STATE OF NORTH CAROLINA
COUNTY OF LEE

COUNTY BOARD OF ELECTIONS

RE: )
In the Matter of the Election ) ORDER
Protest filed by Cheri Beasley )
Dated November 17, 2020 )

THIS MATTER coming on to be heard and being heard before the undersigned Lee County Board of Elections on November 30, 2020 at the Lee County Board of Elections office for a full protest hearing regarding the Election Protest filed by Justice Cheri Beasley on November 17, 2020.

AND IT APPEARING TO THE BOARD that the following persons were present at the hearing: Susan M. Feindel, Chairwoman of the Board of Elections, Jonathan Silverman, Secretary, and Members Rita McClellan, Hugh Moore, and Harry Stryffeler. The Protester was represented by Chip Post. Affected person, Justice Paul Newby, was represented by Brian LiVecchi. Lee County Elections staff in attendance included Jeni Harris, Director of the Lee County Board of Elections and Karen Marosites, Deputy Director of the Lee County Board of Elections. Also Present at the hearing were John Kirkman, Chairman of the Lee County Democratic Party, and Jim Womack, Chairman of the Lee County Republican Party.

AND IT FURTHER APPEARING TO THE BOARD from a review of the election protest filed by Cheri Beasley on November 17, 2020, from the preliminary consideration hearing held on November 18, 2020, and from all the testimony and evidence presented at the full hearing on November 30, 2020, that Member Stryffeler made a motion to dismiss the election protest, seconded by Member McClellan, after the Board considered each of the seven
Lee County ballots individually and determined that each one should be dismissed, and the Board finds the following facts and conclusions of law:

FINDINGS OF FACT

1. That on November 3, 2020, a general election was held in Lee County, North Carolina, which included an election for Chief Justice of the North Carolina Supreme Court.

2. That the Lee County Board of Elections conducted its canvass and declared the results of the election on November 13, 2020.

3. That on November 17, 2020, Cheri Beasley, candidate for Chief Justice of the North Carolina Supreme Court, filed an election protest with the Lee County Board of Elections at 4:20 pm.

4. That the protest filed by Cheri Beasley alleges “a defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election” and “a violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.”

5. That the protest form filed by Cheri Beasley, which was similarly filed in other counties throughout North Carolina, categorizes the allegations of the violations into five categories between both absentee and provisional ballots in North Carolina.

6. That according to the protest and accompanying exhibits filed with the protest, including the Affidavit of Oliver Ho, there are seven Lee County ballots included in the protest.

7. That the first Lee County ballot in question was from voter Joseph Michael Hicks and was found in Protestor’s Exhibit 3 of Exhibit 1, whereby the Protestor argued that the absentee ballot was rejected, even though all required information was contained on the envelope.
8. That, upon review at the hearing and based on testimony from Lee County Elections Director, Jeni Harris, the Board found that Mr. Hick’s ballot was rejected because the envelope did not contain the voter’s signature, but instead was signed by his spouse. Although a cure letter was sent to the voter, it was never returned due to the voter’s death prior to Election Day.

9. That based on the evidence presented, the Board voted unanimously to deny the protest based on Mr. Hick’s ballot.

10. That the next Lee County ballot included in the protest was found in Protestor’s Exhibit 4 of Exhibit 1, whereby the Protestor argued the provisional ballot of voter George Fulton Lee III should have been counted because the voter resides in and registered to vote in Lee County.

11. That based on the evidence presented at the hearing and testimony provided by Mrs. Harris, the Board found that while Mr. Lee did indicate he called the Lee County Board of Elections on November 3, 2020 to see if he was registered to vote, after election day staff was unable to find any attempts to register by Mr. Lee. Staff was able to find that his father, George Fulton Lee Jr, was registered to vote but that there were no attempts by Mr. Lee III to register. Even if Mr. Lee III had been told on November 3, 2020 he was in fact not registered to vote, he would have been unable to register at that point because the cut-off to register for Election Day was October 9, 2020.

12. That based on the evidence presented, the Board voted unanimously to deny the protest based on Mr. Lee’s ballot.

13. That the next three ballots included in the protest are found in Exhibits 5 (voter David Igancio Peralta), 6 (voter Jarvis Monte Hill), and 7 (voter Patrick Blue) of Exhibit 1,
whereby Petitioner argues that the provisional ballot voters maintained continuous
residence in Lee County since registering to vote, even though they were removed from
the voter rolls and provided attestations as such.

14. That based on the evidence presented at the hearing and testimony provided by Mrs.
Harris, the Board found that Mr. Peralta did attempt to register at the DMV on October
16, 2020, which was after the October 9, 2020 deadline to register to vote and the Board
voted unanimously to deny the protest based on Mr. Peralta’s ballot.

15. That based on the evidence presented at the hearing and testimony provided by Mrs.
Harris, the Board found that Mr. Hill had a 2011 felony conviction and had not taken any
action to re-register to vote. Staff testified that they do not have a duty to notify
individuals who are eligible to register after serving a felony sentence to do so and it is up
to those individuals to re-register to vote once they are able to do so.

16. That based on the testimony, the Board voted unanimously to deny the protest based on
Mr. Hill’s ballot.

17. That based on the evidence presented at the hearing and testimony provided by Mrs.
Harris, the Board found that Mr. Blue was removed due to list maintenance and his most
current registration was in Cumberland County in 2016 and that there was no evidence
that he had done anything further to register in Lee County. While Mr. Blue provided an
attestation of his continuous residency, that attestation was not a form provided by the
State Board of Elections and staff could not find any affirmative action whereby Mr. Blue
re-registered in Lee County and the Board voted unanimously to deny the protest based
on Mr. Blue’s ballot.
18. That the last two ballots included in the Protest are found in Protestor’s Exhibit 8 (voter Emma Buie Johnson) and Exhibit 9 (voter Natalia Guadalupe Segoviano) of Exhibit 1, whereby the Protestor argues the voters self-reported timely registration to vote or attempt to register to vote on their provisional ballots.

19. That based on the evidence at the hearing and Mrs. Harris’ testimony, Mrs. Johnson was removed because staff found she was registered to vote in Harnett County. Mrs. Johnson registered in Harnett County in 2016 and voted in Harnett County in the 2018 election and since had not taken any action to move her registration to Lee County and the Board voted unanimously to deny the protest based on Mrs. Johnson’s ballot.

20. That based on the evidence presented at the hearing and the testimony of Mrs. Harris, that after staff searched all of their databases, using all name combinations and the voter’s date of birth, they were unable to find any registration or attempts to register by Mrs. Segoviano and as such the Board voted unanimously to deny the protest based on Mrs. Segoviano’s ballot.

21. That upon a review of each individual ballot included in the Protestor’s protest and voting unanimously to deny each individual ballot, the Board voted unanimously to deny the protest because there was not substantial evidence presented of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election and the results of said vote were made in open session for the Protestor and Mr. Newby’s representative to be made aware.

BASED UPON THE FOREGOING Findings of Fact, the Lee County Board of Elections makes the following:
CONCLUSIONS OF LAW

1. That the Lee County Board of Elections is properly convened for the purpose of a full protest hearing filed by Cheri Beasley.

2. That pursuant to NCGS 163-182.9(b)(4)(c), protests concerning an irregularity other than vote counting or result tabulation must be filed no later than 5:00 p.m. on the second business day after the county board has completed its canvass and declared the results.

3. That this protest was filed timely.

4. That, pursuant to NCGS 163-182.10, the County Board of Elections must hold a preliminary hearing to determine if there is a probable cause to believe a violation of election law or irregularity or misconduct has occurred.

5. That this Board met on November 18, 2020 and voted, 3-2, that there was probable cause to move forward to a hearing on the merits.

6. That this protest should be dismissed because there is not substantial evidence of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election.

BASED UPON THE FOREGOING findings of fact and conclusions of law, it is now therefore ordered, adjudged and decreed as follows: election protest filed November 17, 2020 by Petitioner Cheri Beasley is hereby dismissed.

Announced in open meeting on November 30, 2020.
Signed, this the 7th day of December, 2020.

Susan M. Feindel
Chairman, Lee County Board of Elections