

**NORTH CAROLINA COURT OF APPEALS**

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JEFFERSON GRIFFIN,

Petitioner-Appellant,

v.

NORTH CAROLINA STATE BOARD  
OF ELECTIONS,

Respondent-Appellee,

v.

ALLISON RIGGS

Intervenor-Respondent-Appellee.

From Wake County

24CV040619-910

24CV040620-910

24CV040622-910

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**BRIEF OF *AMICI CURIAE* SECURE FAMILIES INITIATIVE AND COUNT  
EVERY HERO, AN UNINCORPORATED ASSOCIATION, IN SUPPORT OF  
RESPONDENT-APPELLEE<sup>1</sup>**

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<sup>1</sup> Pursuant to Rule 28.1(b)(3)(c) of the North Carolina Rules of Appellate Procedure, Protect Democracy assisted in drafting this brief. Otherwise, no other persons or entities, other than *amici curiae*, their members, and their counsel, helped to write or financially contributed to this brief.

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**INTEREST OF AMICI CURIAE**

*Amicus* Secure Families Initiative (“SFI”) is a nonpartisan 501(c)(4) not-for-profit organization comprising military spouses and family members that advocates for federal and state policies to increase accessibility for registered military-affiliated and overseas voters. Because voting remains less accessible for its members and the broader military and overseas community, SFI educates and registers those voters and engages in non-partisan “get-out-the-vote” efforts for military voters in all elections. SFI has North Carolinian members included in Petitioner-Appellant’s election protests, and thus has a strong interest in ensuring its members are not wrongly disenfranchised.

*Amicus* Count Every Hero is a nonpartisan unincorporated association of nine retired four-star admirals and generals, and former secretaries of the Army, Navy, and Air Force: Admiral Steve Abbot, United States Navy (Retired); Admiral Thad Allen, United States Coast Guard (Retired); Former Secretary of the Army Louis Caldera; General George Casey, United States Army (Retired); General Carlton W. Fulford, Jr., United States Marine Corps (Retired); Former Secretary of the Air Force Deborah Lee James; General Craig McKinley, United States Air Force (Retired); and Former Secretary of the Navy Sean O’Keefe. Together, they served under every President from John Kennedy to Donald Trump. Count Every Hero advocates for the voting rights of service members.

*Amici* have a strong interest in ensuring that military and overseas Americans are not unduly burdened in exercising their right to vote. Drawing on their

experiences, *Amici* aim to inform the Court how the relief Petitioner-Appellant seeks—discarding the ballots of voters who dutifully followed the rules of every North Carolina government authority—would violate the U.S. Constitution and disenfranchise thousands of military and overseas voters.

## **INTRODUCTION**

Months after an election has occurred and ballots have been counted (and recounted), Petitioner-Appellant seeks to reverse the outcome of that election by changing the election rules and disqualifying the ballots of voters who faithfully followed state procedures.

Many of the ballots Petitioner-Appellant challenges come from North Carolinians living and working abroad, including family members of North Carolinians serving honorably in the United States Armed Forces, who followed the rules set by North Carolina’s Uniform Military Overseas Voters Act (“UMOVA”), N.C.G.S. § 163-258.2, *et seq.* Specifically, Petitioner-Appellant challenges the ballots of more than 65,000 North Carolinians: 5,509 military and overseas voters whom he alleges did not provide voter identification with their absentee ballot (because they were not asked to); 267 whom he has deemed “Never Residents” because they are spouses or dependents of a military or overseas resident (but who are residents under North Carolina law); and 60,273 whom he alleges provided “incomplete voter registration” because they may not have provided a driver’s license or social security number when registering to vote (because they were not asked to). Brief of Petitioner-Appellant at 7-9.

After careful consideration of written and oral arguments, the Superior Court held that the North Carolina State Board of Elections (“Board”) properly rejected Petitioner-Appellant’s election protests. Order, *Griffin v. State Bd. of Elections*, No. 24CV040620-910 (N.C. Super. Ct. Feb. 7, 2025).

The Superior Court’s order should be affirmed. Changing existing law after an election to nullify legally-cast ballots is manifestly unfair and violates the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment demands that voters be treated equally and be given substantial notice of what the law is so they can comply with it. Petitioner-Appellant’s request to alter the rules after an election has been completed, and to do so only in select counties, violates the Constitution’s bedrock principles of fairness and equality.

Petitioner-Appellant’s request also ignores the already substantial barriers North Carolina military and overseas voters face, risking disenfranchising the very voters that North Carolina and Congress have sought to specially protect through legislation. While putatively targeting a discrete number of ballots, Petitioner-Appellant’s legal theories would make it almost impossible for certain overseas North Carolinians to vote.

### **ISSUES ADDRESSED**

*Amici* address whether Petitioner-Appellant’s requested relief will disenfranchise eligible military and overseas North Carolinians in violation of their Fourteenth Amendment Due Process and Equal Protection rights.



## ARGUMENT

### **I. PETITIONER-APPELLANT SEEKS AN UNLAWFUL REMEDY.**

Petitioner-Appellant asks this Court to change the governing rules of the 2024 General Election and punish voters who undisputedly followed those rules when casting their ballots. This proposal to treat some military and overseas voters differently *after* the election has concluded disenfranchises eligible voters, violating their Fourteenth Amendment Due Process and Equal Protection rights.

For more than a century, the U.S. Supreme Court has recognized that voting is a fundamental right protected by the Constitution. *See Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). “Voting in local elections . . . is subject to constitutional protection” too. *Griffin v. Burns*, 570 F.2d 1065, 1075 (1st Cir. 1978). The right to vote includes “the right of qualified voters within a state to cast their ballots and have them counted.” *United States v. Classic*, 313 U.S. 299, 315 (1941). Likewise, under the Equal Protection clause, “[h]aving once granted the right to vote on equal terms, [a] State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000).

Granting Petitioner-Appellant’s appeal would nullify thousands of votes and violate the Due Process clause. A state court decision contravenes due process if it “will constitute a retroactive change in the election laws that will effectively ‘stuff the ballot box,’” or “will constitute a post-election departure from previous practice.” *Roe v. State of Ala. By & Through Evans*, 43 F.3d 574, 580-81 (11th Cir. 1995).

Numerous federal appellate courts have agreed that nullifying voters’ ballots after they have “voted in reliance on [the] . . . procedures announced by state officials”

violates due process. *Griffin*, 570 F.2d at 1069; see also *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463, 478 (6th Cir. 2008) (“The Due Process clause is implicated . . . where a state’s voting system is fundamentally unfair.”); *Briscoe v. Kusper*, 435 F.2d 1046, 1055 (7th Cir. 1970) (finding a violation of due process where board of elections changed voting rules without informing voters and then refused to count their votes); *Hendon v. N. Carolina State Bd. of Elections*, 710 F.2d 177, 182 (4th Cir. 1983) (“Courts have imposed a duty on parties having grievances based on election laws to bring their complaints forward for pre-election adjudication when possible.”). That is because due process demands states “give[] people confidence about the legal consequences of their actions,” and voters must know the law at the time of election to comply with it. *Landgraf v. USI Film Prod.*, 511 U.S. 244, 266 (1994).

The Arizona Supreme Court recently applied this principle to reject a last-minute attempt to invalidate the registrations of almost 100,000 voters. See *Maricopa Cnty. Recorder Stephen Richer v. Arizona Sec’y of State Adrian Fontes*, No. CV-24-0221-SA, 2024 WL 4299099 (Ariz. Sept. 20, 2024). About two months before the 2024 General Election, Arizona officials discovered that due to a coding error involving state drivers’ licenses, for years state officials had failed to ask certain applicants to show additional proof of citizenship when registering to vote, even though state law required additional proof. Those voters were told they were fully registered, were in fact registered, and many had voted without a problem for years. Six weeks before the election, a petitioner sought to prevent those voters from voting in state elections.

Despite acknowledging that the database error raised questions regarding the affected voters' compliance with registration requirements, the Arizona Supreme Court was "unwilling . . . to disenfranchise voters en masse" and held that doing so "would violate principles of due process." *Id.* at \*3.<sup>2</sup>

Even though his appeal raises due process problems strikingly similar to those identified in the cases cited above—and even though the Board's decision below identified those problems—Petitioner-Appellant does not address them here. Brief of Petitioner-Appellant at 67-73;<sup>3</sup> Decision and Order at 23-25, *In re Election Protests*, N.C. State Bd. of Elections (Dec. 13, 2024). Nor does Petitioner-Appellant dispute that the challenged ballots were cast in accordance with all directions, instructions, and legal interpretations existing at the time of the 2024 General Election. Rather, Petitioner-Appellant suggests that voters should have disregarded the Board's authoritative rules, taken it upon themselves to examine state statutes and the North Carolina Constitution, arrived at an interpretation of the law that *contrasted* with

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<sup>2</sup> Petitioner-Appellant's requested relief would create a more egregious due process violation than the one identified in *Richer*. There, the court refused to de-register voters shortly *before* an election because it would be difficult for them to re-register before the upcoming election. *See* 2024 WL 4299099 at \*3. Here, the challenged voters have *already* cast their ballots consistent with existing law, meaning that they would have *no* opportunity to have their ballots counted.

<sup>3</sup> Petitioner-Appellant argues his challenges create no impermissible burden under *Anderson-Burdick*. Brief of Petitioner-Appellant at 67-73. But whether Petitioner-Appellant's suggested legal interpretations would create an *Anderson-Burdick* problem is not at issue here. The issue is whether discarding thousands of ballots cast according to established pre-election rules violates due process and equal protection. *See, e.g., Roe*, 43 F.3d at 580-81 (discussing due process implications of retroactive change in election rules without applying *Anderson-Burdick*).

the Board’s express instructions,<sup>4</sup> and then independently followed their own interpretation when casting their ballots. *See* Brief of Petitioner-Appellant at 72; Brief of Petitioner at 20, 25-27, 35-36, *Griffin v. N. Carolina Bd. of Elections*, No. 320P24 (N.C. Jan. 14, 2025). It is both untenable and unconstitutional to make this demand of voters—the right to vote does not depend on a voter’s ability to foresee that an election rule will be challenged in court and correctly guess what a court may ultimately decide regarding that rule.<sup>5</sup>

Petitioner-Appellant’s reliance on *James v. Bartlett* is misplaced. Brief of Petitioner-Appellant at 13-16. In *James*, “the State Board of Elections[,]” not voters, “*violated* [its own] election rules by counting [certain] votes[]” without providing voters any notice. *Griffin v. N. Carolina Bd. of Elections*, No. 320P24, 2025 WL 263400, at \*6-7 (N.C. Jan. 22, 2025) (Dietz, J., concurring). “Here, by contrast, the [Board] *complied* with the election rules existing at the time of the election.” *Id.* Therefore, due process requires that Petitioner-Appellant’s selected ballots be

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<sup>4</sup> The rule permitting overseas and military voters to vote without submitting photo identification has existed since 2019, *see* Brief of Petitioner-Appellant at 36-37. For 14 years, UMOVA has allowed the voters challenged as “Never Residents” to vote in state elections. *See infra* Part II. For many years, North Carolina’s voter registration form did not require applicants to provide a Driver’s License, DMV ID, or Social Security Number, *see* Order, *In re: HAVA Complaint of Carol Snow*, N.C. State Bd. of Elections (Dec. 6, 2023), and Petitioner-Appellant provides no evidence his challenged voters were improperly registered, *see* Decision and Order, *In re Election Protests* at 15-21.

<sup>5</sup> Petitioner-Appellant’s challenge to UMOVA before Election Day was rejected. Order Denying Preliminary Injunction, *Kivett v. N. Carolina State Bd. of Elections*, No. 24CV031557-910 (N.C. Super. Ct. Oct. 21, 2024).

counted. *See Roe*, 43 F.3d at 580-81; *Griffin*, 570 F.2d at 1069; *Richer*, 2024 WL 4299099, at \*3; *Classic*, 313 U.S. at 315.

Further, Petitioner-Appellant’s attempt to negate an entire class of legitimately cast ballots by challenging the interpretation and constitutionality of North Carolina statutes and Board rules through an *election protest*, a mechanism meant to catch technical irregularities or misconduct, is unauthorized. *See* N.C.G.S. § 163-182.12 (election protests govern “fraud or corruption and . . . irregularities”). While voting by ineligible voters can constitute misconduct, *Bouvier v. Porter*, 386 N.C. 1, 4 (2024), a voter is only considered ineligible if they have violated existing state law. *Id.* at 4 n.2.<sup>6</sup> The proper vehicle to raise such issues was through a challenge to the statutes and rules themselves long *before* Election Day.

Additionally, courts across the country have recognized that even *before* an election, last-minute changes to election practices harm and confuse voters. *See Merrill v. Milligan*, 142 S. Ct. 879, 880-81 (2022) (Kavanaugh, J., concurring) (“Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters.”); *Hendon*, 710 F.2d at 182. This principle applies with much more force months *after* an election, when voters are unable to even attempt to comply with a new interpretation of state law and thus will be disenfranchised. *Griffin v. N. Carolina Bd. of Elections*, 909 S.E.2d

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<sup>6</sup> As in *Richer*, where county officials lacked the statutory authority to “years after a voter applied to vote and became registered to vote, remove that voter’s ability to vote a full ballot,” 2024 WL 4299099, at \*2, North Carolina’s election protest statute provides no mechanism by which the Board could change longstanding interpretation of a state statute. *See* N.C.G.S. § 163-182.10.

867, 872 (N.C. 2025) (Dietz, J., dissenting) (“Permitting post-election litigation that seeks to rewrite our state’s election rules—and, as a result, remove the right to vote in an election from people who already lawfully voted under the existing rules—invites incredible mischief.”).

Furthermore, Petitioner-Appellant’s attempt to re-write the rules only for *some* voters would violate the Equal Protection clause of the Fourteenth Amendment, which prohibits treating voters differently based on the county in which they reside. *See Bush*, 531 U.S. at 104. Petitioner-Appellant seeks to discard the ballots of certain classes of voters, and in some cases, to do so only in select counties. One analysis found that the majority of voters in the counties Petitioner-Appellant challenged for casting overseas ballots without a photo identification support his opponent’s party and indeed,<sup>7</sup> Petitioner-Appellant argues that discarding these challenged ballots would make him the winner of the election. Brief of Petitioner-Appellant at 6-7.

Petitioner-Appellant’s citation to out-of-context quotes from *S.S. Kresge Co. v. Davis*, *see* Brief of Petitioner-Appellant at 75-76, do not help his position.<sup>8</sup> *S.S. Kresge* considered the alleged uneven enforcement of a municipal ordinance and explained in *dicta* that the exercise of prosecutorial discretion does not *de facto* constitute an

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<sup>7</sup> Doug Bock Clark, *North Carolina Supreme Court Candidate Wants Military Absentee Votes Tossed. Years Earlier, That’s How He Voted.*, PROPUBLICA (Jan 18, 2025), <https://www.propublica.org/article/jefferson-griffin-military-absentee-votes-north-carolina-supreme-court>.

<sup>8</sup> Despite Petitioner-Appellant’s implications, Petitioner-Appellant is not charged with violating the Equal Protection clause. *See* Brief of Petitioner-Appellant at 74-75. But should this Court grant Petitioner-Appellant’s requested relief, it would result in unconstitutional state action. *See Bush*, 531 U.S. at 104-05.

equal protection violation, a wholly different animal than retroactively discarding certain ballots in certain counties simply to arrive at a different result. 277 N.C. at 661. *S.S. Kresge* was decided nearly 30 years before *Bush v. Gore* and does not address the issue at hand—whether treating ballots differently across counties violates the Equal Protection clause. The law is clear that it does, regardless of whether the state’s action is intentionally discriminatory. *Bush*, 531 U.S. at 105 (holding states must “avoid arbitrary and disparate treatment” of voters without requiring intentional discrimination).

Over a century ago the North Carolina Supreme Court recognized that “[t]he object of the law—a fair and full expression of the will of the qualified voters—must be kept in mind; and if this has been obtained, and no fraud appears, we will not look for mere irregularities to defeat his will.” *Woodall v. W. Wake Highway Comm’n*, 97 S.E. 226, 233 (1918). This Court should uphold the will of the electorate.

## **II. PETITIONER-APPELLANT IGNORES SIGNIFICANT BARRIERS FOR MILITARY AND OVERSEAS VOTERS THAT UMOVA AND UOCAVA WERE ENACTED TO PROTECT.**

North Carolinians abroad, including members of *amicus* SFI and other military service members and their families, face extraordinary logistical and procedural challenges when attempting to register and vote. Recognizing this problem, the North Carolina General Assembly unanimously passed UMOVA to make voting more accessible for voters abroad. *See* Uniform Military and Overseas Voters Act, H.B. 514 (N.C. 2011). UMOVA was intended to build on the foundation of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), a law passed by Congress to help ensure that service members and other Americans living abroad

can participate in our democracy. Yet even after those legislative efforts, military and overseas voters face formidable obstacles when trying to vote. Petitioner-Appellant’s effort to nullify their votes thwarts lawmakers’ intent to protect the franchise for those who serve our country.

With over 138,000 military personnel—the fifth-largest population of military personnel in the country—calling North Carolina home<sup>9</sup> North Carolina enacted UMOVA to “simplif[y] the process of absentee voting for military and overseas citizens by making the process more uniform, convenient, secure and efficient.”<sup>10</sup> In passing UMOVA, lawmakers sought to make “North Carolina law *more* beneficial to those voters.” *Id.* (emphasis added). This included ensuring that the spouses and dependents of military and overseas North Carolina voters could exercise their right to vote and reducing the barriers to casting absentee ballots. *Id.* UMOVA passed with unanimous, bipartisan support about 14 years ago, and had not been challenged until just before the 2024 General Election.<sup>11</sup> Thus, the General Assembly expressed a clear desire to make voting more accessible to North Carolina military and overseas voters consistent with the North Carolina Constitution.

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<sup>9</sup> *Military and Civilian Personnel by Service/Agency by State/Country*, DEFENSE MANPOWER DATA CENTER (June 2024), <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>.

<sup>10</sup> *Military and Overseas Voters Act*, UNIFORM LAW COMMISSION, <https://www.uniformlaws.org/committees/community-home?CommunityKey=6acb3a89-34a9-4df0-a4bc-42f1b35581d8> (last visited Jan. 30, 2025).

<sup>11</sup> *See supra* note 5.



UMOVA was intended to build on UOCAVA's protections.<sup>12</sup> In UOCAVA, a bipartisan act, Congress sought "to facilitate absentee voting by United States citizens, both military and civilian, who are overseas." H.R. REP. NO. 99-765, at 5 (1986), *as reprinted in* 1986 U.S.C.C.A.N. 2009, 2012. When enacting UOCAVA, Congress found that one reason military and overseas citizens faced difficulties voting was because States had enacted legal and administrative obstacles that "discourage[d] or confuse[d] overseas citizens." *Id.* at 9. This included voting by "absent uniformed services voter[s]," defined to include "a spouse or dependent" of a uniformed service member, "who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote." 52 U.S.C. § 20310(1) (emphasis added).

While the protections of UMOVA and UOCAVA are vital for military and other overseas voters, those living abroad still face major barriers to participating in our democracy: they find it difficult to register to vote, to request and return absentee ballots, and know about key absentee ballot deadlines.<sup>13</sup> Indeed, only 35%, 41%, and 32% of active-duty military members in 2018, 2020 and 2022, respectively, knew how to "[r]equest [an] absentee ballot."<sup>14</sup> And in 2020, 14% of overseas citizens reported

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<sup>12</sup> THE PEW CENTER ON THE STATES, DEMOCRACY FROM AFAR 6 (Jan. 2012), <https://web.mit.edu/supportthevoter/www/files/2013/08/Pew-2012-Progress-on-Military-and-Overseas-Voting.pdf>.

<sup>13</sup> FED. VOTING ASSISTANCE PROGRAM, 2023 POST-ELECTION VOTING SURVEY: ACTIVE DUTY MILITARY (ADM) 50 (2023), <https://www.fvap.gov/uploads/FVAP/Reports/2022-PEVS-ADM-Tech-Report-Final-20230823.pdf>.

<sup>14</sup> *Id.*

difficulties requesting a ballot.<sup>15</sup> If a military or overseas voter knows how to request a ballot, doing so may still require internet access, but as of 2020, 11% of active-duty military members did not have reliable access to the internet,<sup>16</sup> and 14% of overseas voters more generally characterized their internet connection as “very unreliable” or “unreliable.”<sup>17</sup>

Military and overseas voters also may not have access to the identification Petitioner-Appellant claims is required. Many of those voters have lived overseas for years and move often, meaning they are more likely to have expired driver’s licenses, to have lost their driver’s licenses or social security cards, or to have identification buried in storage, possibly even back in the United States. They also may not have driver’s licenses from the correct state, despite being legal residents, especially if they were born abroad. These voters are also less likely to have certain documents in the first place. For example, children born abroad are not automatically enrolled with the Social Security Administration. Instead, following certification of a child’s citizenship, parents may separately apply for a social security number.<sup>18</sup> If they do

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<sup>15</sup> FED. VOTING ASSISTANCE PROGRAM, 2020 OVERSEAS CITIZEN POPULATION ANALYSIS REPORT 35 (2021), [https://www.fvap.gov/uploads/FVAP/Reports/OCPA-2020-Final-Report\\_20220805.pdf](https://www.fvap.gov/uploads/FVAP/Reports/OCPA-2020-Final-Report_20220805.pdf).

<sup>16</sup> FED. VOTING ASSISTANCE PROGRAM, 2020 POST-ELECTION VOTING SURVEY: ACTIVE DUTY MILITARY 21, 28 (2021), [https://www.fvap.gov/uploads/FVAP/Reports/FVAP\\_ADM-Technical-Report-2020\\_FINAL\\_20210831.pdf](https://www.fvap.gov/uploads/FVAP/Reports/FVAP_ADM-Technical-Report-2020_FINAL_20210831.pdf).

<sup>17</sup> 2020 OVERSEAS CITIZEN POPULATION ANALYSIS REPORT, *supra* note 12, at 101.

<sup>18</sup> *See, e.g., Birth Abroad – Register Your Child as a U.S. Citizen*, U.S. EMBASSY AND CONSULATE GENERAL OF THE NETHERLANDS, [https://nl.usembassy.gov/birth-abroad-register-your-child-as-a-u-s-citizen/?\\_ga=2.74723738.909771702.1738248273-1478516282.1738248273](https://nl.usembassy.gov/birth-abroad-register-your-child-as-a-u-s-citizen/?_ga=2.74723738.909771702.1738248273-1478516282.1738248273) (last visited Jan. 30, 2025) (noting that social security numbers are separate and must be applied to after a child’s citizenship has been

not, the child is without a social security number, yet will still be eligible to vote at age eighteen. The same is true for state-issued identification; a voter born or living abroad long-term will rarely have a reason or an opportunity to obtain a state-issued identification.

These and other procedural hurdles already deprive eligible, overseas North Carolinians of the opportunity to vote. According to one survey, 67% of active-duty service members were interested in voting in the 2020 presidential election,<sup>19</sup> but only 47% voted, compared to 74% of the civilian, non-military population.<sup>20</sup> In fact, over 20% of active-duty military members in 2020 reported that they wanted to vote but were unable.<sup>21</sup> About four in ten of those service members who tried or wanted to vote but did not do so cited “difficulty registering to vote” and voting process complications as reasons they were deterred from voting.<sup>22</sup> Regarding overseas voters more generally, 82% who did not return a ballot in 2020 did not vote because they “couldn’t complete [the] process.”<sup>23</sup> And when the youngest military and overseas

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registered); *Birth Abroad and Eligibility for U.S. Citizenship*, U.S. EMBASSY & CONSULATES IN MEXICO, <https://mx.usembassy.gov/passports/births/> (last visited Jan. 30, 2025) (same).

<sup>19</sup> *State of the Military Voter*, FED. VOTING ASSISTANCE PROGRAM, <https://www.fvap.gov/info/reports-surveys/StateoftheMilitaryVoter> (last visited Jan. 30, 2025).

<sup>20</sup> 2020 POST-ELECTION VOTING SURVEY, *supra* note 13, at 12.

<sup>21</sup> *Id.* at 38.

<sup>22</sup> *Id.* at 39.

<sup>23</sup> FED. VOTING ASSISTANCE PROGRAM, 2020 REPORT TO CONGRESS 17 (2021), [https://www.fvap.gov/uploads/FVAP/Reports/FVAP-2020-Report-to-Congress\\_20210916\\_FINAL.pdf](https://www.fvap.gov/uploads/FVAP/Reports/FVAP-2020-Report-to-Congress_20210916_FINAL.pdf).

eligible citizens were asked why they did not vote, they were 19 times more likely to cite trouble completing the voting process than to say that they did not want to vote.<sup>24</sup>

In sum, Petitioner-Appellant fails to acknowledge the myriad barriers faced by military and overseas voters or how his requested relief threatens to disenfranchise the very voters the General Assembly and Congress intended to protect. If this Court overturns the trial court's order, these voters will be retroactively disenfranchised.

### **CONCLUSION**

For the foregoing reasons, the Court should affirm the Superior Court's order.

Respectfully submitted this the 27th day of February, 2025.

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N.C.R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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<sup>24</sup> FED. VOTING ASSISTANCE PROGRAM, 2022 REPORT TO CONGRESS 15 (2023), [https://www.fvap.gov/uploads/FVAP/Reports/rtc\\_20231113\\_V10\\_FINAL.pdf](https://www.fvap.gov/uploads/FVAP/Reports/rtc_20231113_V10_FINAL.pdf).

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 28(j) of the North Carolina Rules of Appellate Procedure, the undersigned counsel for Amici Curiae certifies that the foregoing brief, which is prepared using a proportional font, contains fewer than 3,750 words (excluding cover, index, table of authorities, caption, signature blocks, certificate of service, and this certificate of compliance) as reported by the word-processing software.

This the 27th day of February, 2025.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was e-filed and served upon the parties listed below via e-mail, addressed as follows:

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