

STATE OF NORTH CAROLINA
JUSTICE COUNTY OF WAKE

IN THE GENERAL COURT OF
SUPERIOR COURT DIVISION
24CV023631-910

NORTH CAROLINA DEMOCRATIC
PARTY,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS *et al.*,

Defendants.

**MOTION TO DISMISS FOR FAILURE
TO STATE A CLAIM**

NOW COMES Defendant We the People Party of North Carolina by and through counsel and respectfully moves this Court to dismiss the above-captioned case, pursuant to North Carolina Rule of Civil Procedure 12(b)(6), for failure to state a claim upon which relief can be granted. In support of this motion, Defendant shows the following:

STATEMENT OF THE FACTS

1. Defendant We the People Party of North Carolina (“We the People Party”) has been duly certified as a political party by the North Carolina State Board of Elections (“Board”), having met all statutory requirements under N.C. Gen. Stat. § 163-96.
2. Plaintiff North Carolina Democratic Party (“NCDP”) challenges this certification without providing a legal basis or identifying any statutory violations.
3. We the People Party submitted 18,569 verified signatures, exceeding the statutory requirement of 13,865 signatures, including at least 200 from each of three congressional districts, as required by N.C. Gen. Stat. § 163-96(a)(2).

4. The petitions submitted by We the People Party adhered to the form and content requirements specified in N.C. Gen. Stat. § 163-96(b), including informing signers of the general purpose and intent of forming the new party.
5. Despite the timely submission of a sufficient number of valid signatures, We the People Party's certification was delayed by challenges from the NCDP and affiliated parties. Nevertheless, the Board, after thorough review, certified We the People Party by an 80% approval vote on July 16, 2024.
6. NCDP does not allege that We the People Party failed to fulfill any statutory requirements under N.C. Gen. Stat. § 163-96.
7. The Board's certification was mandatory upon verification of the petition's sufficiency.
8. We the People Party held its Inaugural State Convention on June 29, 2024, nominating candidates for various offices, including presidential and vice-presidential nominees, thereby exercising its rights as a certified political party under N.C. Gen. Stat. § 163-98.
9. NCDP nonetheless alleges that the Board's certification of We the People Party was "in violation of North Carolina law," but pointedly fails to cite any statutory provision that was allegedly violated. (Verified Complaint and Petition for Judicial Review ("Compl."))

¶ 7. NCDP cannot cite any such provision because no provision was violated. NCDP's claims are therefore meritless on their face.
10. The NCDP has a history of filing frivolous litigation against new political parties, as demonstrated in prior cases such as the North Carolina Green Party litigation, where similar tactics were used to impede new parties from gaining ballot access.
11. In addition to facts detailed herein, we also rely on all facts set forth in our brief filed on August 8th, 2024, titled 'Response in Opposition to Emergency Motion for Preliminary

Injunction or Expedited Hearing on the Merits and Motion to Dismiss for Failure to State a Claim.’

ARGUMENT

12. We the People Party’s establishment and certification are protected by the First Amendment. Supreme Court precedent guarantees the right to form a political party, which includes the right to organize and associate for political purposes. NCDP’s claims infringe upon these rights, as they seek to prevent We the People Party from exercising its constitutionally protected activities.
13. The claims put forth by NCDP are unsupported by law and seek to infringe upon the constitutionally protected rights of political association and expression guaranteed under the First Amendment.
14. NCDP’s reliance on the argument that We the People Party’s purpose is not permissible under state law is unsupported by any legal authority. The statutes do not restrict the formation of a political party to a particular purpose, including the nomination of specific candidates. Moreover, while We the People Party was not formed solely to qualify a particular candidate, it is permissible for a political party to do so under the law. NCDP’s interpretation would unconstitutionally restrict the rights of political association and candidacy. NCDP cannot prevail on the merits and its claims should be dismissed because they are barred by the First Amendment.
15. NCDP cannot demonstrate any irreparable harm that would justify the extraordinary relief it seeks. In contrast, denying We the People Party its certification would cause significant harm to its First Amendment rights and the rights of North Carolina voters who wish to associate with the party.

16. NCDP's claims have no basis in North Carolina law. Because NCDP cannot prevail on its groundless claims, its Motion should be denied and this case should be dismissed pursuant to North Carolina Rule of Civil Procedure 12(b)(6).

17. In addition to arguments detailed herein, we also rely on all arguments set forth in our brief filed on August 8th, 2024, titled 'Response in Opposition to Emergency Motion for Preliminary Injunction or Expedited Hearing on the Merits and Motion to Dismiss for Failure to State a Claim.'

WHEREFORE, for the above reasons, Defendant respectfully requests that this Court dismiss the case and order such other relief as is just and proper.

Respectfully submitted, this the 9th day of August, 2024.

/s/ Ryan Rabah
Ryan Rabah
N.C. State Bar No. 44726
RYAN RABAH LAW, PLLC
3020 Prosperity Church Road
Suite I-271
Charlotte, NC 28269
Tel: (980) 263-9293
ryan@ryanrabahlaw.com

/s/ Oliver B. Hall
Oliver B. Hall
Admitted pro hac vice
DC Bar. No. 976463
CENTER FOR COMPETITIVE DEMOCRACY
P.O. Box 21090
Washington, DC 20009
(202) 248-9294
oliverhall@competitivedemocracy.org

/s/Melissa Cowan
Melissa Cowan*
More Voter Choice Fund Inc.
8 Mosher Place

West Hurley, NY 12491
845-706-3303
melissa@morevoterchoicefund.org
NY Bar Number: 5441860

Counsel for Defendant
We The People Party
of North Carolina

**Motion for admission Pro Hac Vice pending*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served upon the parties to this action by electronic mail and by Odyssey to counsel of record at the following addresses:

Raymond M. Bennett (ray.bennett@wbd-us.com)
Samuel B. Hartzell (sam.hartzell@wbd-us.com)
WOMBLE BOND DICKINSON (US) LLP
555 Fayetteville Street, Suite 1100
Raleigh, NC 27601

John R. Wallace (jrwallace@wallacenordan.com)
WALLACE & NORDAN LLP
3737 Glenwood Ave, Suite 260
Raleigh, NC 27612

Counsel for Plaintiff

Terence P. Steed (tsteed@ncdoj.gov)
Mary C. Babb (mcbabb@ncdoj.gov)
N.C. DEPARTMENT OF JUSTICE
Post Office Box 629
Raleigh, N.C. 27602

Counsel for State Board Defendants

Date: August 9, 2024

/s/ Ryan Rabah
Ryan Rabah
N.C. State Bar No. 44726