

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN RE: COMPLAINT OF BOB HALL)
REGARDING SURRY COUNTY BOARD)
MEMBER JERRY FORESTIERI)
)

IN RE: COMPLAINT OF BOB HALL)
REGARDING SURRY COUNTY BOARD)
MEMBER TIMOTHY DEHAAN)
)

AFFIDAVIT OF BOB HALL

I, Bob Hall, swear under penalty of perjury that the following information is true to the best of my knowledge and state as follows:

1. I am a registered voter in Orange County and have been a resident of North Carolina since 1973.
2. I have worked as an organizer, researcher, investigative reporter, and policy advocate. In 1991, I co-founded a project that is now the non-partisan voting rights non-profit Democracy North Carolina. I served as its executive director until January 2018.
3. I have watched the video recording of the November 18, 2022, Surry County Board of Elections (the "Board") Canvass meeting, a recording that is available on the North Carolina State Board of Elections' website.¹ I was able to identify Board Members from a news article about their swearing-in ceremony in July 2021² and from their identification of each other during the Canvass meeting. The minutes of this November meeting, as posted on the Surry County Board of Elections' website, are appended to this Affidavit as Exhibit 1.³
4. In this meeting recording, I observed the following exchanges:
 - a. At approximate timestamp 20:10, a letter signed by Board Secretary Jerry Forestieri and Member Tim DeHaan is distributed to the Board. A copy of this letter was appended to the meeting minutes and is appended to this Affidavit as Exhibit 2.

¹ https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2022-12-19/Surry%20CBE%20Member%20Complaint/11182022%20Surry%20Canvass%20Meeting.mp4.

² John Peters, "Five join Board of Elections," THE MOUNT AIRY NEWS (July 30, 2021), <https://www.mtairynews.com/news/99467/five-join-board-of-elections>.

³ These minutes were publicly posted at [https://cms2.revize.com/revize/surry/departments/\(a_through_j\)/board_of_elections/Meeting%20Minutes/2022%20Minutes.pdf](https://cms2.revize.com/revize/surry/departments/(a_through_j)/board_of_elections/Meeting%20Minutes/2022%20Minutes.pdf).

- b. At approximate timestamp 29:35, Chairman Dwayne Carter asks whether Secretary Forestieri and Member DeHaan would be standing by the county's vote tallies, to which Secretary Forestieri says, "Yes."
- c. At approximate timestamp 30:30, Chairman Carter asks to clarify whether they are adding their letter as a report to go "to Raleigh" with the county certification, to which Member DeHaan answers, "Correct." Chairman Carter then asks to confirm they will not be certifying the results "going to Raleigh." Secretary Forestieri replies, "Correct. We're saying based upon the legal structure in place, those are the results from this county. (I don't know what Tim was saying – he signed the same document as me – you'd have to ask him.) We're saying that the foundations built upon in terms of the constitutionality, we not only question, we disagree with."
- d. At approximate timestamp 31:35, Chairman Carter asks Member DeHaan and Secretary Forestieri: "So your feelings that has caused this [the letter] to be written is not from anything inside of Surry County in the conduct of the election or the election result, it come forth from outside sources or a federal court judge in their ruling," to which Member DeHaan replies:

"Correct. We have no complaints with what Surry County Board of Commissioners or Board of Elections has done. We are not questioning anything that is happening within the walls and with the employees of the Board. None whatsoever. And that's where the first paragraph, I think, makes that known. Our concern is with the way the law has improperly been changed by a judge who has no authority to make law, but she is doing it anyway, and it basically is saying that we feel that the election was held according to the law that we have, but that the law is not right. And because the law was not done properly, it was made by a judge, it is not proven to be 100% accurate as far as any of the elections go in the state, not just ours, but any of them."

- e. At approximate timestamp 42:40, Member DeHann says, "In effect, Jerry and I are saying that the numbers and the procedures that were done in Surry County are correct according to the law, but that the law is flawed, and therefore rather than having the election prove itself as being true, it cannot prove itself as being true. Rather than being sure that the people that are on the polls are on the rolls, are coming in and are the actual people voting, we cannot do that."
- f. At approximate timestamp 1:51:45, Surry County Board of Elections Director Huff conveys the information she received following a conversation with State Board of Elections General Counsel Paul Cox:

"If you sign the abstract, you are signing that you certify the entire election, certify the results. It is up to each Board member if they choose to sign or not. You are signing as they exist without amendment. You must read and determine for yourself what you are signing. The document that is in question has no business being part of canvass and no business being sent to state or to the clerk of court's office with canvass documents. Your points of view may be included in meeting minutes but have no basis to change what is statutorily prescribed."

- g. After a brief recess to decide what they want to do, at approximate timestamp 1:55:50 Secretary Forestieri says, "Given the choice of endorsing this 100% or not at all, I would just not sign the certification."


Member DeHaan says, "The problem that I have with the certification signing comes down to the term 'legal ballot' and the question of what is a legal ballot. While I don't agree with what the state has defined as a legal ballot, I will accept what they are saying is a legal ballot as being a legal ballot; therefore, I will sign to certify the election."

- h. After this, Director Huff confirms that the meeting minutes will refer to the letter, and it will be an attachment to the meeting minutes.
- i. At approximate timestamp 1:57:30, Board member Drew Poindexter asks Secretary Forestieri, "Jerry, if you thought that ever since what Judge Biggs did is illegal – and that's your right to – and it's still, it's been going on since 2018, if that had been me, I would not be, I would not think myself proper to sit on this Board if you think, if I thought what we were doing here was illegal. That's just me." Secretary Forestieri responds by saying he "did not become aware of Judge Biggs' ruling" until a voter registration challenge was filed before the 2022 election. He explains that he then went back and read the State Board's Numbered Memo about the ruling. He concluded by saying, "And, yes, based upon where we got today, there was a serious question to consider about continuing on this Board or not being on this Board, which I fully recognized when I made the decision not to sign the certification."

5. On Friday, December 16, 2022, five non-profit voting rights organizations wrote to the State Board of Elections to express "deep concern" regarding Secretary Forestieri and Member DeHaan's actions. A true and accurate copy of that letter is appended to this Affidavit as Exhibit 3.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on February 6, 2023.


Bob Hall

Notarization:

State of North Carolina, County of Moore.

Sworn to (or affirmed) and subscribed before me this 6th day of February, 2023.

Signed: Talia Ray

Name: Talia Ray

My Commissioner Expires: November 8, 2024

