I]f any person so convicted shall vote at any election . . . he shall be deemed guilty of an infamous crime . . .”). The construction of this statute does not align with other election law protections because it was not designed to protect election integrity but rather to criminalize voting while African American.

Furthermore, the unduly harsh felony classification of this strict liability offense is disproportionate when compared to the classification of other unlawful election behavior in North Carolina. For example, both the use of “force or violence to . . . interfere” with elections and voter intimidation are classified as Class 2 misdemeanors. N.C.G.S. § 163-274(4), (7). The practical impact of this dichotomy is that people who are convicted for unintentionally voting⁴ before having their rights fully restored are once again statutorily barred from voting by the felony disenfranchisement statute, extending the length of their disenfranchisement and perpetuating a cycle of disenfranchisement for even those who unintentionally violate the statute in an attempt to engage in the democratic process. Meanwhile, those convicted of other unlawful election behavior—including acts that require intent and acts of violence and intimidation—remain able to participate in elections.

⁴ It is difficult for justice-involved individuals to determine an accurate status of their voting rights given that “[m]any states’ disenfranchisement policies are so complex that election officials often misunderstand and misrepresent them.” Brennan Ctr. at 3.

C. Criminalized Felony Disenfranchisement Is Harmful to Democratic Process.

Before any prosecution under the criminalized felony disenfranchisement statute becomes a data point, it is first a personal tragedy. People who have been prosecuted under N.C. Gen. Stat. § 163-275(5) are working to reintegrate into the community and support themselves and their families but are inhibited by their ineligibility to vote. People who are prosecuted for voting when they thought they were eligible express feeling permanently excluded from the democratic process from that point onward, effectively extending any sentence they receive in perpetuity.

Many prosecuted under the strict liability statute are unaware that they are ineligible to register or vote. *See supra* n. 2. For example, Anthony Haith, an African American man from Alamance County who was prosecuted in 2018 for voting while on still probation, was simply directed to a polling station to fill out his ballot. Ex. A (Haith Affidavit) at ¶ 6.⁵ He was neither informed at the polling station nor when he was put on probation that, because he was on probation, he could not vote, despite the fact that he was informed of “many things that [he] could not do or have [while on probation].” *Id.* at ¶¶ 5, 6. Lanisha Bratcher, an African American woman from Hoke County who also faced prosecution for voting while on parole, stated that “at th[e time of her voting], nobody had told her she couldn’t vote.” Sam Levine, *A Black Woman Faces Prison Because of a Jim Crow-era Plan to ‘Protect White Voters’*, *The*

⁵ Affidavits of Anthony Haith and Deborah Smith were included in NCJC and Down Home’s amicus brief at the trial court. They have been attached here as Ex. A and Ex. B, respectively, for the convenience of the Court.

Guardian (Dec. 16, 2019, 6:00 PM), <https://www.theguardian.com/us-news/2019/dec/16/north-carolina-felony-vote-law-black-woman>.

Prosecutors have pursued convictions under felony disenfranchisement laws in a manner that has chilled democratic participation. Notably, in North Carolina, a group of twelve Alamance County residents—dubbed the Alamance Twelve—were prosecuted in 2018 for voting while on probation or parole; nine of the twelve are Black. Jack Healy, *Arrested, Jailed, and Charged with a Felony. For Voting*, The New York Times (August 2, 2018), <https://www.nytimes.com/2018/08/02/us/arrested-voting-north-carolina.html>. The following year, Gaston County district attorney, Locke Bell, prosecuted eleven people under the felony disenfranchisement criminal statute. Adam Lawson, *Gaston residents take pleas for illegal votes*, Gaston Gazette (July 26, 2019), <https://www.gastongazette.com/news/20190726/gaston-residents-take-pleas-for-illegal-votes>. Bell acknowledged that the individuals were unaware they were not able to vote while on probation and that “[m]ost of them were not intending to vote illegally.” *Id.* In February 2022, Brunswick County district attorney, Jon David, prosecuted eight people for voting while serving felony sentence. WECT Staff, *Grand jury indicts 8 people for voter fraud in Brunswick Co.*, WECT News 6 (August 16, 2022), <https://www.wect.com/2022/02/15/grand-jury-indicts-8-people-voter-fraud/>.

The prosecution of these cases leads to a legitimate fear of voting for justice-involved people, even after their rights are reinstated and they are eligible to vote. Mr. Haith, one of the Alamance Twelve, has stated that “[e]ven though [he] was

ultimately not convicted for felony voting, [he is] still fearful of voting [to] this day.” Ex. A (Haith Affidavit). at ¶ 13. He notes that many of the Alamance Twelve are scared to vote after their experience. *Id.* at 9. This chilling impact of criminalized felony disenfranchisement extends long after justice-involved individuals are eligible to vote and leads to de facto disenfranchisement.

II. Criminalized Felony Disenfranchisement Has a Chilling Effect on Eligible African American Voters More Broadly.

In addition to the impact of felony disenfranchisement statutes on justice-involved individuals, voting patterns reveal that the enforcement of felony disenfranchisement laws more broadly harm entire communities by diluting and deterring the eligible African American vote.

A. Criminalized Felony Disenfranchisement Not Only Suppresses the Vote of Justice-Involved Individuals but Also the Vote of Fellow Community Members.

Felony disenfranchisement statutes and their enforcement have an extremely broad-sweeping impact on voting, reaching the behavior of voters with no felony record and who have never been justice-involved. *See* Aman McLeod, et al., *The Locked Ballot Box: the Impact of State Criminal Disenfranchisement Laws on African American Voting Behavior and Implications for Reform*, 11 Va. J. Soc. Pol’y & L. 66, 80 (2003) (“[T]he probability of voting declines at a greater rate for African Americans compared to Caucasian Americans, when they live in states with restrictive criminal disenfranchisement laws, *even for those who have never been convicted of a crime.*”) (emphasis added); *see also* Melanie Bowers & Robert R. Preuhls, *Collateral Consequences of a Collateral Penalty: The Negative Effect of Felon*

Disenfranchisement Laws on the Political Participation of Nonfelons, 90 *Social Science Quarterly* 722, 738 (Sept. 2009) (“Thus, the results support the contention that the disparate impact of [felony disenfranchisement] laws on voter participation along racial lines is not simply constrained to felons themselves—[B]lack respondents also tend to be more greatly affected by [felony disenfranchisement] laws than non-Hispanic whites.”).

In a national study, researchers concluded that “eligible African American voters who live in states where a greater percentage of the voting age African American population is barred from voting due to a felony conviction are less likely to vote.” Bridgett A. King & Laura Erickson, *Disenfranchising the Enfranchised: Exploring the Relationship Between Felony Disenfranchisement and African American Voter Turnout*, 47 *J. of Black Studies*, 799, 812, 815 (Nov. 2016) (noting effect holds true even when controlling for socioeconomic status).

B. Criminalized Felony Disenfranchisement Has Deterred Eligible Justice-Involved Individuals from Registering to Vote.

Community volunteers who have engaged in voter registration efforts have noted their sadness and frustration with the impact that of felony disenfranchisement prosecutions on their work. These volunteers encounter people who are no longer disqualified from voting but who are nonetheless apprehensive to vote because of the pervasive fear of a felony conviction barring them from exercising their democratic right.

Deborah Smith, a voter registration volunteer with the Alamance County chapter of the NAACP, has seen the chilling effect of felony voting prosecutions in

real time. Ex. B (Smith Affidavit) at ¶ 4. Not only has she worked and talked with people disenfranchised by the current law because they are still on probation or serving a sentence, she has also spoken to people eligible to vote who are fearful of doing so because of past convictions. *Id.* Smith has encountered potential voters who are aware of prosecutions of fellow community members, such as the Alamance Twelve, or others across the state, and “fear[] the same consequences if they were to try to vote.” Ex. B (Smith Affidavit) at ¶ 5. These would-be voters find that the value of exercising their voting rights is not worth any risk of receiving another conviction or going to jail, even though they are now eligible. *Id.* Fear of prosecution effectively strips eligible citizens of their fundamental right to vote and prevents them from contributing to the civic process of this country.

III. The Court of Appeals’ Current Ruling and Other Recent Litigation Has Positively Impacted Voting Rights in North Carolina.

Acknowledging the harmful impact of the felony disenfranchisement scheme on fair and accessible elections in North Carolina, the lower courts have held for Plaintiffs-Appellees on numerous issues already. In September 2020, a three-judge panel of the Superior Court issued a preliminary injunction allowing individuals to vote if their probation was extended solely due to an inability to pay court fees and fines. (R pp 979–91.) In August 2021, the injunction was extended to allow all North Carolinians on probation, parole, or post-release supervision for felony convictions to register and vote. (R pp 1051–62.) The three-judge panel subsequently ruled that the felony disenfranchisement law violates the North Carolina Constitution. (R pp 1068–138.) The Court of Appeals partially granted Defendants-Appellants’ request

to stay the Superior Court's order through the July 26 primaries. Order, *Community Success Initiative v. Moore*, No. P22-153 (N.C. Ct. App. April 26, 2022). As of July 27, 2022, that partial stay expired and more than 55,000 North Carolinians on probation, parole, or post-release supervision are eligible to register and vote in the upcoming General Election. *See id.*

These rulings have allowed voting rights coalitions to begin the important work of promoting and encouraging participation in our elections by those justice-involved individuals who have been directly disenfranchised by these unconstitutional laws and those in the community who were wrongfully deterred from political participation by the broad-sweeping chilling effect that felony disenfranchisement has on African American communities across North Carolina and the United States. As part of the Unlock Our Vote Freedom Summer Tour, “[c]ommunity organizers will be hosting voter information and registration drives across the state for those directly impacted by this historic voting rights expansion.” Unlock Our Vote, <https://unlockourvotenc.org/> (last accessed Aug. 17, 2022). The important work of eliminating barriers to robust political participation among all state citizens begins with the removal of North Carolina's antiquated, anti-democratic felony disenfranchisement law.

Reversing the lower court decisions would not merely reinstate an unconstitutional statutory scheme but would also cause further confusion among impacted communities and individuals who are trying to navigate a statutory scheme that is already frequently misrepresented to them. Brennan Ctr. at 3 (noting that

“election officials often . . . spread[] inaccurate messages and caus[e] untold numbers of would-be voters to wrongly believe they are ineligible”). This would be a substantial harm, as fear of prosecution and confusion have already led to a significant chilling of African American voters in North Carolina.

CONCLUSION

Felony disenfranchisement laws in North Carolina suppress the vote of people on probation or parole, who are disproportionately African American. Enforcement of these laws through felony prosecutions has an even broader impact; it instills fear in justice-involved individuals that lasts long past the time they become re-eligible to vote and creates uncertainty and hesitance to vote among non-justice-involved members of African American communities across North Carolina. “A system of fair elections is foundational to self-government.” *Harper v. Hall*, 868 S.E.2d 499, 509 (N.C. 2022), *cert. granted sub nom. Moore v. Harper*, 21-1271, 2022 WL 2347621 (U.S. June 30, 2022) (citing *Comm. to Elect Dan Forest v. Emps. Pol. Action Comm.*, 376 N.C. 558, 2021-NCSC-6, ¶ 86, 853 S.E.2d 698 (Newby, C.J., concurring in the result)). Far from encouraging a system of fair elections, felony disenfranchisement laws and their enforcement were designed to suppress African American voters, and that impact is still felt by African American North Carolinians today. For these reasons, NCJC and Down Home urge the Court to rule in favor of Plaintiffs-Appellees in this matter.

North Carolina Justice Center

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I certify that the attorneys listed below
have authorized me to list their names
on this brief as if they had personally
signed it. *See* N.C. R. App. P. 33(b).

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19-cv-15941

COMMUNITY SUCCESS INITIATIVE;
JUSTICE SERVED NC, INC.; WASH
AWAY UNEMPLOYMENT; NORTH
CAROLINA STATE CONFERENCE OF
THE NAACP; TIMOTHY LOCKLEAR;
DRAKARUS JONES; SUSAN MARION;
HENRY HARRISON; ASHLEY
CAHOON; SHAKITA NORMAN,

Plaintiffs,

v.

TIMOTHY K. MOORE, IN HIS
OFFICIAL CAPACITY AS SPEAKER
OF THE NORTH CAROLINA HOUSE
OF REPRESENTATIVES; PHILIP E.
BERGER, IN HIS OFFICIAL
CAPACITY AS PRESIDENT PRO
TEMPORE OF THE NORTH
CAROLINA SENATE; THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; DAMON CIRCOSTA, IN
HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; STELLA ANDERSON, IN
HER OFFICIAL CAPACITY AS
SECRETARY OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; KENNETH RAYMOND,
IN HIS OFFICIAL CAPACITY AS
MEMBER OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; JEFF CARMON, IN HIS
OFFICIAL CAPACITY AS MEMBER
OF THE NORTH CAROLINA STATE
BOARD OF ELECTIONS; DAVID C.

AFFIDAVIT OF ANTHONY HAITH

BLACK, IN HIS OFFICIAL CAPACITY
AS MEMBER OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS,

Defendants.

Anthony Haith, being duly sworn, declares the following:

1. My name is Anthony Haith, I am over 18 years of age, and I am fully competent to make this declaration.

2. I live in Alamance county and have previously been charged with voting while on probation for a felony.

3. I live in Alamance county and work as a dishwasher at a local restaurant. I have done some volunteer work with Down Home NC, which is a community led organization focusing on raising the voices of working people and fixing issues affecting our democracy, by attending meetings and handing out flyers.

4. I was prosecuted in Alamance County for voter fraud in 2018, along with 11 other people. We are sometimes known as the "The Alamance 12."

5. When I voted in the 2016 election, I was still on probation for a previous conviction. I did not know I was unable to vote, or I would not have voted. When I was put on probation, I was informed of many things that I could not do or have. However, no one ever told me that I could not vote.

6. When I arrived at the polls, no one told me I could not vote. I was only directed to a polling station to cast my ballot.

7. In 2018, the police came to my house looking for me with a warrant. I was shocked, because I thought I was just exercising my rights when I voted.

8. Throughout the prosecution and being charged, I was thinking of the many people that had died and fought for us to vote. I had always thought that you were cheating yourself and society if you did not vote.

9. After talking with other Alamance 12 members, a lot of us are scared to vote now. It was very difficult dealing with the process of getting prosecuted for something that I did not even know was a crime, and dealing with the fallout afterwards.

10. I am still fearful of voting now. I do not want to go to jail for voting. I vividly remember how the judge looked at me standing in the courtroom, as if I had knowingly committed a grave wrong, and I will never forget it.

11. I told them in court that I was unaware that what I was doing was wrong, but there was no change in how the State treated me or looked at me.

12. Being prosecuted has affected my job search. Many employers will not give me an interview or take me seriously as a candidate because of the charge.

13. Even though I was ultimately not convicted for felony voting, I am still fearful of voting until this day.

14. I honestly do not know if I will ever vote again given everything that went on and how I was treated throughout the prosecution process.

This, the 23 day of July, 2020.

Anthony Haith

Anthony Haith

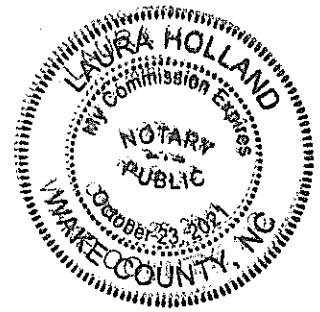
ALAMANCE COUNTY

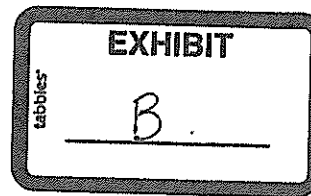
NORTH CAROLINA

Sworn to and subscribed before me, this the 23rd day of July, 2020.

Laura Holland
Notary Public

My Commission Expires: October 23 2021





STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19-cv-15941

COMMUNITY SUCCESS INITIATIVE;
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THE NAACP; TIMOTHY LOCKLEAR;
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ELECTIONS; JEFF CARMON, IN HIS
OFFICIAL CAPACITY AS MEMBER
OF THE NORTH CAROLINA STATE
BOARD OF ELECTIONS; DAVID C.
BLACK, IN HIS OFFICIAL CAPACITY
AS MEMBER OF THE NORTH

AFFIDAVIT OF DEBORAH SMITH

CAROLINA STATE BOARD OF
ELECTIONS,

Defendants.

Deborah Smith, being duly sworn, declares the following:

1. My name is Deborah Smith, I am over 18 years of age, and I am fully competent to make this Affidavit.

2. I live in Alamance county and I volunteer with the local chapter of the National Association for the Advancement of Colored People (NAACP) on different issues affecting the local community.

3. Through the NAACP's Political Action Committee, I work on voter registration in and around the community. I have been involved with these types of efforts for about 4-5 years now.

4. In my volunteer role of encouraging people to register to vote, and assisting them with the registration process, I have often been hampered in my efforts when I encounter individuals with criminal records who have shared fears about voting in fear of retaliation such as prosecution or even jail time. Many of these people were eligible to vote at the time I was trying to assist them, however they declined to register based on a risk of receiving a new charge.

5. I worked on voter registration efforts in 2018. 12 voters were prosecuted in Alamance county during that year ("The Alamance 12"), and the prosecution was widely publicized. This made my job even more difficult. Many people with criminal records cited this as a new source of fear regarding voting.

They likened themselves to the people charged with felonies for voting, and feared the same consequences if they were to try to vote.

6. In my volunteer efforts, I have also encountered people who are interested in voting, but cannot because they are still on probation or serving a sentence.

7. One of the members of the Alamance 12 had moved away from the Alamance county area right before he was charged. After moving to Wilmington with his family for a new job opportunity, he was charged with a felony for voting in the 2016 election. He subsequently lost his job.

8. For example, shortly after the Alamance 12 case received publicity, I was volunteering to register voters outside of the public library in Graham, North Carolina. I tried to persuade a man in his 60s to register to vote. He had never registered to vote before, stating that he was not eligible based on a conviction of a juvenile offense that occurred when he was 16. The conviction was only for a misdemeanor, however he still thought that he did not have the right to vote. The prosecution of The Alamance 12 only further confirmed his fears of voting, and I ~~could not persuade him to register to vote.~~ DS

9. In my work, I try to convince people to register to vote so that they are able to make a difference or change in their community. My job is made that much harder when I am working with people who are disenchanted with the system of voting and representation.,

10. When I first started voting, it made me feel like an important part of society and like I was effecting change. I think that it gives you a chance to express grievances and try to make things different through your efforts, regardless of the outcome.

This, the 23 day of July, 2020.

Deborah Smith

Deborah Smith

ALAMANCE COUNTY

NORTH CAROLINA

Sworn to and subscribed before me, this the 23rd day of July, 2020.

Laura Holland

Notary Public

My Commission Expires: October 23, 2021

