

08 NCAC 02 .0111 ELECTION PROTEST FORM

All persons bringing an election protest under Article 15A shall complete and timely file the following form. For the purposes of this Rule, "timely" means within the time required by G.S. 163-182.9(b). Please note this form shall not be used to challenge the registration of an individual voter or to report an incident other than an irregularity affecting the outcome of an election.

ELECTION PROTEST

(Use of this form is required by G.S. 163-182.9(c))

This form must be filed with the county board of elections within the timeframes set out in G.S. 163-182.9(b)(4). Please print or type your answers. Use additional sheets if needed to answer the below questions fully. Number the pages of all additional sheets. Please note that filings will be a public record. Please redact all confidential information, such as date of birth, Social Security number, and driver's license number.

Respond to all prompts. Failure to complete this form as required may result in the dismissal of your protest. Attach additional sheets as necessary, including all exhibits and supplemental documents. All attachments are deemed incorporated and covered under the Protest Certification.

PROTESTOR

1. Provide your preferred contact information:

Name: Michael H. Wray County of Residence: Northampton
Email: michaelhwrays406@gmail.com Phone: 252-536-8013
Mailing Address: P.O. Box 904, Gaston, NC 27832

NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you attach an addendum indicating otherwise.

2. Are you represented by counsel? Yes No

NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel Certification Addendum.

3. Mark all that describe you:

- Candidate for the office of North Carolina House of Representatives
- Registered voter eligible to participate in the protested election contest
- Neither of the above*

**If you select this option, you are not eligible to file a protest*

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

Protested Contest(s)	Current Vote Margin (subtract runner-up totals from apparent winner's totals)
<u>House District 27</u>	<u>41</u>

ASSISTANCE

11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance provided:

Counsel

Note: For protestors represented by an attorney, this protest is the initial filing in a proceeding as defined by N.C. State Bar Rules. See 27 N.C.A.C. 02 Rule 1.00(n).

12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring this protest?

- Yes
- No

13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for filing this protest?

- Yes
- No

AFFECTED PARTIES & SERVICE

You must serve copies of all filings on every person with a direct stake in the outcome of this protest ("Affected Parties"). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of particular voters, all such voters are Affected Parties and must be served. Address information for registered voters is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the Affected Party's mailing address of record on file with the county board of elections or the State Board, or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all Affected Parties.

14. List all Affected Parties, including their service address:

<i>Affected Party</i>	<i>Service Address</i>
<u>Rodney D. Pierce</u>	<u>c/o Swain Wood</u>
_____	<u>Morningstar Law Group</u>
_____	<u>421 Fayetteville Street, Suite 530</u>
_____	<u>Raleigh, NC 27601</u>
_____	<u>swood@morningstarlawgroup.com</u>
_____	_____

PROTESTOR CERTIFICATION

15. By signing this protest application, you affirm the following:

I, Michael H. Wray (full name), swear, under penalty of perjury, that the information provided in this protest filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

(initial)
MHW
MHW
MHW
MHW

I have reviewed the statutes and administrative rules governing election protests, including all deadlines.

My protest must originate with a filing at the county board of elections.

I must timely serve all Affected Parties.

I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct, either of which were sufficient to cast doubt on the apparent results of the election.

MHW
MHW

It is a crime to interfere unlawfully with the conduct and certification of an election.

It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote counted in the election.

MHW

The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I have a good faith basis to protest the conduct and results of the election.

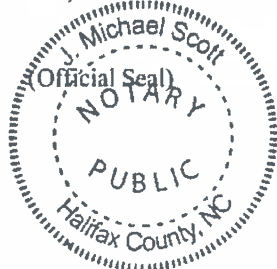
Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes. This notice is provided pursuant to S.L. 2013-381, s. 5.4.

Signature of Protestor: [Signature]
(This signature must be signed in the presence of a notary)

Date: 3-14-2024

State of North Carolina, County of HALIFAX

Sworn to (or affirmed) and subscribed before me this the 14 day of March, 2024.



[Signature]
Official Signature of Notary

J. Michael Scott Notary Public
Printed Name

My commission expires: April 18, 2028

Date/Time Filed with County Board

(completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections & Ethics Enforcement, PO Box 27255, Raleigh, NC 27611-7255.

COUNSEL OF RECORD ADDENDUM

If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your Election Protest Application.

Attorney Must complete all of the following:

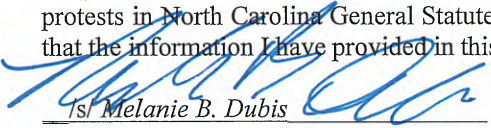
Protestor Name: Michael H. Wray Protestor County: Northampton
Attorney Name: Melanie B. Dubis
Attorney Email: melaniedubis@parkerpoe.com Attorney Phone: 919-890-4158


I am a member in good standing with the North Carolina State Bar
 I am not licensed to practice law in North Carolina but am a member in good standing in _____ (State or District of Columbia), and do hereby apply to appear pro hac vice and certify that I have or will file all appropriate documents required under G.S. 84-4.1.

Law Firm: Parker Poe Adams & Bernstein LLP
Bar Number: 22027

I (choose one) am am not:
Subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

I represent the Protestor whose name is provided above. I have read and understand the laws governing election protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest that the information I have provided in this Addendum is true and accurate to the best of my knowledge.


/s/ Melanie B. Dubis
Attorney Signature

3/14/2024 
Date

*History Note: Authority G.S. 163-22; 163-182.9;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2018;
Amended Eff. November 1, 2020.*

HALIFAX COUNTY ATTACHMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

Incorrect Ballots Provided to Voters

The following voters were provided an incorrect ballot:

Bradford Wrenn is a registered Democrat who was given a Republican ballot.

Joyce G. Wrenn is a registered Democrat who was given a Republican ballot.

Kenneth Branch is a registered Democrat who was given a Republican ballot.

North Carolina law provides that a voter may cure a primary ballot where the voter received an incorrect ballot. "Where a known group of voters was given an incorrect ballot style, the State Board of Elections may authorize a county board of elections to allow those voters to recast their votes during a period of two weeks after the canvass by the State Board of Elections" N.C. Gen. Stat. § 163-182.1.

Provisional Ballots

The names below are voters who cast provisional ballots that are listed as "Pending" or "Not Counted," according to the most recent data on the State Board's website. For the reasons set forth below, these voters' provisional ballots should be "Approved" or "Partial" counted.

(1) The following are provisional voters who reside in and are registered to vote in Halifax County, according to information reflected in the Provisional Ballot Application. These ballots should be approved and counted in all statewide races and any other races for which they are eligible. *See* Numbered Memo 2018-05 §§ 1 ("In determining whether to count a provisional ballot in full, in part, or not at all, county boards should be guided by the following ... 1. The applicant must be a registered voter in the county."); 1.4 ("A registered voter who has moved within the same county but had not previously updated his or her registration may vote in the new precinct, the old precinct or a central location designated by the county board."); 1.5 ("If a voter submits a Provisional Voting Application simply because he or she presented in a precinct other than his or her proper precinct, the county board should approve the application and count all votes cast in contests for which the voter is eligible."); 1.6 ("If it can be determined after Election Day and before the canvass that the applicant had properly registered . . . before the voter registration deadline, the county board shall approve the application and count all votes cast in contests for which the voter is eligible." (internal citation omitted)).

Joan C. Peterson

These ballots, therefore, should be counted in this statewide race.

(2) The following voters have maintained continuous residence in your county since registering to vote, even though they were removed from the voter rolls. In accordance with the requirements of completing a provisional ballot, each of these voters attested to maintaining continuous residence in Halifax County.

William Gilbert Rountree, Jr:

Given this corrective information, these ballots should be approved and counted. *See* Numbered Memo 2018-05 § 1.3 (“If the voter has maintained continuous residence in the county, the voter remains eligible to vote ... The voter’s written or verbal affirmation regarding their continuous residency is sufficient to confirm ongoing eligibility, absent evidence to the contrary, and the county board must approve the provisional application.”); Numbered Memo 2016-25 (“Corrective information may be delivered by mail, email, facsimile, commercial carrier, or private carrier (including attorneys, campaign staff, relatives, etc.).”).

These ballots, therefore, should be counted.

(3) The following voter was required to submit a provisional ballot because the polling place could not locate the voter record due to misspelling the name when looking up the voter.

Hubert Allen

The provisional ballot report lists the voter as “Hurbert Allen” and the reason for denial as no record of registration. However, the provisional ballot provides that the voter’s name is Hubert Allen, who is registered to vote in Halifax County under VRN 000000009574. This ballot, therefore, should be counted.

(4) The following are provisional voters who reside in Halifax County and attempted to same-day register but could not provide proper identification. *See* Numbered Memo 2018-05 §§ 1.6 (“If it can be determined after Election Day and before the canvass that the applicant had properly registered . . . before the voter registration deadline, the county board shall approve the application and count all votes cast in contests for which the voter is eligible.” (internal citation omitted)).

Geraldine Jenkins

If the voter can provide identification, the ballots should be counted.

Improper Electioneering

Mr. Wendell Hedgepeth was registered as a “poll observer” for the Halifax Democratic Party in the Ringwood precinct. Despite the fact that he was registered as a party observer, Mr. Hedgepeth was actively campaigning by handing out sample ballots instructing voters to cast their vote in this race for candidate Rodney Pierce. We believe this had an impact on the results as Michael Wray only received 20 votes in this precinct.

“An observer shall do no electioneering at the voting place...” including wearing campaign paraphernalia. N.C. Gen. Stat. § 163-45(c). Generally, the voting place consists of the building in which voting occurs and includes a buffer zone, which typically extends 50 feet from the entrance of the voting place and is clearly marked. State Board of Elections: Election Monitor Observer Guide (Handout) (2024).

The Halifax County Board of Elections also provided the following instructions to all poll observers:

Observers are not to impede, intimidate, or disrupt the voting process.

Observers are also not allowed to go behind the check-in, ballot, and help tables. Observers are not to go directly up to the voting machines or go to the voting booths. Chief Judges can have an observer removed with the approval of the local board of elections.

(emphasis added)

The following candidates and voters witnessed the electioneering and have knowledge to substantiate the facts:

Beverly Tillman
95 Mills Rd
Hollister, NC 27844
252-673-2878
fryegirls4@gmail.com

Jerome Mills
95 Mills Rd
Hollister, NC 27844
252-406-0204
millsjerome596@gmail.com

George A Lee
311 Farley Circle
Roanoke Rapids, NC 27870
252-537-8382
252-326-5251

James Mills
408 E 18th St
Scotland Neck, NC 27874
252-326-2011
mayormills@yahoo.com

Section 11(b) of the Voting Rights Act of 1965 protects qualified voters in any local, state or federal election from intimidation, threats and coercion for exercising their rights to vote, whether such intimidation, threats or coercion originates from government officials or private individuals. 42 U.S.C. § 1973i(b). By its terms, this section focuses on the effect of the activities on the voter. Thus, it bars activities that have an intimidating, threatening or coercive effect on voters for exercising their rights to vote – even if in another context such activities may be permissible. A poll observer who simultaneously hands marked sample ballots to voters certainly has a coercive effect on those voters.