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Wednesday 10:00AM

## APPEAL OF ELECTION PROTEST TO STATE BOARD OF ELECTIONS

(Use of this form is required by G. S. 163-182.11 (a))

A copy of this appeal must be given to the county board of elections within 24 hours (weekends and holidays excluded) after the county board files its written decision at its office. This same appeal must be filed with or mailed to the State Board of Elections by the end of the second day following the county board decision if the protest involves a first primary. As to a protest of any other election, this appeal must be filed or deposited in the mail by the end of the fifth day following the county board decision. See G.S. 163-182.11 (a). A copy of the original election protest form with attachments must be filed with this appeal. A copy of the county board decision must be filed with this appeal. The county board will provide the record on appeal. As many additional sheets as are necessary to answer the questions below may be attached, but they must be numbered. Please print or type your answers.

1. Full name, mailing address, home and business phone, fax number, and e-mail address of undersigned.

Duron Lee Burney  
216 Richardson Street  
Red Springs NC 28377  
Duronburney@yahoo.com

2. Are you the person who filed the original protest, a candidate or office holder adversely affected by the county decision, or someone else whose interest has been adversely affected by the county decision?

I am currently the candidate for Mayor in November 4, 2025, Red Springs mayoral election. I am adversely affected by the county board's decision to dismiss my protest that was sent to the North Carolina State Board of Elections and remanded back to the County Board of Elections for findings of fact on December 12, 2025. The State Board should overturn the local boards' decision.

3. State the date, place, kind of election, and results of the election protested (if different from the information on the election and its results as set out in the attached original protest form).

Mayoral Election November 4, 2025  
Place of Election Red Spring, Robeson County, North Carolina

Result: Caroline Sumpter - 360 votes  
Duron Burney — 358 votes  
Write-In  
(Miscellaneous) - 4 votes

4. State the name, mailing address, home phone, and business phone of all candidates involved in the protested election.

Caroline Sumpter 109 East McNeill Drive Red Spring NC 28377

Duron Burney (address listed above)

5. State the date of the county board hearing

January 9, 2026

6. State the legal and factual basis for your appeal.

On January 13, 2025, the Robeson County Board of Elections (the "County Board") filed a written order making findings of fact regarding a protest I submitted on November 14, 2025, that had been remanded back to the County Board by the State Board of Elections for findings of fact and conclusions of law. A copy of the remand is attached as **Exhibit A** and a copy of the Board's order is attached as **Exhibit B**. The County Board excused one subpoenaed witness from being required to testify, did not allow any of the challenged voters to be subpoenaed, and dismissed the protest despite troubling admissions by witnesses.

#### **A. Failure to Review Admitted Evidence**

Once the County Board admitted absentee ballot materials into evidence, it was legally obligated to review and evaluate that evidence. The Board did not appear to review the original unredacted absentee ballot materials and did not state on the record that it had reviewed them. Much of the witness testimony concerned who exactly filled out the absentee ballot request forms and absentee ballot applications and whether they were signed by voters or other individuals. Failure to fully review the absentee ballot materials undermined the legitimacy of the findings of fact and conclusions of law.

#### **B. Sworn Testimony Established Material Irregularities**

Sworn testimony established clear irregularities in the absentee ballot request process. One of the witnesses (Kayla Rodriguez) testified that she had filled out all the voter information on many of the absentee ballot requests and signed the name of the voter (or assisted the voter to sign the request) without documenting on the absentee ballot request that she was assisting the voter. **Kayla Rodriguez did not disclose her name and address on the written request form as required by N.C.G.S. § 163-230.2(e1).** The Protestor was not allowed to subpoena voters to verify whether they had, in fact requested assistance and whether they had authorized this witness to sign the request form on their behalf. **ToKesha Gilchrist** testified that her name was listed as assisting the voters but it was not her handwriting on the request form, which indicates a third unknown individual was involved in the request process without providing any identifying information on the absentee ballot request form. Again, that violates **N.C.G.S. § 163-230.2(e1).**

### **C. Denial of Subpoenas Violated Due Process**

Election protests are quasi-judicial proceedings. Parties are entitled to present evidence and pursue testimony from material witnesses.

The County Board denied subpoenas for all the voters in question. One witness that was issued a subpoena was Calvin Townsend, a former resident of the Red Springs Assisted Living Facility, who Protestor firmly believes has direct knowledge as whether some or all of the challenged voters affirmatively requested assistance with voting and whether the signatures on the absentee ballot request forms and absentee ballot applications were authentic. When a medical professional indicated through a written document to the Board that Mr. Townsend was confined to his present living facility, the Board refused to consider alternative means to hear his testimony and excused him from his subpoena. This, along with the denial of subpoenas for any of the voters in question, deprived Protestor of due process and a meaningful opportunity to be heard. Due process requires an opportunity to be heard at a meaningful time and in a meaningful manner. and election boards must allow affected parties to present evidence. “A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942, 946 (1955).

### **H. Conflict of Interest and Improper Participation by County Board Member**

Protestor raised the issue of County Board Member Heath’s relationships with mayoral candidate Caroline Sumpter and witness ToKesha Gilchrist as potential grounds for recusal. Board Member Heath did not specifically address the issue and the Board did not make any specific inquiries of as to whether he had a conflict with regard to those individuals. Board Member Heath made the motion to dismiss the election protest. “An unbiased impartial decision-maker is essential to

due process.” *Crump v. Bd. of Education*, 326 N.C. 603, 613, 392 S.E.2d 579, 584 (1990). Failure of the Board to properly address the recusal issue undermined Protestor’s due process rights.

7. Is there any material submitted with this appeal that was not presented to and considered by the county board? Is so, please identify and state why it was not presented to the county board. Why do you think the State Board of Elections should consider it? The unredacted absentee ballot materials were admitted into evidence but it did not appear that they were reviewed by the Board during the hearing and the Board did not state on the record that they were reviewed.

8. Normally the State Board will make its decision in an appeal based upon the record from the county board. If you desire the record in this matter to be supplemented, additional evidence to be considered, or a completely new hearing, please state such desire and why it should be allowed in this appeal. See G.S. 163-182.11 (b). Without the voters being heard and the inconsistencies of the witnesses’ testimony as to the completion of the absentee ballots request forms and absentee ballot applications, the findings of fact as to whether any assistance rendered to the voters was authorized by each individual voter is speculative. **Kayla Rodriguez did not disclose her name and address on the written request forms as required by N.C.G.S. § 163-230.2(e1).**

For the reasons set forth above, I respectfully request that the State Board of Elections remand the matter for new hearing, direct further inquiry into the contested absentee ballots, including authorization to subpoena witnesses and voters such that remote testimony is permitted and accommodations are provided to them so that their daily lives are not disrupted. The voters should get to participate in this process by providing relevant evidence and testimony, so the Board can determine conclusively the authenticity and validity of the signatures on the absentee ballot materials, and ensure findings of fact are based on evidence not assumptions. Doing so will safeguard the integrity of the Red Springs mayoral election and uphold the principles of fair and lawful elections in North Carolina. In addition, the protested voters are “persons likely to have a significant interest in the resolution of the protest” given their ballots are the ones to be evaluated for compliance with the law. Each voter must be provided with notice and an opportunity to be heard as required by N.C.G.S. § 163-182.10 (b) and the Due Process Clause of the Fourteenth Amendment to the United States Constitution. The Protestor is sensitive to all the concerns that have been raised regarding the voters’ disabilities. Answers to simple questions do not create an unreasonable burden and promote transparency and true protection of their rights.

9. What relief do you seek? Why?

Remand for new hearing with proper evidentiary review, authorization of subpoenas, and testimony of voters with regard to potential irregularities. If the absentee ballot requests and absentee ballot applications were not executed in accordance with state and federal law, then those absentee ballots are subject to disqualification.

10. Have you read and reviewed G.S. 163-182.11 through G.S. 163-182.14 and the current North Carolina State Board of Elections regulations on appeals of election protests?

Yes

11. Besides a copy of the original protest and the county board decisions, this appeal includes 0 pages of additional answers and 0 pages of exhibits and documents not included in the original protest and decision.

  
Signature of Person Appealing

1/14/26  
Date Appeal Signed

Date appeal received by State Board of Elections

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(To be entered by the State Board of Elections staff)

Send your appeal to, or if you have questions contact: North Carolina State Board of Elections, P.O. Box 27255, Raleigh, NC 27611-7255, (919) 733-7173.