

FOR IMMEDIATE RELEASE

Grand Jury returns a presentment in investigation into 2020 Attorney General Campaign Ad

The Grand Jury of Wake County today returned a presentment in the investigation into the campaign ad commonly referred to as “Survivor” in the 2020 Attorney General election distributed by the Stein for Attorney General Campaign. This decision by the Grand Jury follows investigations conducted by the North Carolina State Board of Elections and the North Carolina State Bureau of Investigation over the past two years. Under State law, misdemeanor offenses are considered in two phases. The next step in the case will be to send indictments to the Grand Jury.

North Carolina General Statute 163-274 was enacted in 1931 by the North Carolina General Assembly. The law provides that it is a Class 2 misdemeanor “for any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is circulated or intended to affect the chances of such candidate for nomination or election.” Lawyers on behalf of the Stein campaign filed a lawsuit seeking to have the law declared unconstitutional as violating the First Amendment. After reviewing arguments from all sides in the civil litigation regarding the statute, United States District Court Judge Eagles (M.D.-N.C.) found the statute to be constitutional and denied the Plaintiff’s request to stay that decision pending an appeal. An appeal of Judge Eagles’ order was pending in the United States Court of Appeals Fourth Circuit at the time the Grand Jury returned a presentment.

The investigation into this campaign advertisement began with a complaint filed by 2020 Attorney General candidate and current Forsyth County District Attorney Jim O’Neill. From the beginning of the investigation and up until she was named as a defendant in a civil lawsuit as to the constitutionality of the statute at question, District Attorney Lorrin Freeman recused herself from any involvement citing close working relationships with both Mr. Stein and Mr. O’Neill.

At issue in this investigation was whether the ad commonly referred to as the “Survivor ad” violated North Carolina General Statute 163-274(a)(9). In the ad, a sexual assault victim and employee of North Carolina Department of Justice made the following statement:

“As a survivor of sexual assault that means a lot to me and when I learned that Jim O’Neill left 1,500 rape kits [sitting] on a shelf leaving rapists on the street, I had to speak out.”