



# NORTH CAROLINA STATE BOARD OF ELECTIONS

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VIA FEDEX # 7771 2801 7078

Lent Christopher Carr, II  
3300 Laurinburg Road  
Raeford, NC 28376

June 14, 2022

Re: Appeal from Decision of Hoke County Board of Elections Dismissing Protest Filed by Lent C. Carr - AMENDED NOTICE

Dear Mr. Carr,

The State Board of Elections received the election protest appeal you filed. The appeal was provided to State Board members but will not be heard by the State Board. The appeal has been denied pursuant to rule 08 NCAC 02 .0114(d)(2). Attached is a copy of the Executive Director's administrative determination to deny the appeal, citing applicable grounds in the statutes and administrative rules governing election protests. Also attached is a copy of the rule cited above.

Sincerely,

Katelyn Love  
General Counsel  
North Carolina State Board of Elections



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

*Mailing Address:*  
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Raleigh, NC 27611  
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### Administrative Dismissal Recommendation (08 NCAC 02 .0114)

#### In the Matter of Protest of Lent Christopher Carr, II

On May 20, 2022, Hoke County voter Lent Christopher Carr, II filed an election protest with the Hoke County Board of Elections (Hoke Board) regarding the May 17, 2022 Democratic primary for the Hoke County Board of Commissioners (the Contest). He amended the protest on May 25, 2022. Carr was a candidate in the Contest and based on apparent results lost by a margin of 1,494 votes.

The Contest was a vote-for-three ballot item, yielding the following results:

NAME ON BALLOT	PARTY	BALLOT COUNT	PERCENT
Allen Thomas, Jr.	DEM	2,519	31.48%
Harry Southerland	DEM	2,389	29.85%
Tony Hunt	DEM	2,078	25.97%
Lent C. Carr II	DEM	584	7.30%
Carlton Barber, Jr.	DEM	433	5.41%

The Hoke Board met for preliminary consideration of the protest on May 25, 2022. The board voted to dismiss the protest because it “does not establish probable cause to believe that a violation of election law or irregularity or misconduct has occurred.” The board did not provide further explanation for the ruling.

G.S. § 163-182.10(a)(1) provides: “The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163-182.9 and whether it establishes probable cause to believe that a violation of election law or irregularity or misconduct has occurred. If the board determines that one or both requirements are not met, the board shall dismiss the protest. The board shall notify both the protester and the State Board of Elections. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met, it shall schedule a hearing.” The written dismissal order was filed on June 1, 2022.

Carr timely filed a notice of appeal with the county board. He timely filed an appeal on June 3, 2022.

In his appeal, Carr contends Allen Thomas, an apparently prevailing candidate in the Contest, gave a voter in the parking lot \$100 that Thomas withdrew from an ATM. Carr claims this incident casts doubt on the election. He also contends that Hoke County Board of Elections member Linda Revels had a conflict of interest and should not have participated in the deliberation. Citing G.S. § 138A-2, he indicates that member Revels provided the tabulation of votes to candidate Allen Thomas 23 minutes before the first precinct vote count was put up on the screen at the commissioner's chambers; he does not indicate whether this occurred before or after the polls had closed. He makes several other allegations that are not directly related to the conduct of the election, including, for example, that Allen Thomas was planning to have "an unspecified amount of illegal drugs of some sort" planted on Carr's properties or vehicles.

Carr also complains that the Hoke Board did not fully consider his protest. He claims the amendment was filed after 4 p.m. and the county board dismissed it at 5 p.m. with no deliberation and after considering it for only three minutes.

In the appeal submission, Carr attached no substantive documentation supporting his challenges/protests on the merits. We do, however, have copies of his original protest, amendment, and supporting documents submitted to the county board, from when he filed those with the county board.

Pursuant to 08 NCAC 02 .0114(e), the Executive Director of the State Board may review protest filings submitted to the State Board to determine whether to recommend administrative dismissal. This includes reviewing appeals from dismissals upon preliminary consideration by the county board. When exercising this authority, pursuant to 08 NCAC 02 .0114(e), the Executive Director follows the same procedures that a county director would follow to recommend administrative dismissal, which are located at 08 NCAC 02 .0114(b). Under those procedures, the Executive Director must provide any recommendation to the State Board for administrative dismissal within two business days of receiving the filing. If, after two calendar days following the transmission of the recommendation, no Board member has raised any oral or written objection to the recommendation for administrative dismissal, the Executive Director shall issue a written notice of administrative dismissal to the individual(s) who has filed the matter.

Having reviewed Carr's election protest appeal, I find and conclude the following:

- Carr's protest was properly dismissed by the county board per G.S. § 163-182.10(a)(1) and 08 NCAC 02 .0114(a), because it does not include probable cause to believe that an outcome-determinative violation of election law or irregularity or misconduct has occurred. Specifically:
  - He alleges that a candidate paid one voter \$100 for his vote. However, he does not allege that voters sufficient in number to change the outcome of his primary—which was separated by 1,494 votes—were paid for their votes, or that there was a scheme that extended beyond

the one voter. Therefore, even if his allegation was true, it would not have changed the outcome of the election.

- He alleges that a county board member violated the State Ethics Act by participating in the protest decision when she had released the vote results to a candidate prior the results being posted in the county commissioner chamber. Even if this conduct were a violation of the State Ethics Act, county board members are not covered by that law. He also does not allege that the board member was not permitted by law to release the results at that time, or that her participation in the matter affected the decision on his protest. Based on the video Carr submitted of the Hoke Board's meeting on the preliminary consideration, the decision to dismiss the protest was unanimous.
- Although the Hoke Board's order on the protest does not explain in detail the basis the board's decision, as explained above, Carr has failed to allege facts that, even if true, would constitute an outcome-determinative violation of election law, irregularity, or misconduct. Therefore, any failure by the county board to explain their decision was harmless.

For these reasons, as the Executive Director, I conclude that the protest was properly dismissed by the county board. I therefore recommend that the appeal should be DENIED.

If no board member raises any oral or written objection to the recommendation within three calendar days (on or before Friday, June 10, 2022), the protest appeal will be denied, and Mr. Carr will be notified accordingly.

Issued by Karen Brinson Bell, Executive Director, this 7th day of June, 2022.

## **08 NCAC 02 .0114 DISMISSAL OF IMPROPER PROTEST FILINGS**

(a) The county board of elections shall dismiss any matter purporting to arise as an election protest under G.S. 163-182.9 on the following bases:

- (1) The matter fails to contest the manner in which votes were counted or results tabulated, or fails to allege a violation of election law or irregularity or misconduct sufficient to cast doubt on the results of the election;
- (2) The individual submitting the matter was neither a registered voter eligible to participate in the protested contest within the county nor a candidate for nomination or election in the protested contest;
- (3) The matter was not filed in accordance with G.S. 163-182.9 or was not filed on the form prescribed in 08 NCAC 02 .0111;
- (4) The protest is duplicative or was made for the purpose of delay;
- (5) The protest filing, taking into account the totality of the circumstances, fails to include evidence which, if true, substantiates the probable occurrence of an outcome-determinative defect in the manner in which votes were counted or results tabulated, or the probable occurrence of an outcome-determinative violation of election law, irregularity, or misconduct; or
- (6) The matter, including the initial filing and all subsequent oral or written submissions, fails to allege facts sufficient to constitute substantial evidence of the occurrence of an outcome-determinative violation of election law, irregularity, or misconduct.

The State Board may consider protests in accordance with G.S. 163-182.12.

(b) If the matter is filed with a county board of elections, the county director of elections shall review the allegations and evidence presented in or attached to the filing. If the director of elections finds that the filing must be dismissed pursuant to Paragraph (a) of this Rule, the director shall transmit his or her administrative recommendation that the matter be dismissed, citing applicable defects and the requirements of this Rule. The director's administrative recommendation shall be transmitted in writing to the county board members and the executive director of the State Board no later than two business days after the matter was filed. The director of elections shall confirm that the county board members have received all filings and the director's administrative recommendation before proceeding to issue a notice of dismissal. Nothing in this Paragraph shall delay the county board of elections in proceeding to consider the protest as required under . G.S. 163-182.10. If, after two calendar days following the transmission required under this Paragraph, neither a county board member nor the executive director of the State Board has raised any oral or written objection to the county director's recommendation for administrative dismissal, the county director shall issue a written notice of administrative dismissal to the individual(s) who has filed the matter. The notice shall:

- (1) Be sent by certified mail or commercial courier such that the date of delivery may be verified, unless the recipient has agreed in writing to receive notice by electronic means;
- (2) State that the matter was provided to the county board of elections members, but will not be heard by the county board;
- (3) State that the matter has been dismissed administratively, citing this rule and all applicable bases listed in Paragraph (b) of this Rule; and
- (4) Enclose an appeal form required under Paragraph (d) of this Rule.

If within two calendar days, any county board member or the executive director of the State Board raises any oral or written objection to the recommendation for administrative dismissal by the county director, the county board of elections shall proceed to hear the matter. An objection raised under this Subparagraph shall in no way affect or limit the county board of elections' authority to dismiss the matter under Paragraph (b) of this Rule or any other basis permitted by law.

(c) Individuals subject to an administrative dismissal entered by the director of elections may appeal the decision to the executive director of the State Board. All appeals brought under this Paragraph shall be in writing on a form prescribed under this Paragraph (available at [ncsbe.gov](http://ncsbe.gov)) and must be received by the State Board office no later than five business days after receipt of the written notice of administrative dismissal from the county director. The State Board shall be deemed to have received the written appeal when it receives the physical form required under this Paragraph either by U.S. mail, courier service, or hand delivery. All appeals shall be made on a form that includes the following statements:

- (1) I am appealing from an administrative dismissal of a matter that I filed at the [county name] Board of Elections on [date].
- (2) I received an administrative notice of dismissal on [date].
- (3) I have enclosed a copy of my original materials filed with the county board of elections.

- \_\_\_\_ YES \_\_\_\_ NO  
(4) I have enclosed a copy of the written notice of administrative dismissal.  
\_\_\_\_ YES \_\_\_\_ NO  
(5) This matter should be heard for the following reasons:

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- (6) I request notice of any action on this appeal at the following address:  
Mailing Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

(d) The executive director of the State Board shall inspect all appeals filed under Paragraph (c) of this Rule. Within two business days after the receipt of an appeal, the executive director shall transmit a copy of the appeal to the State Board members along with a written statement indicating the executive director's administrative determination either to grant or to deny the appeal.

- (1) If the executive director's administrative determination is to grant the appeal, the executive director shall issue written notice to the county board of elections and to the appealing party indicating that the matter is remanded to the county board of elections for a hearing. The executive director's administrative determination under this Subparagraph shall in no way affect the county board of elections' authority to dismiss the matter under Paragraph (a) of this Rule or any other basis permitted by law.
- (2) If the executive director's administrative determination is to deny the appeal, but any State Board member raises any oral or written objection within three calendar days, the executive director shall grant the appeal, issue a written notice, and remand the matter to the county board of elections. If no State Board member raises any oral or written objection within three calendar days, the executive director shall issue a written notice to the appealing party and to the county board of elections stating that the appeal is denied. Dismissal under this Subparagraph shall be considered a final agency action for purposes of seeking judicial review.

(e) If the matter is filed with the State Board, the executive director of the State Board shall proceed in a manner outlined in Paragraph (b) of this Rule, including distribution to the State Board members, the opportunity to interpose an objection, and the issuance of notice, except that there shall be no right of appeal under Paragraph (c) of this Rule and that the executive director may administratively remand the matter for hearing by the county board of elections in the manner prescribed under Subparagraph (d) of this Rule.

*History Note: Authority G.S. 163-22; 163-182.12;  
Eff. October 1, 2018;  
Amended Eff. November 1, 2020.*