

STATE OF NORTH CAROLINA  
BUNCOMBE COUNTY

BEFORE BUNCOMBE COUNTY  
BOARD OF ELECTIONS

IN THE MATTER OF  
DOCUMENTS FILED BY  
ERIC GORNY

**ORDER**

THIS MATTER CAME BEFORE THE BUNCOMBE COUNTY BOARD OF ELECTIONS on DECEMBER 5, 2012, upon preliminary consideration of documents filed by Eric Gorny with the Buncombe County Board of Elections. Present before this Board were Jones Byrd, Lucy Smith and Robert Van Wagner as well as Elections Services staff. Mr. Gorny was present and represented at this meeting by John Skerritt. The BCBOE opened the meeting on December 5, 2012 at 6:30 p.m.

Based upon the review of information and argument presented to the Board in this matter, the Board finds as follows:

FINDINGS OF FACT

1. Eric Gorny presented four groups of documents on November 16, 2012. The groupings were ballot objections to ballots voted for the following reasons: 41 objections to One-stop ballots based on GS 163-233.1, 14 objections to Civilian Absentee ballots based on GS 163-233.1, 2 objections to Overseas Absentee ballots based on GS 163-233.1, 36 objections to reissued ballots based on GS 163-231(b), 48 objections to reissued ballots based on GS 163-166.11.
2. Before Canvass the Board received Mr. Gorny's documents and reviewed each set.
3. The Board asked the staff if they had followed the recommended State Board of Elections procedure in reissuing the ballots in question. The staff responded that State Board policy had been followed.
4. Chairman Byrd asked Mr. Gorny if the ballots in question were related to 701 Warren Wilson Road voters and whether or not segregating the ballots in question for future access should not protect everyone's interests and rights.
5. Mr. Gorny responded in the affirmative to both questions.
6. The Board unanimously approved segregating the ballots in question.
7. Mr. Gorny attended the preliminary hearing of Ms. Christina Merrill and questioned when he would get his preliminary hearing, causing the Board to schedule a meeting for December 5<sup>th</sup> at 6:30, in an effort to hear Mr. Gorny's concerns.

8. Mr. Gorny and his representative appear at the December 5<sup>th</sup> meeting claiming to have filed a protest regarding the ballots in question. The board hears their ballot objections.
9. The preliminary consideration applicable to the initial consideration of any election protest by a county board of elections as set forth in GS 163-182.9 and 8 NCAC 02.0110-0111 requires a determination as to the eligibility, format, and timeliness of a protest

### **CONCLUSION OF LAW**

In this preliminary consideration on the alleged protest, there appears to be no probable cause to believe a violation of election law, irregularity, or misconduct has occurred.

And

In this preliminary consideration it appears that the documents were ballot objections that were dealt with before the beginning of Canvass,

And

In this preliminary hearing on the alleged protest, there appears to be no protest document as required by GS 163-182.9(c).

### **ORDER**

It is therefore ORDERED, ADJUDGED and DECREED:

The alleged protest of Eric Gorny be, and the same is, hereby denied.

This the 6th day of December, 2012

\_\_\_\_\_, CHAIRMAN  
Buncombe County Board of Elections