

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN THE MATTER OF: PROTEST OF)
ELECTION FOR MAYOR OF THE TOWN)
OF EAST SPENCER BROUGHT BY)
RHONDA M. KERNS)

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS upon the appeal of Rhonda M. Kerns (“Petitioner”) from an order of the Rowan County Board of Elections (“Rowan Board”) dismissing her protest regarding the election for the Mayor of the Town of East Spencer (“Protest”). The State Board of Election heard this mater on January 15, 2016 in Raleigh, during which Rowan County Board of Elections Chairman Dwight Collins and Rowan County Director of Elections Nancy Evans appeared via phone.

This Board conducted a review of all issues of law and based its decision on the record as a whole to determine whether there was substantial evidence to believe a violation of election law or other irregularity or misconduct occurred that might affect the outcome of the election or was sufficiently serious to cast doubt on the apparent results of the election. After reviewing the record and applicable precedent, and after hearing argument from the parties, the State Board finds, concludes and orders as follows:

FINDINGS OF FACT

1. Petitioner filed her Protest before the Rowan Board on November 4, 2015 pursuant to G.S. 163-182.9; and
2. The Rowan Board heard the Protest on November 12, 2015 and issued its order on November 17, 2015; and
3. Petitioner appealed to the State Board of Elections on November 17, 2015; and
4. One hundred forty-three votes separated the top candidates for Mayor of the Town of East Spencer; and
5. Barbara A. Mallett entered the voting enclosure on a number of occasions during the election, but fewer than 143 times; and
6. The State Board of Elections noticed all parties of its January 15, 2016 hearing.

CONCLUSIONS OF LAW

1. This State Board of Elections has jurisdiction to decide this matter and order an appropriate remedy pursuant to G.S. §§ 163-22, 163-182.12; and
2. The order of the Randolph Board, its findings of fact, and conclusions of law contained no reversible error; and
3. Mallett’s repeated entry into the voting enclosure violated G.S. § 163-166.4, but does not form the basis for a new election under G.S. § 182.12.

It is, therefore, **ORDERED**:

The Rowan Board order is affirmed.

This the twentieth day of January, 2016.



A. Grant Whitney, Jr., Chair
State Board of Elections