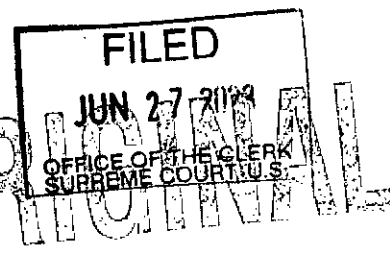


23-5011

No. \_\_\_\_\_



IN THE

SUPREME COURT OF THE UNITED STATES

Siddhanth Sharma — PETITIONER  
(Your Name)

VS.

Damon Circosta, et. al — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):  
\_\_\_\_\_  
\_\_\_\_\_

☒ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: \_\_\_\_\_, or

☐ a copy of the order of appointment is appended.

Siddhanth Sharma  
(Signature)

**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Siddhanth Sharma, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>1954</u>	\$ <u>1</u>	\$ <u>1954</u>	\$ <u>1</u>
Self-employment	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Income from real property (such as rental income)	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Interest and dividends	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Gifts	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Alimony	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Child Support	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Disability (such as social security, insurance payments)	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Unemployment payments	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Public-assistance (such as welfare)	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
Other (specify): _____	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>	\$ <u>1</u>
<b>Total monthly income:</b>	\$ <u>1954</u>	\$ <u>X</u>	\$ <u>1954</u>	\$ <u>X</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Jalinder Sharma (dad)	2809 Spring Forest Rd Raleigh, NC, 27616	12-14-22 — present	\$ 1954
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 250  
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
checking	\$ 250	<del>X</del>
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<input type="checkbox"/> Home Value <del>X</del>	<input type="checkbox"/> Other real estate Value <del>X</del>
<input type="checkbox"/> Motor Vehicle #1 Year, make & model <del>X</del> Value <del>X</del>	<input type="checkbox"/> Motor Vehicle #2 Year, make & model <del>X</del> Value <del>X</del>
<input type="checkbox"/> Other assets Description <del>X</del> Value <del>X</del>	

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or  
your spouse money

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

Amount owed to you

~~\$ \_\_\_\_\_~~  
~~\$ \_\_\_\_\_~~  
~~\$ \_\_\_\_\_~~

Amount owed to your spouse

~~\$ \_\_\_\_\_~~  
~~\$ \_\_\_\_\_~~  
~~\$ \_\_\_\_\_~~

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

Relationship

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

Age

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment  
(include lot rented for mobile home)

\$ 400.00

~~\$ \_\_\_\_\_~~

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,  
water, sewer, and telephone)

\$ 327.14

~~\$ \_\_\_\_\_~~

Home maintenance (repairs and upkeep)

\$ \_\_\_\_\_

~~\$ \_\_\_\_\_~~

Food

\$ 475.18

~~\$ \_\_\_\_\_~~

Clothing

~~\$ \_\_\_\_\_~~

~~\$ \_\_\_\_\_~~

Laundry and dry-cleaning

~~\$ \_\_\_\_\_~~

~~\$ \_\_\_\_\_~~

Medical and dental expenses

~~\$ \_\_\_\_\_~~

~~\$ \_\_\_\_\_~~

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 150.00	\$ <del>X</del>
Recreation, entertainment, newspapers, magazines, etc.	\$ 150-200 Depends on the month	\$ <del>X</del>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <del>X</del>	\$ <del>X</del>
Life	\$ <del>X</del>	\$ <del>X</del>
Health	\$ <del>X</del>	\$ <del>X</del>
Motor Vehicle	\$ <del>X</del>	\$ <del>X</del>
Other: _____	\$ <del>X</del>	\$ <del>X</del>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <del>X</del>	\$ <del>X</del>	\$ <del>X</del>
Installment payments		
Motor Vehicle - parents bought car and its in their name but I make monthly payments to them	\$ 170.00	\$ <del>X</del>
Credit card(s)	\$ <del>X</del>	\$ <del>X</del>
Department store(s)	\$ <del>X</del>	\$ <del>X</del>
Other: _____	\$ <del>X</del>	\$ <del>X</del>
Alimony, maintenance, and support paid to others	\$ <del>X</del>	\$ <del>X</del>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <del>X</del>	\$ <del>X</del>
Other (specify): _____	\$ <del>X</del>	\$ <del>X</del>
<b>Total monthly expenses:</b>	\$ 1650-1700 Depends on month	\$ <del>X</del>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid - or will you be paying - an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \_\_\_\_\_

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

The real problem is my inability to pay the booklet format for 40 copies. That alone will cost around \$ 2000 dollars. I have already spent \$ 1000 dollars total on a writ of mandamus and on an appeal in a separate case. See 23-6335, 23-1358. Another problem is that I will not be able to pay the filing fee in time, and being how the court will be in recess next month adds to the mix. The need of prompt ruling in this case is critical and to be prevented from proceeding due to my inability to pay would cause a miscarriage of justice. I do intend to pay the filing fee regardless of whether the court rules in my favor or not, its just that I will not be able to pay within the time frame.

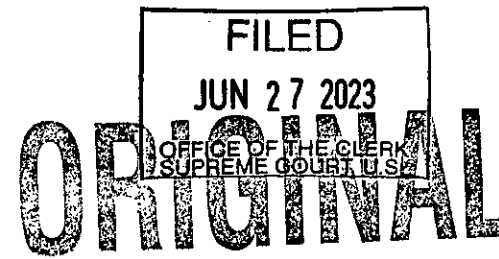
I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12 May, 2023

Ludhant Sharma  
(Signature)

23-5011  
No.

In The  
Supreme Court Of The United States



Siddhanth Sharma

Plaintiff-Appellant

v.

Damon Circosta, et. al

Defendant-Appellees

---

On Petition for a Writ of Certiorari  
To the United States District Court  
Eastern District of North Carolina

---

Petition for Writ of Certiorari

---

Siddhanth Sharma

*pro se*

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E-Mail: [Siddhanthsharma1996@yahoo.com](mailto:Siddhanthsharma1996@yahoo.com)

### QUESTIONS PRESENTED

- 1.) Does Appellee's (NC Board of Elections) extra requirements of 3 additional requisites of 1.) Being a Registered Voter 2.) Being part of a Political Party for 90 days and 3.) Not being a Felon violate Appellant Sharma's (Applicant) 1<sup>st</sup>, 14<sup>th</sup> Amendment Rights, Article I Section 2 Clause 2, Article I Section 4 Clause 1, Article I Section 5 Clause 1, Article VI Clause 2 of the U.S. Constitution to seek Ballot-Access for the 2022 Midterms for U.S. House of Representatives in District 13 of North Carolina to serve in the 118<sup>th</sup> Congress, provided he got elected?
- 2.) Did the District Court err in ruling that Appellant lacked standing due to him not filing a Notice of Candidacy, and recommended that he run as an Unaffiliated Candidate rather than a Republican Candidate, when due to Appellant's status as a felon, it would make it a Class I felony for him to become a Registered Voter/File for Candidacy?
- 3.) Did the District Court erred in refusing to hold a Special Election for Appellant against Incumbent Wiley Nickel for U.S. House of Representatives in District 13 of North Carolina for the remainder of the 118<sup>th</sup> Congress, provided he got elected, by Denying Appellant's Motion for Reconsideration and Preliminary Injunction/TRO?



### PARTIES TO THE PROCEEDING

Appellant Siddhanth Sharma was the Plaintiff in the District Court and Appellant in the Court of Appeals. The NC Board of Elections (NCBOE) were the Defendants in the District Court and Appellees in the 4<sup>th</sup> Circuit.

### STATEMENT OF RELATED PROCEEDINGS

United States District Court for the Eastern District of North Carolina:

*Sharma v. Circosta*, No. 5:22-CV-00059-BO (Order denying Plaintiff's Injunctive Relief on 16 May 2022). Motion for Reconsideration filed on 9 February 2023 –

Status: Denied on 11 May 2023.

United States Court of Appeals for the 4<sup>th</sup> Circuit:

*Sharma v. Circosta*, 23-1535 : Pending

### RULE 29.6 STATEMENT

Appellant is an individual and does not own any corporate stock.

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<p>Siddhanth Sharma</p> <p>v.</p> <p>Damon Circosta, et. al</p>	<p>Petition for Writ of Certiorari</p> <p>Rule 11, 13.3</p> <p>28USC2101(e), 28USC1254</p>
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### INTRO

Appellant reverently requests this Court for a Writ of Certiorari to Order the District Court to reverse its Final Judgment and Denial of Reconsideration and hold a **Special Election in District 13 of North Carolina for U.S. House of Representatives against Incumbent Wiley Nickel to serve in the remainder of the 118<sup>th</sup> Congress**, provided he gets elected.

### OPINIONS BELOW

The District Court's Opinion denying Appellant's 42USS1983 claim in Case No. 5:22-CV-00059-BO was issued on 16 May 2022. The District Court Denied Appellant's Motion for Reconsideration on 11 May 2023. **Review of these judgments are pending in the 4<sup>th</sup> Circuit. See 23-1535.**

### JURISDICTION

This Court retains jurisdiction pursuant to 28USC2101(e), 28USC1254, **Rule 11 and Rule 13.3** of this Court. Pursuant to Rule 29, 28USC2403(b) may apply. The District Court did not certify pursuant to 28USC451. The judgment of the District Court was issued on 16 May 2022 and Motion for Reconsideration was **timely filed** on 9 February 2023 and **Reconsideration was denied on 11 May 2023**. The case is pending in the 4<sup>th</sup> Circuit, *see 23-1535* – **therefore this Court retains jurisdiction under Rule 11 and 13.3**. The District Court ruled

Reconsideration was timely filed. See FRCP 60(c) [11B-12B]. See also [15A].

Jurisdiction is applicable via Rule 13.3 and 11 as *Sharma v. Circosta*, 23-1535 is pending in the 4<sup>th</sup> Circuit. Since *Sharma v. Circosta* deals with a Ballot-Access restriction for U.S. House of Representatives in District 13 of North Carolina Appellant believes this case falls under the provisions of Rule 11 and 28USC2101(e). Due to this Court about to enter its Summer Recess, time is of the essence and to prevent irreparable harm due to the fact that the 118<sup>th</sup> Congress has already commenced this Court can assume the 4<sup>th</sup> Circuit has denied *Sharma v. Circosta*, 23-1535 or has not acted in the proper amount of time.

#### CONSTITUTIONAL PROVISIONS, STATUTES, ETC. INVOLVED

The 1<sup>st</sup>, 14<sup>th</sup>, Amendment of the U.S. Constitution, Article I Section 2 Clause 2, Article I Section 4 Clause 1, Article I Section 5 Clause 1, Article VI Clause 2 of the U.S. Constitution [2C-8C]. Federal Rule of Civil Procedure 60 [11C-12C]. NCGS 13-1, NCGS. 163-55, 82.1(c)(2), 82.4, 96, 106(a), 106(b), 106(e), 106.1, 106.2, 106.5(a) 106.5(b), 127.3 *et seq*, 275, as well as Article VI, Section 2 Clause 3 of the NC Constitution, Article VI Section 8 of the NC Constitution [13C, 15C-31C, 33C-34C, 9C-10C].

#### STATEMENT OF THE CASE

- The basis for filing the lawsuit in District Court was that in order to run for U.S. House of Representatives, at least in North Carolina, in an addition to being 25 years old, Resident of America for 7 years and an inhabitant of the State, you have to 1.) Be a Registered Voter, 2.) Be affiliated with a political

party for 90 days and 3.) Not be a felon. At the time Appellant was an active felon and did not have his voting rights restored. See NCGS 13-1 [13C]. In North Carolina attempting to be a Registered Voter while being a felon is a Class I felony; therefore to fill out the candidacy form would be a Class I felony since it is a requisite to run for Federal Office. See NCGS 163-106, 106.1, 106.5 163-275 [21C-25C, 33C-34C]. Appellant alleged discrimination/disenfranchisement of 1<sup>st</sup>, 14<sup>th</sup> amendment rights to run for Federal Office on the basis of being disenfranchised due to the 3 additional requisites<sup>1</sup>.

- Appellant timely filed a lawsuit on 7 February 2022 to seek ballot access for the 2022 midterms to run for U.S. House of Representatives so that he may potentially serve in the 118<sup>th</sup> Congress, provided he got elected. See 5:22-CV-00059-BO. Final Judgment was entered on 16 May 2022. **This Court must *highly note* that Appellant was in prison when he filed this lawsuit and was not released until 7 December 2022.**<sup>2</sup> One more critical fact that the Court must note is that during the time that Appellant was filing his lawsuit he had his legal mail taken by Correctional Officers and had no legal material or references during the filing of the lawsuit and had to rely on his family via telephone for information, which was to little avail. See 5:21-CT-3311-M.

<sup>1</sup> Appellant was denied the ability to vote via NCGS 13-1, NCGS 163-55, 82.1(c)(2), 82.4(c)(1), 106(e), 106.5(b), 275. Being a Registered Voter is a requisite to appear on the Ballot for any elected office in NC. See NCGS 163-106.2.

<sup>2</sup> This is arguably the most critical fact that will be discussed *infra*

- 1     • Final Judgment was given on 16<sup>th</sup> May 2022 [1A-12A] ruling that Appellant  
2       lacked standing because he did not fill out a candidacy form. The District  
3       Court recommended that Appellant run as an Unaffiliated Candidate [10A-  
4       11A] rather than a Republican Candidate since there was one day left to  
5       register. *See* NCGS 163-122 [26C-28C].
- 6     • Appellant timely filed a Motion for Reconsideration on 9 February 2023  
7       introducing new evidence to re-establish standing that he *was* denied by his  
8       County Board of Elections to be a Registered Voter *before* he filed the lawsuit,  
9       the NC General Statutes which would make it a Class I Felony if Appellant  
10      were to be a Registered Voter due to his status as a Felon, showing past  
11      actions by Defendants (the NC Board of Elections) arresting individuals,  
12      imminent threat of arrest by Defendants, etc. [64-250B]. *See* FRCP 60(b)  
13      [11C-12C].
- 14    • The District Court denied the Motion for Reconsideration on 11 May 2023.  
15      The District Court also denied the Preliminary Injunction/TRO. [13A-17A].
- 16    • Petitioner appealed both judgments which is currently pending in the 4<sup>th</sup>  
17      Circuit and the 4<sup>th</sup> Circuit has yet to rule on the Injunction to Order a Special  
18      Election. *See* 23-1535. Pursuant to **Rule 11, 13.3** and 28USC2101(e), since  
19      Appellant's case deals with having a Special Election for U.S. House of  
20      Representatives in District 13 of North Carolina against incumbent Wiley  
21      Nickel for the remainder of the 118<sup>th</sup> Congress, Appellant believes his case is  
22      of Substantial/Public Importance.

**REASONS FOR GRANTING WRIT OF CERTIORARI**

**1.A) DOES THE REQUIREMENT OF BEING A REGISTERED VOTER  
VIOLATE APPELLANT SHARMA'S 1<sup>st</sup>, 14<sup>th</sup> AMENDMENT RIGHTS TO THE  
U.S. CONSTITUTION AND ARTICLE 1 SECTION 2 CLAUSE 2, ARTICLE 1  
SECTION 4 CLAUSE 1, ARTICLE 1 SECTION 5 CLAUSE 1, ARTICLE VI  
CLAUSE 2 OF THE U.S. CONSTITUTION TO SEEK BALLOT-ACCESS FOR  
U.S. HOUSE OF REPRESENTATIVES?**

In North Carolina in order to run for U.S. House of Representatives one must be a Registered Voter. *See* NCGS 106, 106.1, 106.5 [22C, 23C, 25C]. In North Carolina one cannot be a Registered Voter if one is serving out a sentence for a Felony conviction or is on parole/probation. *See* NCGS 13-1, NCGS. 163-55, 82.1(c)(2), 82.4, 96, 106(a), 106(b), 106(e), 106.1, 106.2, 106.5(a) 106.5(b), 127.3 *et seq*, 275, as well as Article VI, Section 2 Clause 3 of the NC Constitution, Article VI Section 8 of the NC Constitution [13C, 15C-31C, 33C-34C, 9C-10C]. It defies common sense for one to be a Registered Voter, at least as it pertains to candidacy for Federal Office, if one is to be voted in. Appellant timely filed this lawsuit on 7 February 2022. In Appellant's situation he was not released from prison until 7 December 2022, meaning he would not get his voting rights back until September of 2023. Now if Appellant wanted to run for U.S. House of Representatives he would have to wait until the 2024 midterms to apply. Is this fair? Appellant believes *not*. Appellant's situation is very similar if not identical to what happened in *Kusper v.*

1 *Pontikes*, 414 U.S. 51 (1973). In *Kusper* a voter was barred by an Illinois statute  
2 that did not allow her to switch parties and forced her to remain in a party for 23  
3 months. The Supreme Court ruled in her favor and ruled the Illinois Statute  
4 unconstitutional. Likewise in Appellant's case he intended to run as a Republican  
5 Candidate for the 2022 midterms to serve in the 118<sup>th</sup> Congress, provided he got  
6 elected. Yet due to his status as an active felon and the penalty of NCGS 13-1 [13C]  
7 he would not regain his voting rights until September of 2023. Therefore he would  
8 be *forced* to wait until the 2024 midterms to run as a candidate for U.S. House of  
9 Representatives, due to Appellant's status as a felon.

10 *"The registration requirement has a discriminatory effect. It bars persons who*  
11 *are not registered voters from [running for U.S. House of Representatives], thereby*  
12 *excluding that group of persons from participating in core political speech. See*  
13 *Meyer, 486 U.S. at 421-22, 108 S.Ct. at 1891-92. The mandatory exclusion of*  
14 *unregistered [voters/candidates] also limits the number of voices to convey the*  
15 *proponent's message, limiting the audience the proponents can reach. Consequently,*  
16 *we apply exacting scrutiny. [Appellees] fail to identify a compelling state interest to*  
17 *which its registration requirement is narrowly tailored. Because [Appellees']*  
18 *requirement that [candidates for U.S. House of Representatives] be registered voters*  
19 *is not narrowly tailored to a compelling state interest, we find it unconstitutionally*  
20 *impinges on free expression and reverse the district court."* *American Constitutional*  
21 *Law Found. v. Meyer*, 120 F.3d 1092, 1100 (10th Cir. 1997).

1       *"The requirement that [candidates for U.S. House of Representatives] be not*  
2       *merely voter eligible, but registered voters, it is scarcely debatable given the*  
3       *uncontested numbers decreases the pool of potential [candidates] as certainly as that*  
4       *pool is decreased by the prohibition of [candidates]. Both provisions 'limi[t] the*  
5       *number of voices who will convey [the initiative proponents'] message' and,*  
6       *consequently, cut down 'the size of the audience [proponents] can reach.' Meyer, 486*  
7       *U.S., at 422, 423. In [Appellant's] case, as in Meyer, the requirement 'imposes a*  
8       *burden on political expression that the State has failed to justify.' Id., at 428." See*  
9       *Buckley v. American Constitutional Law Foundation, Inc. 525 U.S. 182, 194-95*  
10       *(1999). "The ease with which qualified voters may register to vote, however, does not*  
11       *lift the burden on speech at petition circulation time. Of course there are individuals*  
12       *who fail to register out of ignorance or apathy. See post, at 219-220 (O'CONNOR, J.,*  
13       *concurring in judgment in part and dissenting in part). But there are also*  
14       *individuals for whom, as the trial record shows, the choice not to register implicates*  
15       *political thought and expression." Buckley at 195-96.*

16       In *Meyer v. Grant*, 486 U.S. 414 (1988) the Supreme Court ruled that it  
17       was unconstitutional to criminalize pay to Petition Circulators. Likewise it is  
18       unconstitutional to criminalize the right to vote as it relates to being a requisite to  
19       run for U.S. House of Representatives. *"The statute burdens such speech in two*  
20       *ways: First, it limits the number of voices that will convey appellees' message and the*  
21       *hours they can speak and, therefore, limits the size of the audience they can reach.*  
22       *Second, it makes it less likely that appellees will garner the number of necessary*

1 signatures, thus limiting their ability to make the matter the focus of statewide  
2 discussion." *Meyer v. Grant* at 414. "Unquestionably, whether [Appellant] should be  
3 [able to seek Ballot-Access] in [North Carolina] is a matter of societal concern that  
4 [appellant] has a right to [pursue] publicly without risking criminal sanctions. 'The  
5 freedom of speech and of the press guaranteed by the Constitution embraces at the  
6 least the liberty to discuss publicly and truthfully all matters of public concern  
7 without previous restraint or fear of subsequent punishment.' *The First Amendment*  
8 'was fashioned to assure unfettered interchange of ideas for the bringing about of  
9 political and social changes desired by the people.'" *Roth v. United States*, 354 U.S.  
10 476, 484 (1957). See also *Meyer v. Grant* at 421. "It has long been established that a  
11 State may not impose a penalty upon those who exercise a right guaranteed by the  
12 Constitution. . . . 'Constitutional rights would be of little value if they could be . . .  
13 indirectly denied.' . . ." *Dunn v. Blumstein*, 405 U.S. 330, 341 (1972). "The right of a  
14 party or an individual to a place on a ballot is entitled to protection and is  
15 intertwined with the rights of voters." *Lubin v. Panish*, 415 U. S. 709, 415 U. S.  
16 716 (1974. "Section 1971(a)(1) provides that "[a]ll citizens of the United States who  
17 are otherwise qualified by law to vote . . . shall be entitled and allowed to vote at all .  
18 . . elections, without distinction of race, color, or previous condition of servitude .  
19 . . .the prohibitions of § 1971 encompass practices which have only an indirect effect  
20 on the worth of a citizen's vote in addition to those which directly affect the ability to  
21 cast a vote." *Washington v. Finlay*, 664 F. 2d at 926.



**1.B) DOES BEING REQUIRED TO BE AFFILIATED WITH A POLITICAL  
PARTY FOR 90 DAYS VIOLATE APPELLANT SHARMA'S 1st, 14th  
AMENDMENT RIGHTS TO THE U.S. CONSTITUTION AND ARTICLE 1  
SECTION 2 CLAUSE 2, ARTICLE 1 SECTION 4 CLAUSE 1, ARTICLE 1  
SECTION 5 CLAUSE 1, ARTICLE VI CLAUSE 2 OF THE U.S.  
CONSTITUTION TO SEEK BALLOT-ACCESS FOR U.S. HOUSE OF  
REPRESENTATIVES?**

It defies common sense to require an individual who chooses to seek Federal Office to become affiliated with a political party for 90 days as it adds an additional qualification for U.S. House of Representatives. See NCGS 163-106.1 [23C]. Appellee's in their brief in District Court [22B-26B] said that the 90-day requirement is to ensure that only "serious candidates" only appear on the ballot. The District Court even ruled that it did not find Appellee's argument persuasive [10A]. "A State's claim that it is enhancing the ability of its citizenry to make wise decisions by [only allowing "serious candidates" on the ballot] must be viewed with some skepticism." *Anderson v. Celebrezze*, supra, at 798.

The District Court and Defendants knew Appellant was in prison during the time he filed this lawsuit. The problem is that Opposing Counsel for Appellees was completely aware of NCGS 13-1, NCGS 163-106, 106.1, 106.5, 275 [13C, 21C-25C, 33C-34C] knowing these statutes would apply to Appellant. It should be noted that Defendants make an attempt to say that being Affiliated for 90 days causes no harm [22B-26B], yet they leave out one critical fact: in order to be "affiliated" with a

1 political party one must be a Registered Voter and one cannot be a Registered Voter  
2 if he is a felon who has not received his voting rights back. See NCGS 13-1, 163-106,  
3 106.1, 106.5 [13C, 21C-22C, 23C, 25C]. Reading these statutes in *pari materia*  
4 would show that there is an elaborate disguise to disenfranchise felons for running  
5 for Federal Office.

6 *Dunn v Blumstein*, 405 U.S. 330 (1972) is *highly persuasive* if not identical  
7 here. In *Blumstein* a Tennessee law required residents to wait 15 months before  
8 they can vote and anybody who traveled outside of their districts would also have to  
9 wait 15 months. *Blumstein* at 330-331. "The State cannot seriously maintain that it  
10 is 'necessary' to reside for a year in the State and three months in the county in  
11 order to be knowledgeable about congressional, state, or even purely local elections"  
12 *Blumstein* at 358; in North Carolina it does not make sense to deny a felon the right  
13 to vote nor make a person affiliated with a political party for 90 days, just so that  
14 they can run for U.S. House of Representatives.

15 In other words to disenfranchise an individual due to their status as a felon is  
16 no different than disenfranchising someone due to the color of their skin.

17 In summation the implication/penalties of NCGS 13-1, NCGS. 163-55,  
18 82.1(c)(2), 82.4, 106(a), 106(b), 106(e), 106.1, 106.2, 106.5(a) 106.5(b), 275, [13C,  
19 15C-31C, 33C-34C] "dictate electoral outcomes, to favor or disfavor a class of  
20 candidates, or to evade important constitutional restraints." *U.S. Term Limits, Inc.*  
21 *v. Thornton*, 514 U.S. 779, 833-34 (1995). See also *Cook v. Gralike*, 531 U.S. 510  
22 (2001).

1     1.C) DOES APPELLEES REQUIREMENT TO DENY A CANDIDATE FOR  
2     U.S. HOUSE OF REPRESENTATIVES BASED ON ACTIVE STATUS OF  
3     BEING A FELON VIOLATE APPELLANT'S 1<sup>st</sup>, 14<sup>th</sup> AMENDMENT RIGHTS  
4     TO THE U.S. CONSTITUTION AND ARTICLE 1 SECTION 2 CLAUSE 2,  
5     ARTICLE 1 SECTION 4 CLAUSE 1, ARTICLE 1 SECTION 5 CLAUSE 1,  
6     ARTICLE VI CLAUSE 2 OF THE U.S. CONSTITUTION TO SEEK BALLOT-  
7     ACCESS FOR U.S. HOUSE OF REPRESENTATIVES?

8             Read Argument 1.A *supra*. "The Court made clear in *Williams v. Rhodes*,  
9     *supra*, unduly restrictive state election laws may so impinge upon freedom of  
10    association as to run afoul of the First and Fourteenth Amendments. 393 U.S., at  
11    30. And see *id.*, at 35-41." See *Kusper* at 57.

12            *Carrington v. Rash*, 380 U.S. 89 (1965) is identical to the situation at present.  
13    In *Carrington* the Texas constitution denied active servicemembers of the military  
14    from voting at all. See *Carrington* at 89-91. Article VI Section 2 Clause 3 of the NC  
15    Constitution [9C] denies felons the right to vote – even those who are paroled;  
16    Article VI Section 8 of the NC Constitution [10C] denies felons from running for  
17    office. There is no doubt that Appellees require that Appellant be a Registered Voter  
18    to apply for candidacy for Federal Office pursuant to NCGS 163-106, 106.1, 106.5  
19    [21C-25C] and since Appellant's is a felon he cannot exercise his right to run for  
20    U.S. House of Representatives due to NCGS 13-1, 163-275 [13C, 33C-34C]. Just like  
21    how the NC Constitution [9C-10C] denies active felons the Right to vote is the same

1 way the Texas Constitution denied active military servicemen the Right to vote.

2 Appellant sees no distinction from *Carrington* and the case *sub judice*.

3 To deny an individual Ballot-Access due to the status of being a Felon is no  
4 different than denying someone Ballot-Access on their ethnicity/race.

5 In North Carolina at least, being a Registered Voter is a requisite for Federal  
6 Office [21C-25C] and you can't be a Registered Voter if you are a Felon currently  
7 serving a sentence or on parole or probation. The discrimination is clear. "*But if they*  
8 *are, in fact, [felons], . . . they, as all other [felons], have a right to an equal*  
9 *opportunity for political representation. . . . 'Fencing out' from the franchise a sector*  
10 *of the population because of the way they may vote [or whether the person is a felon]*  
11 *is constitutionally impermissible.*" *Blumstein* at 355.

12 Regarding Arguments 1.A, B., C. Appellant requests that the Court rule that  
13 NCGS 13-1, NCGS. 163-55, 82.1(c)(2), 82.4, 96, 106(a), 106(b), 106(e), 106.1, 106.2,  
14 106.5(a) 106.5(b), 127.3 *et seq*, 275, as well as Article VI, Section 2 Clause 3 of the  
15 NC Constitution, Article VI Section 8 of the NC Constitution [13C, 15C-31C, 33C-  
16 34C, 9C-10C], violate the 1<sup>st</sup>, 14<sup>th</sup> amendments, Article I Section 2 Clause 2, Article  
17 1 Section 4, Article I Section 5, Article VI Clause 2 of the U.S. Constitution [2C-8C].

1     **DID THE DISTRICT COURT ERR IN DENYING APPELLANT'S CLAIM**  
2     **FOR BALLOT-ACCESS TO RUN FOR U.S. HOUSE OF REPRESENTATIVES**  
3     **FOR DISTRICT 13 OF NORTH CAROLINA?**

4     The District Court's ruling conflicts itself by finding that Appellant would  
5     suffer future harm if he were to file for candidacy, due to the statutes, but also by  
6     not finding injury because Appellant did not file a candidacy form [JA9-10].

7     The District Court ruled:

8             *"In fact, § 163-106.5(b) states that the State Board must "cancel the*  
9     *notice of [primary] candidacy of any person who does not meet the constitutional or*  
10    *statutory qualifications for the office, including residency." The plain language of §*  
11    *163-106.5(b) makes it appear that North Carolina requires primary candidates to*  
12    *satisfy both the Constitutional and statutory qualifications. Defendants' argument*  
13    *that this provision actually avoids a constitutional conflict appears to stretch the*  
14    *text. The Court does not find persuasive defendants' argument that plaintiff*  
15    *will not suffer future harm because the state will not enforce its own laws,*  
16    *due to those laws being unconstitutional. However, plaintiff has not*  
17    *demonstrated a 'credible threat of enforcement.' Buscemi, 964 F.3d at 259. Without a*  
18    *showing that plaintiff actually has or will file a notice of candidacy and be denied-*  
19    *sustaining the predicted injury-the Court cannot find that the injury is 'certainly*  
20    *impending.' Plaintiff cannot satisfy the first prong as it relates to the general*  
21    *election. The deadline for filing a notice of candidacy in North Carolina's general*  
22    *election is 'on or before noon of the day of the primary election.' § 163-122(a)(2). For*

1    *the upcoming general election, the deadline to file is before noon on May 17, 2022.*  
2    *This controversy is not fit for judicial decision because filing a notice of candidacy is*  
3    *still available to plaintiff as of the date of this order. Because plaintiff has*  
4    *not actually filed a notice of candidacy and been denied, there has been no state*  
5    *action that this Court may pass judgement upon."* [9A-11A].

6            Appellant retains standing in every aspect because to file for candidacy would  
7    be a crime, under NC law, due to Petitioner's status as a Felon. See NCGS 13-1,  
8    163-275, 163-106, 106.1, 106.5 [13C, 21C-25C, 33C-34C].

9            Knowing that Appellant was a felon serving a sentence, the District Court's  
10   ruling conflicts with precedent and would induce Appellant to commit a crime under  
11   NC State Law by recommending to file for candidacy. See NCGS 163-122, 275 [33C-  
12   34C]. See *Meyer v. Grant*, 486 U.S. 416 (1988). The District Court can not  
13   recommend through its Order for Appellant to commit a crime. "It has long been  
14   established that a State may not impose a penalty upon those who exercise a right  
15   guaranteed by the Constitution. . . . 'Constitutional rights would be of little value if  
16   they could be . . . indirectly denied.' . . ." *Blumstein, 405 U.S. 330, 341 (1972).*

17   District Court judges are usually well-versed in state procedure and regulations  
18   when matters come to Federal Court. The District Court's Order essentially says:  
19   "that even though the Court believes Appellant will suffer harm if he were to file a  
20   Notice of Candidacy he must still file a Notice of Candidacy to have standing." See  
21   [9A-11A]. The District Court's ruling was legally contradictory. Even if the District

1 Court was unaware of NCGS 13-1, NCGS 163-275 [13C-33C-34C] its ruling still  
2 constitutes legal error.

3 Appellee's recommended that Appellant can still file as an unaffiliated  
4 candidate [4B, 16B, 26B, 28B] to which the District Court adopted. See NCGS 163-  
5 122 [26C-28C]. The District Court's recommendation that Appellant run as an  
6 Unaffiliated Candidate not only conflicts with precedent but was/is unfair. The  
7 reason being that the District Court gave its Order on 16 May 2022 and the  
8 primaries were to begin on 17 May 2022 the next day, thus, the hurdles to get the  
9 amount of signatures in less than a day would be physically impossible for anybody.  
10 [10A-11A]. See NCGS 163-122 [26C-28C]. The District Court by recommending that  
11 Appellant switch from a Republican to Independent just to have standing is a  
12 violation of Appellant's 1<sup>st</sup> and 14<sup>th</sup> amendment rights by allowing the government  
13 to choose the candidate when it should be the people. *"In assuming that a*  
14 *signature-gathering process was the only available remedy, the courts below gave too*  
15 *little recognition to the [Statute] passed by the [North Carolina] Legislature making*  
16 *that very process unavailable to independent candidates for the office of [U.S. House*  
17 *of Representatives]. In taking that action, the [North Carolina] Legislature provided*  
18 *no means by which an independent [U.S. House] candidate might demonstrate*  
19 *substantial voter support."* *McCarthy v. Briscoe*, 429 U.S. 1316, 1322. *"For the*  
20 *candidate himself, it would mean undertaking the serious responsibilities of*  
21 *[independent] party status . . . such as the conduct of a primary, holding party*  
22 *conventions, and the promulgation of party platforms. But more fundamentally, the*

1 candidate, who is by definition a [partisan Republican] and desires to remain one,  
 2 must now consider himself a[n] independent man, surrendering his [partisan]  
 3 status. Must he necessarily choose the [independent] route if he wants to appear on  
 4 the ballot in the general election? We think not." *Storer v. Brown*, 415 U.S. 724, 745-  
 5 746 (1974). "The very purpose of the First Amendment is to foreclose public authority  
 6 from assuming a guardianship of the public mind . . . . In this field every person  
 7 must be his own watchman for truth, because the forefathers did not trust any  
 8 government to separate the true from the false for us." *Thomas v. Collins*, [ 323 U.S.  
 9 516, 545 (1945)] *Id.*, at 1455." *Meyer v. Grant* at 419-20. "Constitutional rights  
 10 would be of little value if they could be . . . indirectly denied. . . ." *Blumstein*, 405  
 11 *U.S. 330, 341 (1972)*.

12 "[s]ometimes the grossest discrimination can lie in treating things that are different  
 13 as though they were exactly alike." *Anderson* at 801.

14 The District Court ruled that Appellant's claim was not ripe due to the ability  
 15 to run as an Unaffiliated Candidate [10A-11A]. If Appellant ran as an unaffiliated  
 16 candidate: he would have said so: but instead Appellant chose to run as a  
 17 Republican Candidate, to even which Appellees acknowledged [2B, 18B-19B], and  
 18 the filing date closed 4 March 2022, thus, making Appellant's matter Ripe for  
 19 Disposition. More problems that arise for recommending Appellant to run as an  
 20 Unaffiliated Candidate is that in North Carolina there is a semi-closed blanket  
 21 primary: meaning that an unaffiliated voter could vote for either a Democrat or  
 22 Republican but a Democrat/Republican voter can NOT vote for an Unaffiliated



1 Candidate; not only would that siphon away Appellant's votes and confuse his  
2 constituents but Appellant would lose endorsements due to running as an  
3 Unaffiliated Candidate. Running as a Republican candidate is Appellant's  
4 prerogative and not for the government to recommend otherwise. [10A-11A, 4B,  
5 16B, 26B, 28B] Because the right to run for office is dependent upon the right of  
6 association, a candidate bringing a right-to-run claim must allege that "by running  
7 for Congress he was advancing the political ideas of a particular set of voters."  
8 *Newcomb v. Brennan*, 558 F. 2d 825, 828 (7th Cir. 1977). "On this point 'even if the  
9 State were correct, a State, or a court, may not constitutionally substitute its own  
10 judgment for that of the [Republican] Party [simply because there was time to run  
11 as a different party].' *Democratic Party of United States v. Wisconsin ex rel. La*  
12 *Follette*, 450 U.S. at 123-124 (footnote omitted). The Party's determination of the  
13 boundaries of its own association, and of the structure which best allows it to  
14 pursue its political goals, is protected by the Constitution. 'And as is true of all  
15 expressions of First Amendment freedoms, the courts may not interfere on the  
16 ground that they view a particular expression as unwise or irrational [or simply  
17 because there was time to run as a different party].' *Id.* at 450 U. S. 124." *Tashjian*,  
18 479 U.S. at 224. **Even if Appellant chose to go the Unaffiliated Candidate**  
19 **route he would still have to become a Registered Voter, to which he was**  
20 **denied due to being an active felon [133B]. See NCGS 163-106, 106.5, 122 [21C-**  
21 **22C, 25C-28C].**

1 **2.) DID THE DISTRICT COURT ERR IN DENYING APPELLANT'S MOTION**  
2 **FOR RECONSIDERATION BASED ON NEW EVIDENCE?**

3 *Standard of Review:*

4 Furthermore, a pro se complaint must be construed liberally. *Haines v.*  
5 *Kerner*, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will  
6 not permit a district court to ignore a clear failure to allege facts in his Complaint  
7 which set forth a claim that is cognizable under federal law. *Weller v. Dep't of Soc.*  
8 *Servs.*, 901 F.2d 387 (4th Cir. 1990).

9 "In order to support a motion under 60(b)(2), a party must demonstrate:  
10 (1) the evidence is newly discovered since the judgment was entered; (2) due  
11 diligence on the part of the movant to discover the new evidence has been exercised;  
12 (3) the evidence is not merely cumulative or impeaching; (4) the evidence is  
13 material; and (5) the evidence is such that is likely to produce a new outcome if the  
14 case were retried, or is such that would require the judgment to be amended."  
15 *Boryan v. United States*, 884 F.2d 767, 771 (citation omitted).

16 "In *Square Constr. Co. v. Washington Metro. Area Transit Auth.*, 657  
17 F.2d 68, 71 (4th Cir. 1981), we set forth three factors that a moving party must  
18 establish to prevail on a Rule 60(b)(3) motion (1) the moving party must have a  
19 meritorious defense; (2) the moving party must prove misconduct by clear and  
20 convincing evidence; and (3) the misconduct prevented the moving party from fully  
21 presenting its case." *Schultz v. Butcher*, 24 F.3d 626, 630 (4th Cir. 1994).

1 A motion under 60(b)(6) may be granted only upon the movant's  
 2 showing "extraordinary circumstances." *Klapprott v. United States*, 335 U.S. 601,  
 3 613 (1949); *Reid v. Angelone*, 369 F.3d 363, 370 (4th Cir. 2004). The burden is on the  
 4 Plaintiff to show that extraordinary circumstances exist, and "it should be no  
 5 surprise that for a movant's case to succeed, the material offered in support of his  
 6 Rule 60(b)(6) motion must be highly convincing." *Holland v. Virginia Lee Co., Inc.*,  
 7 188 F.R.D. 241, 252 (W.D. Va. 1999). "Put simply, the applicable rule is as follows:  
 8 a Rule 60(b)(6) motion will be granted only in extraordinary circumstances or under  
 9 circumstances imposing extreme or undue hardship." *See United States v.*  
 10 *Cirami*, 563 F.2d 26, 32 (2d Cir.1977); *Allstate Ins. Co. v. Michigan Carpenters'*  
 11 *Council Health & Welfare Fund*, 760 F.Supp. 665, 669 (W.D.Mich.1991). *See also*  
 12 *Holland v. Virginia Lee Co., Inc* at 252. Under Rule 60(b)(6), the party must also  
 13 show the existence of "extraordinary circumstances." *Gonzalez v. Crosby*, 545 U.S.  
 14 524, 535 (2005).

15 "To obtain relief from a judgment under Rule 60(b), a moving party  
 16 must first show (1) that the motion is timely, (2) that he has a meritorious claim or  
 17 defense, and (3) that the opposing party will not suffer unfair prejudice if the  
 18 judgment is set aside." *United States v. Welsh*, 879 F.3d 530, 533 (4th Cir. 2018).

19 **DOES APPELLANT SATISFY FRCP 60(b)(2)?**

20 The 3 primary pieces of new evidence that Appellant intended to show to the  
 21 District Court was 1.) There were past actions by Appellees that led to the Arrest of  
 22 felons who tried to vote <https://www.nytimes.com/2018/08/02/us/arrested-voting->

north-carolina.html and “The Hoke County Case[s]”

[https://www.theguardian.com/us-news/2020/jul/21/voting-arrest-racist-law-north-](https://www.theguardian.com/us-news/2020/jul/21/voting-arrest-racist-law-north-carolina-lanisha-brachter)

[carolina-lanisha-brachter](https://www.theguardian.com/us-news/2020/jul/21/voting-arrest-racist-law-north-carolina-lanisha-brachter) as well as “Statistical Proof”

[https://www.wfae.org/politics/2020-10-13/what-to-know-about-illegal-voting-](https://www.wfae.org/politics/2020-10-13/what-to-know-about-illegal-voting-in-north-carolina)

[in-north-carolina](https://www.wfae.org/politics/2020-10-13/what-to-know-about-illegal-voting-in-north-carolina) and the “Board’s Response”

[https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2020/Num](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2020/Numbered%20Memo%202020-26%20Court%20Order%20re%20Certain%20Felons.pdf)

[bered%20Memo%202020-26 Court%20Order%20re%20Certain%20Felons.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2020/Numbered%20Memo%202020-26%20Court%20Order%20re%20Certain%20Felons.pdf)

; [https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report%202016%20General%20Election/Post-Election%20Audit%20Report.pdf)

[Election%20Audit%20Report 2016%20General%20Election/Post-](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report%202016%20General%20Election/Post-Election%20Audit%20Report.pdf)

[Election Audit Report.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report%202016%20General%20Election/Post-Election%20Audit%20Report.pdf) [209B-242B] 2.) That Appellant had been denied the

ability to vote on account of him being a felon *before* he filed the initial lawsuit

[133B] and 3.) The applicable General Statutes that criminalized the act of Felons

running for Federal Office on the premise of denying Felons voting rights. *See*

NCGS 13-1, NCGS. 163-55, 82.1(c)(2), 82.4, 96, 106(a), 106(b), 106(e), 106.1, 106.2,

106.5(a) 106.5(b), 127.3 *et seq*, 275, as well as Article VI, Section 2 Clause 3 of the

NC Constitution, Article VI Section 8 of the NC Constitution [13C, 15C-31C, 33C-

34C, 9C-10C].

The District Court on [9A-10A] ruled that Appellant has not demonstrated a

Credible Threat of Enforcement. Appellant’s discovery of Appellees’ Past Actions

[209B-242B] and the NC General Statutes [9C-35C] constitute new evidence.

1 Pursuant to *Boryan* this evidence is 1.) Newly discovered since Final  
 2 Judgment 2.) Appellant exercised due diligence to locate this new evidence as soon  
 3 as he was released from prison [72B-75B] 3.) this evidence is not cumulative 4.) this  
 4 evidence is material as it would make the District Court's ruling erroneous and 5.) if  
 5 the District Court were to consider the evidence it would result in a new outcome.

6 In further support of the 2nd Prong of *Boryan* Appellant did not have a  
 7 computer in prison and it was a spectacle that he was even able to file a lawsuit due  
 8 to having no legal material at the time of filing and having his legal material taken  
 9 away several times from Correctional Officers<sup>3</sup>. Appellant had to rely on his family  
 10 members via telephone for any information that could have been found and it was  
 11 to little avail. The District Court was aware of this fact [73B] yet goes on to rule  
 12 that Appellant should have had the statutes available without citing to any proof  
 13 [16A]. *If* Appellant was not in prison when he filed this lawsuit then the District  
 14 Court's holding would be correct, yet that is *not* the case here. It should be *duly*  
 15 *noted* that the District Court doesn't even make a mentioning of Appellee's Past  
 16 Actions [209B-242B] yet only focuses on the General Statutes and the fact that  
 17 Appellant had been denied to become a Registered Voter [16A].

18 The discovery of this new evidence, plus the NC Statutes, would therefore  
 19 contradict the Court's ruling that Appellant did not show a "Credible Threat of  
 20 Enforcement" [9A-10A]<sup>4</sup>. Appellant's discovery of the statutes only adds to the

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<sup>3</sup> This matter of Appellant's legal mail being taken away is being debated in a separate lawsuit in re Case No. 5:21-CT-3311-M to which Appellant is in Discovery at this time.

<sup>4</sup> This will be explained in greater detail in the next argument *infra*.

1 credibility. Furthermore, a pro se complaint must be construed liberally. *Haines v.*  
2 *Kerner*, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will  
3 not permit a district court to ignore a clear failure to allege facts in his Complaint  
4 which set forth a claim that is cognizable under federal law. *Weller v. Dep't of Soc.*  
5 *Servs.*, 901 F.2d 387 (4th Cir. 1990).

6 Appellant's scenario meets the *Klapprott* standard. See *Klapprott v. United*  
7 *States*, 335 U.S. 601, 613-14 (1949).

8 Appellant has satisfied the *Boryan* Test and believes the District Court's  
9 denial of Reconsideration [13A-17A] was erroneous.

10  
11 **DOES APPELLANT SATISFY FRCP 60(b)(1)?**

12 Based on Appellant's discovery of Defendants' past actions [209B-242B] and  
13 the NC General Statutes. [9C-35C] the District Court's ruling would be erroneous  
14 because Appellant has established the 2 Prongs of standing as required by *Babbitt*  
15 at 298 "[ 1] 'an intention to engage in a course of conduct arguably affected with a  
16 constitutional interest, but proscribed by a statute, and [2] there exists a credible  
17 threat of prosecution thereunder.' *Id.* at 298. "If the provision were truly vague,  
18 appellees should not be expected to pursue their collective activities at their peril."  
19 *Babbitt* at 303.

1           Based on the discovery of this new evidence [209B-242B; 9C-35C] the District  
2 Court's ruling would be erroneous by finding that Appellant lacks standing due to  
3 no injury [9A-10A].

4 The District Court ruled:

5           *"The Court does not find persuasive defendants' argument that plaintiff will*  
6 *not suffer future harm because the state will not enforce its own laws, due to those*  
7 *laws being unconstitutional. However, plaintiff has not demonstrated a 'credible*  
8 *threat of enforcement.'* *Buscemi, 964 F.3d at 259. Without a showing that plaintiff*  
9 *actually has or will file a notice of candidacy and be denied-sustaining the predicted*  
10 *injury-the Court cannot find that the injury is 'certainly impending.'"* [9A-10A].

11           The District Court's Order essentially says: "that even though the Court  
12 believes Appellant will suffer harm if he were to file a Notice of Candidacy he must  
13 still file a Notice of Candidacy to have standing." Whether or not the Court was  
14 aware of NCGS 13-1 and NCGS 163-275 [13C, 33C-34C] the ruling would constitute  
15 mistake under the FRCP 60(b)(1) [11C-12C]. Appellant would therefore satisfy  
16 *Babbitt* at 298.

17           The District Court's ruling as to recommending that Appellant run as an  
18 unaffiliated candidate [10A-11A] conflicts with precedent. The District Court and  
19 Appellees knew Appellant was in prison during the time he filed this lawsuit. The  
20 problem is that Opposing Counsel for Defendants was completely aware of NCGS  
21 163-275. It should be noted that on [22B-26B] Defendants make an attempt to say

1 that being Affiliated for 90 days causes no harm<sup>5</sup>, yet they leave out one critical  
 2 fact: in order to be "affiliated" with a political party one must be a Registered Voter  
 3 and one cannot be a Registered Voter if he is a felon who has not received his voting  
 4 rights back, like Appellant. See NCGS 13-1, NCGS 163-275 [13C, 33C-34C]. The  
 5 District Court and Opposing Counsel are well-versed in NC State law. There can be  
 6 little doubt that Opposing Counsel was unaware of NCGS 13-1, NCGS 163-55,  
 7 82.1(c)(2), 82.4(c)(1), 106, 106.5, 275 [13C, 15C-25C, 33C-34C]. Even if the District  
 8 Court was unaware it still constitutes mistake under FRCP(b)(1) [11C-12C] because  
 9 by recommending that Appellant still file for candidacy [10A] the District Court  
 10 would be inducing Appellant to commit a Class I felony in North Carolina. See  
 11 NCGS 163-275 [33C-34C].

12 "It has long been established that a State may not impose a penalty upon  
 13 those who exercise a right guaranteed by the Constitution. . . . 'Constitutional rights  
 14 would be of little value if they could be . . . indirectly denied.' . . ." Blumstein, 405  
 15 U.S. 330, 341 (1972).

16 **DOES APPELLANT SATISFY FRCP 60(b)(3)?**

17 *Schultz v. Butcher*, 24 F.3d 626, 630 (4th Cir. 1994) controls this portion of  
 18 the argument.

19 Appellant satisfies the 1<sup>st</sup> Prong of *Schultz* in that the discovery of the NC  
 20 General Statutes [JA359-381] and Appellee's Past Actions [209B-242B] constitute a

---

<sup>5</sup> It should be highly noted that nowhere in Defendants answer [D.E. 31] do they refer at all that being a Registered Voter is unconstitutional. Pursuant to FRCP 8(b)(6) Defendants admit/acquiesce that being a Registered Voter is unconstitutional. The answer is that Defendants are aware of NCGS 13-1, NCGS 163-55, 82.1(c)(2), 82.4(c)(1), 106(e), 106.5(b), 275.



meritorious argument. The 2nd and 3rd Prong of *Schultz* is satisfied because Appellees were all too aware of NCGS 13-1, NCGS 163-55, 82.1(c)(2), 82.4(c), 106, 106.5, NCGS 163-275 [13C, 15C-31C, 33C-34C, 9C-10C]. Opposing Counsel for Appellees are well-versed in NC State law. It should be noted that on [22B-26B] Defendants make an attempt to say that being Affiliated for 90 days causes no harm<sup>6</sup>, yet they leave out one critical fact: in order to be "affiliated" with a political party one must be a Registered Voter and one cannot be a Registered Voter if he is a felon who has not received his voting rights back, like Appellant. The same concept applies for when Appellees recommended Appellant to run as an Unaffiliated Candidate [4B, 16B, 26B, 28B] since to run as "Unaffiliated" you have to be a Registered Voter. See NCGS 163-122(d), 106 [21C-22C-26C-28C]. It should also be noted that nowhere in Appellee's brief [1B-32B] do they mention that being a Registered Voter violates the U.S. Constitution. It is therefore fair to say that Appellees have misrepresented the case to the District Court which therefore induced the District Court to give an erroneous judgment. "We hold that an adverse party's failure, either inadvertent or intentional, to produce such obviously pertinent material in its possession is misconduct under the meaning of Rule 60(b)(3)." *Schultz* at 630.

*"The district court denied the Rule 60(b) motion, finding the report was not newly discovered evidence and the report would not have altered the court's*

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<sup>6</sup> It should be highly noted that nowhere in Defendants answer [D.E. 31] do they refer at all that being a Registered Voter is unconstitutional. Pursuant to FRCP 8(b)(6) Defendants admit/acquiesce that being a Registered Voter is unconstitutional. The answer is that Defendants are aware of NCGS 13-1, NCGS 163-55, 82.1(c)(2), 82.4(c)(1), 106(e), 106.5(b), 275.

determination as to liability. It appears the court confused the standard set forth in Rule 60(b)(2) with the standard of 60(b)(3), which is applicable to the present case. Under 60(b)(2), relief from final judgment may be given if there is 'newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b) . . . .' In *Anderson v. Cryovac, Inc.*, the First Circuit explained the difference between sections (b)(2) and (b)(3) of Rule 60:

[The Rule 60(b)(3)] standard is more lenient than its Rule 60(b)(2) counterpart, and properly so. The 'newly discovered evidence' provision of Rule 60(b)(2) is aimed at correcting an erroneous judgment stemming from the unobtainability of evidence. Consequently, a party seeking a new trial under Rule 60(b)(2) must show that the missing evidence was 'of such a material and controlling nature as [would] probably [have] change[d] the outcome' . . . In contrast, Rule 60(b)(3) focuses not on erroneous judgments as such, but on judgments which were unfairly procured. When wrongful secretion of discovery material makes it inequitable for the withholder to retain the benefit of the verdict, the aggrieved party should not be required to assemble a further showing. 862 F.2d 910, 924 n. 10 (1st Cir. 1988). In *Square Construction*, we found the district court's denial of a Rule 60(b)(3) motion on the grounds that it would not alter the outcome to be error. 657 F.2d at 72." Schultz at 631.

Appellant alleged that Appellee's misconstrued the facts to the District Court in his Motion to Reconsider [87B].

**DOES APPELLANT SATIFY FRCP 60(b)(6)?**

Appellant believes he meets the "Extraordinary Circumstances" requirement as enunciated in *Klapprott*. The new evidence of Appellee's Past actions [209B-242B] and the NC General Statutes [13C, 15C-31C, 33C-34C, 9C-10C] show that what Appellant produced is "Highly Convincing" and would warrant a granting of Reconsideration to Order Appellee's to hold a Special Election for District 13 in North Carolina for U.S. House of Representatives.

*"But Appellant's allegations set up an extraordinary situation which cannot fairly or logically be classified as mere 'neglect' on his part. The undenied facts set out in the petition reveal far more than a failure to defend the denaturalization charges due to inadvertence, indifference, or careless disregard of consequences. For before, at the time, and after the [final] judgment was entered, Appellant was held in [prison] in [North Carolina], his adversary in the [1983 proceedings]. Without funds to hire a lawyer, Appellant was [pro se]. Thus Appellant's prayer to set aside the [final] judgment did not rest on mere allegations of 'excusable neglect.' The foregoing allegations and others in the petition tend to support Appellant's argument that he was deprived of any reasonable opportunity to make a[n] [argument] to [his civil case]. The basis of his petition was not that he had neglected to act in his own defense, but that in [prison] as he was, [without legal material as it was taken away by correctional officers and had to rely on his parents for information via telephone], he was no more able to [present] himself in [his case or appeal] than he would have been had he [chose to originally initiate his case*

1 after 8 November 2022]. Under such circumstances [Appellant's] prayer for setting  
2 aside the default judgment should not be considered only under the excusable  
3 neglect, but also under the "other reason" clause of 60(b)." *Klapprott v. United States*,  
4 335 U.S. 601, 613-14 (1949).

5 Coming back to Appellant's case *sub judice* Appellant stated clearly in  
6 his Motion to Reconsider that he was unable to find the statutes/new evidence/etc.  
7 due to him having his legal mail taken while he was in prison and had to rely on his  
8 parents via telephone for help [73B], which was to very little avail. It is not  
9 Appellant's fault that Correctional Officers confiscated his legal mail several times.  
10 It is impossible for any judge to render an opinion without legal references at  
11 his/her disposal. Likewise it is impossible for one to file a whole lawsuit without  
12 legal material/references. It was a miracle that Appellant was even able to file a  
13 lawsuit while in prison with having no legal material in the process. The District  
14 Court penalizes Appellant for a task that is impossible for anyone to achieve, at the  
15 time of Appellant's situation. Being in prison is a serious handicap for one who  
16 represents himself. It is even more of a handicap when one has no legal material at  
17 the time of filing a lawsuit due to it being confiscated by Correctional Officers.  
18 Appellant was not released from prison until 7 December 2022. He was unable to  
19 file anything until he was released. Given Appellant's particular scenario it mirrors  
20 the *Klapprott* situation. Appellant situation posed a severe undue hardship. He  
21 didn't have the legal materials at his disposal. Furthermore, a pro se complaint  
22 must be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). However,

1 the liberal construction requirement will not permit a district court to ignore a clear  
2 failure to allege facts in his Complaint which set forth a claim that is cognizable  
3 under federal law. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990).

4 As will be explained *infra* Appellant believes the District Court abused its  
5 discretion by failing to grant the Motion to Reconsider.

6  
7 **DID THE DISTRICT COURT ABUSE ITS DISCRETION?**

8 The 3 primary pieces of new evidence that Appellant intended to show to the  
9 District Court was 1.) Appellee's Past Actions [209B-242B] 2.) That Appellant had  
10 been denied the ability to vote on account of him being a felon *before* he filed the  
11 initial lawsuit [133B] and 3.) The applicable General Statutes [13C, 15C-31C, 33C-  
12 34C, 9C-10C].

13 The District Court abused its discretion by ruling that Appellant's "citations  
14 to provisions of the North Carolina General Statutes do not constitute evidence  
15 which was previously unavailable and could not have been discovered with  
16 reasonable diligence." [16A]. The District Court cited no proof for its ruling that  
17 Appellant did have the NC General Statutes while he was in prison. The District  
18 Court cited *Clayton v. Ameriquest Mortg. Co.*, 388 F. Supp. 2d 601, (M.D.N.C. 2005)  
19 in support of its ruling. In *Clayton* at 609 the court, in that case, ruled that  
20 Plaintiffs failed to produce newly discovered evidence as the evidence was already  
21 before them related to Ameriquest's credit bid at the foreclosure sale on September

1 5, 2003. Coming back to Appellant's case *sub judice* Appellant stated in his Motion  
2 to Reconsider that he was unable to find the statutes/new evidence/etc. due to him  
3 having his legal mail taken while he was in prison and had to rely on his parents  
4 via telephone for help [JA84], which was to very little avail – Appellant did not have  
5 this new evidence before him. It is not Appellant's fault that Correctional Officers  
6 confiscated his legal mail several times. It is impossible for any judge to render an  
7 opinion without legal references at his/her disposal. Likewise it is impossible for one  
8 to file a whole lawsuit without legal material/references. It was a spectacle that  
9 Appellant was even able to file a lawsuit while in prison with having no legal  
10 material in the process. The District Court penalizes Appellant for a task that is  
11 impossible for anyone to achieve, at the time of Appellant's situation.

12 The most **critical information**, which the District Court excludes from its  
13 ruling, was that Appellant found Defendants' past actions [209B-242B]. The Court  
14 has "held that a plaintiff satisfies the injury- in-fact requirement where he alleges [  
15 1] 'an intention to engage in a course of conduct arguably affected with a  
16 constitutional interest, but proscribed by a statute, and [2] there exists a credible  
17 threat of prosecution thereunder." *Babbitt v. Farm Workers*, 442 U.S. 289, 298  
18 (1979). This discovery of new information satisfies the 2 prongs of the *Babbitt*  
19 Standard yet the District Court believes Appellant should be penalized for finding  
20 evidence that could not have been reasonably found while he was in prison.  
21 Appellant believes the District Court's holding is an Abuse of Discretion, especially  
22 when the issue at hand is seeking Ballot-Access to run for Federal Congress.

Furthermore, a pro se complaint must be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990). Here the District Court ignored a fact which has a cognizable claim under federal law.

1.) The District Court ruled that Appellant's Motion for Reconsideration was timely [15A]. 2.) With all the information presented Appellant's claim is meritorious and 3.) there would be no harm to the opposite party<sup>7</sup>. Appellant has satisfied all 3 prongs enunciated in *United States v. Welsh*, 879 F.3d 530, 533 (4th Cir. 2018).

**DID THE DISTRICT COURT ERR IN DENYING APPELLANT'S REQUEST  
FOR PRELIMINARY INJUNCTION?**

"We review the district court's denial of injunctive relief for abuse of discretion." *Roe v. Dep't of Def.*, 947 F.3d 207, 219 (4th Cir. 2020). "Abuse of discretion is a deferential standard, and we may not reverse so long as the district court's account of the evidence is plausible in light of the record viewed in its entirety." *Id.*

Based on Appellant's new evidence [133B, 209-242B, 13C-35C] :

1.) he was very likely to succeed on the merits based on this new evidence.

---

<sup>7</sup> For more information on the 3<sup>rd</sup> prong: See *infra* Argument "Did the District Court Err in denying Appellant's Request for Preliminary Injunction?"

1           2.) Appellant suffers irreparable harm every day that the injunction does not  
2 get granted since the 118<sup>th</sup> Congress has already started.

3           3.) the balance of equities tips in Appellant's favor because granting  
4 injunctive relief, particularly where the Fourth Circuit's "precedent counsels that a  
5 state is in no way harmed by issuance of a preliminary injunction which prevents  
6 the state from enforcing restrictions likely to be found unconstitutional. If anything,  
7 the system is improved by such an injunction." See *Leaders of a Beautiful Struggle*  
8 *v. Baltimore Police Dep 't*, 2 F.4th 330, 346 (4th Cir. 2021).

9           4.) an injunction is in the public interest because "where the differential  
10 treatment concerns a restriction on the right to seek public office - a right protected  
11 by the First Amendment - that Amendment supplies the federal interest in equality  
12 that may be lacking where the State is simply determining [electoral outcomes].  
13 Such restrictions affect not only the expressional and associational rights of  
14 candidates, but those of voters as well. Voters generally assert their views on public  
15 issues by casting their ballots for the candidate of their choice. 'By limiting the  
16 choices available to voters, the State impairs the voters' ability to express their  
17 political preferences.' (citations omitted)" *Clements v. Fashing*, 457 U.S. 957 at 986  
18 (1982). Upholding constitutional rights serves the public interest. *Newsom ex rel.*  
19 *Newsom v. Albemarle Cty. Sch. Bd.*, 354 F. 3d 249, 261 (4<sup>th</sup> Cir. 2003). "The  
20 pervasive national interest in the selection of candidates for national office, and this  
21 national interest is greater than any interest of an individual State." *Anderson* at  
22 795.



CAN A SPECIAL ELECTION STILL BE GRANTED?

Relief can still be granted by holding a Special Election in District 13 of North Carolina. *McCarthy v. Briscoe*, 429 U.S. 1317 (1976) controls this issue. In *McCarthy* the District Courts and COA ruled that time to be placed on the ballot had passed for a presidential election yet the Supreme Court said that it was not too late and placed him on the ballot. Appellant's case *sub judice* is no different than what happened in *McCarthy*. "This Court will normally accept findings of a district court, affirmed by a court of appeals, on factual considerations such as those underlying a determination of laches. But acceptance of findings of fact does not in this case require acceptance of the conclusion that violation of the applicants' constitutional rights must go unremedied." *McCarthy* at 1322. See also NCGS 13-3, 182.13, 287 [14C, 32C, 35C] Since Appellant is only seeking election for U.S. House of Representatives, if this Court were to grant the injunction, it would only be an election for a single district – meaning there would be no confusion to voters and at little cost since Special Elections have happened quite frequently in this Country.

What is *highly* noteworthy is that Appellees themselves have refused to certify winner Mark Harris when he won the 2018 Midterms in District 9 of North Carolina and a Special Election was held in September of 2019 [131B-329B]. The point Appellant is trying to make is that this Court still has the authority to order a special election. See Appellant's Response to Appellee's Answer to Reconsideration [262B-329B]. See also NCGS 163-3, 182.13, 287. [14C, 32C, 35C]

1 Appellees argued in their response to Appellant's Motion to Reconsider that  
2 the issue is moot due to a winner already being seated for the 2022 Midterms  
3 [258B-259B]. "The Board's claim lacks merit. A case is moot "when the issues  
4 presented are no longer 'live' or the parties lack a legally cognizable interest in the  
5 outcome." *Simmons v. United Mortg. Loan Inv., LLC*, 634 F.3d 754, 763 (4th Cir.  
6 2011). There is, however, a well-established mootness exception for conduct  
7 "capable of repetition, yet evading review." *Fed. Election Comm'n v. Wise. Right to*  
8 *Life, Inc.*, 551 U.S. 449, 462, 127 S.Ct. 2652, 168 L.Ed.2d 329 (2007); *see also Miller*  
9 *v. Brown*, 503 F.3d 360, 364 n. 5 (4th Cir. 2007). This exception applies when "(1)  
10 the challenged action is in its duration too short to be fully litigated prior to  
11 cessation or expiration; and (2) there is a reasonable expectation that the same  
12 complaining party will be subject to the same action again." *Wise. Right to Life,*  
13 *Inc.*, 551 U.S. at 462, 127 S.Ct. 2652. Election-related disputes qualify as "capable of  
14 repetition" when "there is a reasonable expectation that the challenged provisions  
15 will be applied against the plaintiffs again during future election cycles." *N.C. Right*  
16 *to Life Comm. Fund for Indep. Political Expenditures v. Leake*, 524 F.3d 427, 435  
17 (4th Cir. 2008). There is clearly such an expectation here..... As a result, [Sharma's]  
18 challenge fits comfortably into the mootness exception for conduct capable of  
19 repetition yet evading review." *Lux v. Judd*, 651 F.3d 396, 401 (2010).

20 The event of being denied Ballot-Access will happen again. Even if Appellant  
21 was not a felon these requirements of being a Registered Voter and being Affiliated  
22 with Political Party for 90 days would still violate Appellant's 1<sup>st</sup>, 14<sup>th</sup> Amendment

1 Rights, Article I Section 2 Clause 2, Article 1 Section 4, Article I Section 5, Article  
2 VI Clause 2 of the U.S. Constitution as they add additional requisites for U.S.  
3 House of Representatives – therefore making the matter not moot.  
4  
5  
6  
7

8 **RELIEF/CONCLUSION**

9 **WHEREFORE**, Appellant reverently requests this Court to grant Certiorari.

10  
11  
12 /Sign/ Siddhanth Sharma  
13 Siddhanth Sharma *Pro Se*  
14

15  
16 /Date/ 6-13-23  
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**CERTIFICATE OF FILING/SERVICE/WORD COUNT AND PENALTY OF  
PERJURY**

I declare under penalty of perjury that the forgoing is true, correct, and complete to  
the best of my knowledge.

Appellant certifies, pursuant to Rule 33.2 that this Petition for Writ of  
Certiorari is in compliance with the word-count limit and is 8995 words.

Appellant certifies, pursuant to Rule 33.1, that this Petition for Writ of  
Certiorari is typed using 12-Point Century Schoolbook font and is Double-Spaced.

Appellant also certifies, pursuant to Rule 29, that a copy has been sent to ALL  
PARTIES via mail/hand delivery/E-Mail as follows on 13 June 2023.

Terence Steed

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Date: 6-13-23