

NORTH CAROLINA
WAYNE COUNTY

BEFORE THE BOARD OF ELECTIONS

IN THE MATTER OF:
THE PROTEST OF THE ELECTION OF PAUL NEWBY AS THE CHIEF JUSTICE OF THE
NORTH CAROLINA SUPREME COURT

ORDER

THIS MATTER CAME BEFORE THE WAYNE COUNTY BOARD OF ELECTIONS (hereinafter referred to as Board), on November 20, 2020 upon preliminary consideration of an election protest of Cheri Beasley (hereinafter referred to as Protestor), filed November 17, 2020, to protest the contest of Chief Justice of the North Carolina Supreme Court.

Present were all Board of Election members with counsel, Andrew J. Neal, and Elections Director Anne C. Risku. Neither Cheri Beasley, Paul Newby, nor counsel for either candidate was present at the meeting.

Based upon review of the Protest and information presented to the Board in this matter and taking into account the totality of the circumstances, the Board makes the following Findings of Fact and Conclusions of Law and enters the following Order:

FINDINGS OF FACT

1. Cheri Beasley was the Democratic candidate for the November 3, 2020 contest for Chief Justice of the North Carolina Supreme Court.
2. Paul Newby was the Republican candidate for the November 3, 2020 contest for Chief Justice of the North Carolina Supreme Court.
3. At the time of the Board's preliminary consideration of the Protest, the state-wide results of the November 3, 2020 election for Chief Justice were as follows:

Name	Votes	Percent
Paul Newby	2,695,975	50.00%
Cheri Beasley	2,695,576	50.00%
Total	5,391,551	100.00%

4. At the time of the Board's preliminary consideration of the Protest, the Wayne County results of the November 3, 2020 election for Chief Justice were as follows:

Name	Votes	Percent
Paul Newby	29,653	54.56%
Cheri Beasley	24,700	45.44%
Total	54,353	100.00%

5. The Board completed its final canvass of the November 3, 2020 election on November 13, 2020.
6. On November 17, 2020 Cheri Beasley, through counsel, filed an election protest pursuant to NCGS § 163-182.9.
7. The protest was filed on the form prescribed in 08 NCAC 02 .0111.
8. The protest alleged a violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.
9. The protest also alleged a defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.
10. During preliminary consideration, the Board reviewed the protest filing including all attachments and exhibits.
11. The Board did not allow any public comments and did not hear arguments from Protestor or affected parties.
12. The Protest contained numerous exhibits containing spreadsheets of contested votes of voters throughout the State.
13. Only Exhibits B-2, C, D, E-1, E-2, E-4, and E-6 contained information relating to contested votes cast in Wayne County.
14. The Protest made the following allegations concerning Wayne County votes in the Chief Justice contest:
 - a. Absentee ballots in Exhibit B-2 were improperly marked as “Received After Deadline”;
 - b. Voters identified in Exhibit C were eligible for cure affidavits and claimed they submitted cure affidavits, however, the Board did not accept their ballots;
 - c. Absentee voters identified in Exhibit D were originally accepted by the Board and then subsequently rejected;
 - d. Provisional ballots in Exhibits E-1 and E-2 were rejected by the board even though voters lived within Wayne County;
 - e. Voters identified in Exhibit E-4 claimed that they attempted to register to vote but the provisional ballots were rejected;
 - f. Voters identified in Exhibit E-6 were required to cast provisional ballots during one-stop voting but should have been given the opportunity to register to vote.

15. The Protest contained an affidavit of Oliver Ho which explained the methodology of how the Exhibits were compiled and how data was obtained.
16. The protest contained no evidence of actual postmark dates of absentee ballots identified in Exhibit B-2.
17. The Protest contained no evidence substantiating or authenticating claims from voters identified in Exhibit C that cure affidavits were in fact submitted.
18. The Protest contained no evidence of County Board error with respect to the votes contained in Exhibit D.
19. The Protest contained no evidence of residency of voters identified in Exhibits E-1 and E-2.
20. The Protest contained no evidence from voters identified in Exhibits E-4 and E-6 to substantiate claims of their attempt to register to vote.
21. No information was provided in the protest certifying the accuracy or validity of the data contained the Exhibits.

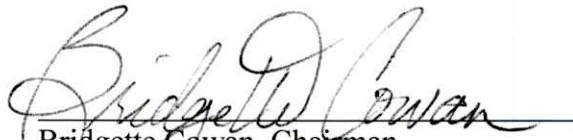
FROM THE FOREGOING FINDINGS OF FACT, THE BOARD MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The Protestor is a candidate for the contest of North Carolina Chief Justice thereby making her eligible to file an election protest.
2. The Protest was timely filed under NCGS § 163-182.9(b)(4)(c) with respect to an alleged violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.
3. The Protest was not timely filed under NCGS § 163-182.9(b)(4)(a) with respect to an alleged defect in the manner in which votes were counted or results tabulated.
4. The Protest substantially complied with NCGS § 163-182.9 and 08 NCAC 02 .0111.
5. 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-determine violation of election law, irregularity, or misconduct.

IT IS THEREFORE ORDERED, by a 5-0 vote of the Wayne County Board of Elections,
that:

1. The Protest is hereby dismissed as unsubstantiated and without probable cause that an outcome determinative violation of election law, irregularity, or misconduct occurred and further proceedings are not warranted.

Entered the 24th day of November, 2020.


Bridgette Cowan, Chairman
Wayne County Board of Elections

Voting For this Order:
Bridgette Cowan
Eddie L. Edwards, III
Rick Moore
Jimmy Hull
M. Bryan King