No. 25-

24-6604

ORIGINAL

In The

Supreme Court Of The United States

Supreme Court, U.S.
FILED
FEB 11 2025
OFFICE OF THE CLERK

Siddhanth Sharma

Petitioner

v.

Alan Hirsch, et. al

Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Siddhanth Sharma

pro se

P.O. Box 937

Morrisville, NC, 27560

Telephone: 919-880-3394

E-Mail: Siddhanthsharma1996@yahoo.com

QUESTIONS PRESENTED

To run for Congress, at least in North Carolina, one must be a Registered Voter. Upon being a Registered Voter, one's Residential Address gets displayed on a public database. Additionally, another requisite to run for Congress is that one must disclose if they are a felon – refusal to even answer the question results in being denied form the ballot, and answering untruthfully gets one charged with a Class I Felony. **The questions for the Court are:**

1.) Is Petitioner's case moot simply because the 2024 midterms are over and he has expressed a desire to run for the 2026 midterms as the 4th Circuit noted?

2.) Whether NCGS 163-106(c) acts as an additional qualification, or is an unconstitutional regulation for U.S. House of Representatives candidates; and whether the Felony Disclosure violates the 1st and 14th Amendments. And whether the 4th Circuit's holding conflicts with *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) and *Cook v. Gralike*, 531 U.S. 510 (2001); *Anderson v. Martin*, 375 U.S. 399, 402 (1964)?

PARTIES TO THE PROCEEDING

Petitioner Siddhanth Sharma was the Appellant in the Court of Appeals and was the Plaintiff in the District Court.

The NC Board of Elections (NCBOE) were the Appellees in the 4th Circuit and the Defendants in the District Court.

RULE 29.6 STATEMENT

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

STATEMENT OF RELATED PROCEEDINGS

- *Sharma v. Hirsch*, 23-2164 (4th Cir.) – AFFIRMED by Published Opinion on 14th November 2024.
- Rehearing denied 16th December 2024.
- *Sharma v. Hirsch*, No. 5:23-CV-506-M (E.D.N.C.) – Judgment for Defendants on 30th October 2023.

TABLE OF CONTENTS

OPINIONS BELOW..... pg. 1

JURISDICTION..... pg. 1

CONSTITUTIONAL PROVISIONS INVOLVED..... pg. 1

INTRODUCTION..... pg. 1

STATEMENT OF CASE..... pg. 3

A.) Factual Background..... pg. 3

B.) Procedural History..... pg. 4

REASONS FOR GRANTING CERTIORARI..... pg. 6

1.) Is Petitioner's Case Moot, Simply Because the 2024 Midterms Are Over – as He Has Expressed a Desire to Run For the 2026 midterms, to Which the 4th Circuit Noted?..... pg. 6

A.1.) The Claim..... pg. 7

A.2.) Facial Overbreadth..... pg. 11

A.2.a) N.C. Gen. Stat. § 163-82.10(c) Fails Exacting Scrutiny..... pg. 12

A.2.b) In Addition, N.C. Gen. Stat. § 163-82.10(c) is not Sufficiently Tailored to Respondents' Interest in Informing the Electorate..... pg. 15

B.) Petitioner Has Standing..... pg. 16

C.) The 4th Circuit's Ruling..... pg. 17

2.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with the *Qualifications* and *Elections Clause*, and/or the 1st Amendment?..... pg. 21

A.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with *U.S. Term Limits v. Thornton*?..... pg. 22

B.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with *Cook v. Gralike*?..... pg. 26

C.) Does N.C. Gen. Stat. § 163-106(e) Violate Petitioner's 1st, 14th Amendment Rights?..... pg. 30

I.) What is the Proper Standard?..... pg. 31

II.) N.C. Gen. Stat. § 163-106(e) Fails Exacting Scrutiny..... pg. 32

RELIEF/CONCLUSION..... pg. 35

CERTIFICATE OF COMPLIANCE/WORD COUNT/SERVICE..... pg. 36

APPENDIX

4th Circuit Opinion..... 1a

District Court Opinion..... 20a

4th Circuit Rehearing..... 48a

NCGS 163-82.10(c)..... 49a

NCGS 163-106..... 52a

NCGS 163-106.1..... 54a

NCGS 163-106.2..... 55a

NCGS 163-106.5..... 56a

Candidacy Form..... 57a

Acts of Violence..... 59a

Candidates' Candidacy Forms..... 84a

Appellees Brief - 4th Circuit..... 120a

Petitioner's Brief - 4th Circuit..... 206a

Informal Brief - 4th Circuit..... 252a

Defendant's Brief - District Court..... 300a

Plaintiff's Brief/Complaint - District Court..... 332a

CASELAW/TABLE OF AUTHORITIES

Ams. For Prosperity Found. v. Bonta,
141 S. Ct. 2373 (2021).....2, 11, 12, 14, 15, 16, 31

Anderson v. Celebrezze,
460 U.S. 780 (1983).....15, 16, 30, 31, 32, 33

Anderson v. Martin,
375 U.S. 399, 402 (1964).....2, 22, 29, 30, 34, 35

Arizonans for Official English v. Arizona,
520 U.S. 43, 67 (1997).....19

Board of Trustees, State Univ. of N.Y. v. Fox,
492 U.S. 469 (1989).....15

Broadrick v. Oklahoma,
413 U.S. 601, 612 (1973).....16

Buckley v. American Constitutional Law Foundation, Inc.
525 U.S. 182, 194-95 (1999).....31

Buckley v. Valeo,
424 U.S. 1 (1976).....10

Burdick v. Takushi,
504 U.S. 428 (1992).....30, 31, 32

Davis v. Fed. Election Comm'n,
554 U.S. 724, 735 (2008).....7, 18

Dakotans for Health v. Noem,
52 F.4th 381 (8th Cir. 2022).....10

Doe v. Reed,
561 U.S. 186 (2010).....16, 31, 32, 34

Dunn v. Blumstein,
405 U.S. 330, 358 (1972).....15

Fed. Election Comm'n v. Wis. Right to Life, Inc.,
551 U.S. 449, 462 (2007).....7, 18, 20

McCutcheon v. Fed. Election Comm'n ,
572 U.S. 185 (2014).....32, 33

McIntyre v. Ohio Elections Comm'n,
514 U.S. 334 (1995).....33, 34

N.A.A.C.P. v. Alabama,
357 U.S. 449, 462 (1958).....10, 11

Pacific Gas Elec. Co. v. Public Util. Comm'n,
475 U.S. 1, 12-17 (1986).....31

Secretary of State of Md. v. J. H. Munson Co.,
467 U.S. 947 (1984).....17

Storer v. Brown,
415 U.S. 724, 745-746 (1974).....7, 18

Trump v. Anderson
No. 23-719 (Sup. Ct. Mar. 4, 2024).....24

United States Term Limits v. Thornton,
514 U.S. 779 (1995).....2, 10, 22, 23, 24, 25, 28

Wooley v. Maynard,
430 U.S. 705, 717 (1977).....31

STATUTES/RULES

U.S. CONSTITUTION

Article I Section 2 Clause 2.....1, 2, 4, 21, 23, 25

Article I Section 4 Clause 1.....1, 4, 5, 21, 24, 30

1st Amendment.....1, 5, 10, 11, 16, 17, 21, 30, 31, 32, 33, 34, 35

14th Amendment.....1, 17, 21, 30, 35

Local Rule

10.....1

Federal Statute:

28 U.S.C. 1254.....1

NC General Statute:

NCGS 163-82.10(c).....1, 3, 4, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20

NCGS 163-106.....1, 6, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35

NCGS 163-106.1.....1, 3, 6, 7, 8, 9, 19, 20, 22

NCGS 163-106.2.....1, 7, 8, 19, 22

NCGS 163-106.5.....1, 3, 8, 9, 19

Other Authorities

1 J. Story, Commentaries on the Constitution of the United States § 625 (3d ed. 1858).....23

N.C. State Bd. of Elections, 2021 NCSBE Incident and Case Data (PDF), https://s3.amazonaws.com/dl.ncsbe.gov/Investigations/NCSBE%20Incident%20and%20Case%20Data%201.4.22.pdf 14

N.C. State Bd. of Elections, in Investigations Related Documents, Excel Spreadsheets from 2015 to 2022 https://www.ncsbe.gov/about-elections/election-security/investigations-division.....15

NC Voter List Maintenance https://s3.amazonaws.com/dl.ncsbe.gov/Voter_Registration/North_Carolina_List_Maintenance_Policy_2024_08_21.pdf 13

OPINIONS BELOW

The 4th Circuit's Published Opinion, *Sharma v. Hirsch*, 23-2164 (4th Cir.). 1a

The 4th Circuit denying rehearing. 48a

The District Court's denial *Sharma v. Hirsch*, 5:23-CV-506-M (E.D.N.C.). 20a

JURISDICTION

This Court retains jurisdiction pursuant to 28 U.S.C. 1254 and Rule 10.

The 4th Circuit's Published Opinion was issued on 14th November 2024,

Rehearing denied on 16th December 2024.

CONSTITUTIONAL PROVISIONS, STATUTES, ETC. INVOLVED

The constitutional provisions are U.S. Const. art. 1, §2 cl. 2, U.S. Const. art. 1, §4 cl. 1, and the 1st and 14th Amendment.

The statutory provisions are N.C. Gen. Stat. § 163-82.10(c), N.C. Gen. Stat. § 163-106(a), (e), N.C. Gen. Stat. § 163-106.1, N.C. Gen. Stat. § 163-106.2, N.C. Gen. Stat. § 163-106.5(a), (b).

INTRODUCTION

This Court is the last bastion before these issues becomes final and no longer redressable, thereby setting precedent into disarray – which will then sow discord and confusion amongst the lower courts for the future.

This case is about ensuring that states do not impose additional, unconstitutional qualifications on candidates for U.S. House of Representatives[1]. The Framers of our Constitution established that those who seek to become

[1] For the sake of brevity, Petitioner believes it best to dub U.S. House of Representatives as "Congress."

members of the U.S. House of Representatives need only have three qualifications: (1) be at least twenty-five years old, (2) be a citizen of the United States for seven years, and (3) reside in the state that they are chosen to represent. U.S. Const. art. I, §2, cl. 2. Thirty years ago, the U.S. Supreme Court declared these qualifications to be "fixed and exclusive." *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 790 (1995).

Today, North Carolina adds to these exclusive qualifications another: candidates for the U.S. House of Representatives must answer whether, or not, they have a felony conviction: noncompliance results in a not appearing on the ballot. But as the Framers warned: "A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected." *Id.* at 790-91. This disclosure qualification is unconstitutional as applied to federal congressional candidates. See *Cook v. Gralike*, 531 U.S. 510, 511 (2001); *Anderson v. Martin*, 375 U.S. 399, 402 (1964).

This case is also about protecting a federal congressional candidate's safety. Physical violence, stalking, and death threats are "heightened in the 21st century and seem to grow with each passing year, as anyone with access to a computer [can] compile a wealth of information about anyone else, including such sensitive details as a person's home address or the school attended by his children." *Ams. For Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2388 (2021) (citation omitted). North Carolina unreasonably subjects federal congressional candidates to threats, harassment, and other forms of violence by requiring them to be a Registered Voter

under N.C. Gen. Stat. § 163-106, 106.5, which in turn, publicly discloses their addresses to anyone with internet access. N.C. Gen. Stat. § 163-82.10(c). This should not continue.

STATEMENT OF THE CASE

A.) Factual Background

Petitioner wanted to run for Congress in the 2024 Midterms as a Republican[2]. Prospective candidates seeking the nomination of a political party in a primary election must submit a notice of candidacy. *See* N.C. Gen. Stat. § 163-106(a). 52a, 57a.

Among other inquiries the form requires one to be a Registered Voter via N.C. Gen. Stat. § 163-106.5(a), being Affiliated with a Political Party for 90 Days via N.C. Gen. Stat. § 163-106.1, and a felony disclosure via N.C. Gen. Stat. § 163-106 (e). The notice form asks, "Have you ever been convicted of a felony?" *Id.* § 163-106(e). Candidates, like Petitioner, who check "yes" must submit a supplemental form which requires them to list "the name of the offense, the date of conviction, the date of the restoration of citizenship rights, and the county and state of conviction." *Id.* The form becomes a **public record for voters** to see. **Failure** to answer the felony disclosure question results in the "**individual's name [] not appear[ing] on the ballot**," and the **voiding of all votes cast for that individual**. *Id.* In the event that one does not answer truthfully, it punishes one with a **Class I Felony**.

[2] It should be noted that Petitioner intends to run in the 2026 midterms, to which the 4th Circuit noted in a footnote. 10a.

Finally, as a requirement for being a Registered Voter, as well as on Section 3 of the Candidacy Form, one's residential address gets displayed on a public database, accessible via N.C. Gen. Stat. § 163-82.10(c). The statute reads: "(1) The county board of elections shall make the voter registration information **available to the public** on electronic or magnetic medium. (2) Information requested on electronic or magnetic medium shall contain the ...**residential address**...." The electronic medium is https://vt.ncsbe.gov/reglkup/[3].

This alarmed Petitioner because he feared that publicizing his residential address would expose him to threats and harassment, similar to other candidates and public officials. Petitioner knew that failing to answer the felony history question would bar him from being placed on the primary ballot. He also knew that denying his felony history would constitute a Class I felony. Petitioner further believed that being a Registered Voter and being affiliated with a political party for 90 days were additional qualifications than what U.S. Const, Art. 1. Sec. 2 cl. 2 required. Petitioner sued via 42 U.S.C. 1983 in Federal Court. 332a-377a.

B.) Procedural History

The District Court, regarding the Registered Voter and 90-day Party Affiliation requirement, found those issues not ripe. 34a-36a. The District Court, regarding the Felony Disclosure, applied exacting scrutiny, ruled on the merits and denied relief with prejudice. 36a-42a. It found the felony disclosure to be a permissible regulation of elections under U.S. Const, Art. 1. Sec. 4, because

[3] All one must do is type one's first and last name and one's residential address gets displayed.

"Constituents should and do expect commitment to the rule of law from their representatives. A disclosure designed to probe the strength of that commitment, and consequently inform the electorate of the same, directly serves that State interest." 41a. The District Court, in a footnote, regarding the residential address claim found that Petitioner lacked standing. 45a. Petitioner appealed all issues.

Petitioner filed his informal brief. 252a-299a. Upon Petitioner filing his informal brief, pursuant to the 4th Circuit's local rules he was appointed counsel. Counsel only raised two issues on appeal. The Felony Disclosure and the Residential Address Disclosure.

The 4th Circuit in a published opinion, regarding the Felony Disclosure, found that it was not an additional qualification, but a regulation permissible under Article 1 Section 4 Cl. 1 of the U.S. Constitution. 12a-13a. The basis was that "Disclosing past histories of lawbreaking in a prospective lawmaker falls within the ambit of permissible safeguards necessary to ensur[e] that elections are 'fair and honest.'" 13a. The Panel further found that the felony disclosure did not violate the 1st Amendment. 14a-15a. The reasoning was that it was necessary for the state to show voters that "lawmaking and lawbreaking are, to put it gently, in tension." 15a. Regarding the Residential Address disclosure claim, the 4th Circuit found the issue moot because the 2024 midterms had elapsed, yet noted in a footnote that Petitioner would run in the 2026 midterms. 15a-16a, 10a. The 4th Circuit further substantiated its position that, because of the State's assurance at oral argument, one can omit being a Registered Voter from the Candidacy Form and still be on the

ballot, thereby not being subjected to the Residential Address Disclosure and making the issue no longer capable of repetition yet evading review. 17a.

Petitioner sought a Panel Rehearing regarding the Residential Address disclosure being capable of repetition yet evading review. The basis for the Rehearing was that there was a factual misrepresentation by Respondents at oral argument, in being that Petitioner did still have to be a registered voter to run for Congress due to the dictates of N.C. Gen. Stat. § 163-106.1. The Fourth Circuit denied the rehearing without opinion. 48a.

REASONS FOR GRANTING CERTIORARI[4]

1.) Is Petitioner's Case Moot, Simply Because the 2024 Midterms Are Over – as He Has Expressed a Desire to Run For the 2026 midterms, to Which the 4th Circuit Noted?

Summary:

Because of the way the 4th Circuit ruled, Petitioner has no method of seeking review in the lower courts. This can only be remedied by this Court. The issue sought to be challenged was the Residential Address Disclosure of Registered Voters and Candidates by Respondents, via a public database.

The relief Petitioner seeks is reversing the 4th Circuit's ruling on mootness so it can determine the issue of Standing. The District Court, in a footnote, ruled that

[4] One additional reason for this Court to grant review is that the 4th Circuit noted the importance of this case and North Carolina election cases in general, and dedicated 1 full page, with a subheading, explaining so. 18a-19a. This imposes a fair inference that review should be warranted by this Court.

Petitioner lacked standing. The 4th Circuit, instead of ruling on whether Petitioner had standing, found that because the 2024 midterms have elapsed, it lacked jurisdiction because the issue was moot – yet the 4th Circuit noted that Petitioner would run in the 2026 midterms. The 4th Circuit's ruling conflicts with *Storer v. Brown*, 415 U.S. 724, 737 n.8 (1974); *Fed. Election Comm'n v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007); *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 735 (2008).

This case comes in an unusual posture. Because the issue of standing is still in play, this Court must have jurisdiction. Petitioner believes it best to proceed by stating the nature of the claim, then adducing whether Petitioner has standing based on the claim, then the 4th Circuit's ruling.

A.1) The Claim

N.C. Gen. Stat. § 163-106(a) reads: "No one shall be voted for in a primary election without having filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section and G.S. 163-106.1, **163-106.2**[5]...To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in G.S. 163-106.2, a notice and pledge in the following form:

I hereby file notice as a candidate for nomination as _____ in the _____ party primary election to be held on _____, _____ I affiliate with the

[5] N.C. Gen. Stat. § 163-106.2 reads: "Candidates seeking party primary nominations for the following offices shall [consist of] ..... United States House of Representatives." (cleaned up). 55a.

_____ party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the _____ party.) I pledge that if I am defeated in the primary, I will not run for the same office as a write-in candidate in the next general election.

Signed_____ (Name of Candidate)."

52a.

N.C. Gen. Stat. § 163-106.1 reads: "No person shall be permitted to file as a candidate in a party primary unless that person has been affiliated with that party for at least 90 days...." 54a.

N.C. Gen. Stat. § 163-106.5(a) reads: "Candidates required to file their notice of candidacy with the State Board of Elections under G.S. 163-106.2 shall file along with their notice a certificate signed by the chairman of the board of elections or the director of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county.....stating the party with which the person is affiliated, and that the person has not changed his affiliation from another party or from unaffiliated within three months prior to the filing deadline under G.S. 163-106.2." 56a.

N.C. Gen. Stat. § 163-106.5(b) reads: "When any candidate files a notice of candidacy with a board of elections under G.S. 163-106.2 or under G.S. 163-291(2),

the board of elections shall, immediately upon receipt of the notice of candidacy, inspect the registration records of the county, and cancel the notice of candidacy of any person who does not meet the constitutional or statutory qualifications for the office, including residency." 56a.

N.C. Gen. Stat. § 163-82.10(c) reads: "(1) The county board of elections shall make the voter registration information **available to the public on electronic or magnetic medium**. For purposes of this section, "electronic or magnetic medium" means any of the media in use by the State Board of Elections at the time of the request.
(2) Information requested on electronic or magnetic medium shall contain the following: voter name, county voter identification number, **residential address**...." 49a.

Upon reading all the statutes cited, being a Registered Voter, at least in North Carolina, is a requisite to appear on the ballot for U.S. House of Representatives. *See* N.C. Gen. Stat. § 163-106.5(a); *See also* Candidates' Candidacy Form (84a-119a). N.C. Gen. Stat. § 163-106.1 mandates that nobody will appear on the primary ballot if one has not been affiliated with a political party for 90 days – the way you get affiliated, at least in North Carolina, is by being a Registered Voter. As a consequence for being a Registered Voter, N.C. Gen. Stat. § 163-82.10(c) makes any registered voter's residential address available to anyone with internet

connection, via an online database. To find any registered voter's home address, including candidates, one need only type in a voter's first name, last name. *See* N.C. State Bd. of Elections, Voter Search, https://vt.ncsbe.gov/reglkup (last visited Feb. 3, 2025).

To begin, Petitioner does not challenge the fact that he must disclose his address to Respondents, as opposed to the public, to run for office or even to vote. Such a restriction would thwart the State's legitimate interest in protecting an orderly election without any fraud. *Thornton*, 514 U.S. at 835. Rather, Petitioner challenges the next step – the **public disclosure** of his address. This step is required for anyone who votes or seeks office.

"A finding of a substantial 'chill' on protected first amendment rights requires a showing that the statutory scheme will result in threats, harassment, or reprisals to specific individuals." *Buckley v. Valeo*, 424 U.S. at 74; *NAACP v. Alabama*, at 357 U.S. at 462-63 (1958). Petitioner was aware that political violence is nothing new; in Petitioner's home state, a shooting happened at the home of another congressional candidate[6]. 59a. The display of Petitioner's Residential Address through N.C. Gen. Stat. § 163-82.10(c), as he sought to run for Congress, chilled his right to seek office. Public disclosure of residential addresses "is a recipe for harassment." *Dakotans for Health v. Noem*, 52 F,4th 381, 390-91 (8th Cir. 2022). Physical violence, stalking, death threats, and other assaults are "heightened in the 21st century and seem to

[6] In the Appendix, there are several other instances of violence and hooliganism against candidates and incumbents at their homes. *See* 59a-83a. Petitioner has presented these acts of violence in the District Court and 4th Circuit. *See* 371a, 239a

grow with each passing year, as 'anyone with access to a computer [can] compile a wealth of information about anyone else, including such sensitive details as a person's home address.'" *Bonta*, 141 S. Ct. at 2388 (quoting *Reed*, 561 U.S. at 208 (Alito, J., concurring)) (alteration in *Bonta*).

Due to the instances of violence shown, "Petitioner has made an uncontroverted showing that on past occasions revelation of" Petitioner's Residential Address via N.C. Gen. Stat. § 163-82.10(c) "has exposed threat of physical coercion, and other manifestations of public hostility. Under these circumstances, we think it apparent that compelled disclosure of petitioner's [Residential Address] is likely to affect adversely the ability of petitioner to foster beliefs which [he] admittedly have the right to advocate, in that it may induce [Petitioner] to withdraw from the [running for office] and dissuade others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure." *N. A. A. C. P. v. Alabama*, 357 U.S. 449, 462-63 (1958).

A.2) Facial Overbreadth

Petitioner makes a facial overbreadth challenge to N.C. Gen. Stat. § 163-82.10(c). "In the First Amendment context, however, we have recognized 'a second type of facial challenge, whereby a law may be invalidated as overbroad if a substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep.'" *Ams. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2387 (2021). The test used in *Bonta*, 141 S. Ct. at 2389 was viewing the disclosure under "exacting scrutiny in a substantial number of its applications ...

judged in relation to [its] plainly legitimate sweep" *Ams. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2389 (2021).

A.2.a) N.C. Gen. Stat. § 163-82.10(c) Fails Exacting Scrutiny

Here, disclosing a candidate's address to the public is an unconstitutional coerced disclosure. Coerced disclosures are subject to exacting scrutiny. *Reed*, 561 U.S. at 196. To pass exacting scrutiny there must be a "substantial relation between the disclosure requirement and a sufficiently important governmental interest." *Id.* The statute must also be narrowly tailored. *Bonta*, 141 S. Ct. 2384. A law that requires the disclosure of sensitive information is not narrowly tailored if it does not play an "integral part" in advancing the state's "investigative, regulatory or enforcement efforts." *Bonta*, 141 S. Ct. at 2386. In fact, such a law must demonstrate its purpose "in light of any less intrusive alternatives." *Id.*

Respondents argued summarily below that their interest in public address disclosure was: (1) protecting the integrity and regularity of the election process; 324a; (2) helping voters make well-informed voting decisions; 325a; and (3) the informational interest of the public. *Id.*; see also 329a (explaining that the interests in public address disclosure were the same as felony disclosure). For the sake of brevity, Petitioner will only discuss Respondents' second option[7].

The second less intrusive process is SEIMS. This system functions much like the database that Justice Thomas envisioned in *Reed*. 561 U.S. at 235-38 (Thomas, J., dissenting). In Justice Thomas's dissent, he feared that "the state of technology"

[7] For Points 1 and 3, *see* 241a-244a.

increases the risk that referendum signers would be subject to "threats, harassment, or reprisals if their personal information is disclosed." *Id.* at 242. To combat that concern, while still supporting the state's important interest in protecting the regularity and integrity of the referendum process, he proposed that Washington create a database that would weed out duplicate applicants, cross-check their personal addresses and other private personal information, and verify other referendum requirements. *Id.* By doing so, the state could have more effectively upheld its interest of protecting the regularity and integrity of its referendum process without requiring public address disclosure. See *Id.* at 236, 242. Unlike the state of Washington in Reed, **North Carolina already has a database to do just what Justice Thomas envisioned**. Here, SEIMS upholds Respondents' interests more effectively than public address disclosure by automatically correcting mistakes and providing the County and State Board of Elections with address-related information. SEIMS automatically removes North Carolina voters "from the previous county of registration when the person is registered in the new county." Voter List Maintenance Manual at 24, https://s3.amazonaws.com/dl.ncsbe.gov/Voter_Registration/North_Carolina_List_Maintenance_Policy_2024_08_21.pdf . It also generates a weekly report that flags duplicate voter IDs, voters who were removed but still voted, and duplicate driver's license numbers. *Id.* at 24-25. Additionally, SEIMS identifies voters who have moved out of state but are still registered in North Carolina and compiles cancellation notices, death reports, and DMV lists. *Id.* at 36-39. SEIMS provides

multiple layers of independent voter address verification and allows Respondents to protect the regularity and integrity of their elections without exposing anyone to threats or harassment. In sum, Respondents already have a second less intrusive means of fulfilling their important interests.

Unlike the above processes, there is no indication that N.C. Gen. Stat. § 163-82.10(c) helps Respondents ensure the regularity and integrity of the election process, which is similar to the disclosure issues in *Bonta*. There, the Court held that because disclosure of Schedule B tax returns did not "advance the Attorney General's investigative, regulatory or enforcement efforts" it fell "far short of satisfying the means-end fit that exacting scrutiny requires." *Bonta*, 141 S. Ct. at 2386.

Likewise, here, the public disclosure of addresses does not advance Respondents' investigative, regulatory, or enforcement efforts. Of the 358 complaints Respondents received between September 1, 2020, and January 4, 2022, only ten related to residency issues (2.7%). See N.C. State Bd. of Elections, 2021 NCSBE Incident and Case Data (PDF), https://s3.amazonaws.com/dl.ncsbe.gov/Investigations/NCSBE%20Incident%20and%20Case%20Data%201.4.22.pdf (Last accessed Feb. 4th 2025). Of those ten complaints, none were prosecuted. *Id.* Furthermore, of all the cases from 2015 to the present that originated from a citizen complaint and were then referred to a prosecutor, only two related to candidate residency (0.2%) and zero were related to voter residency. See N.C. State Bd. of Elections, in Investigations Related

Documents, Excel Spreadsheets from 2015 to 2022, https://www.ncsbe.gov/about-elections/election-security/investigations-division (last visited Feb. 4th, 2025).

Like the disclosure of tax returns in *Bonta*, the lack of prosecutions using public complaints demonstrates that the means do not fit the ends. Instead, the law draws a few complaints and no prosecutions. Such a law does not play an integral part in helping Respondents achieve their interests. Thus, under *Bonta*, N.C. Gen. Stat.§ 163-82.10(c) "falls far short of satisfying the means-end fit that exacting scrutiny requires." *Bonta*, 141 S. Ct. at 2386.

A.2.b) In Addition, N.C. Gen. Stat. § 163-82.10(c) is not Sufficiently Tailored to Respondents' Interest in Informing the Electorate

The disclosure requirement is not well-tailored to Respondents' interest in informing the electorate because disclosing candidate addresses does not help voters make an informed choice. While Respondents have an interest in fostering an informed electorate, this requirement is not well-tailored to that interest. Courts conducting a tailoring analysis analyze whether the statute "employs not necessarily the least restrictive means but ... a means narrowly tailored to achieve the desired objective." *Board of Trustees*, 492 U.S. at 480 (internal quotation omitted). If the statute does not advance the purported interest, it is not compelling. See *Bonta*, 141 S. Ct. at 2386. Issues of voter education typically reflect knowledge of the issues surrounding the vote. See *Anderson*, 460 U.S. at 798 (explaining that state's interest was not narrowly tailored because voters could inform themselves of the issues); see also *Dunn v. Blumstein*, 405 U.S. 330, 358 (1972) (explaining that

duration requirement was not tailored to informing public because new voters had access to other communications that could inform them). For federal elections, courts presume the electorate has the ability "to inform themselves about campaign issues." *Anderson*, 460 U.S. at 797. Disclosing a candidate's home address does not help voters make an informed choice because home addresses bear no relation to campaign issues. Voters have extensive access to information that informs them of the political, social, and other views of a particular candidate. Knowledge of a candidate's home address does little to inform a voter's choice of political, social, or other views of a candidate. To the extent that it does, such information is far outweighed by the risks that the candidate faces because of this disclosure.

B.) Petitioner Has Standing

The Supreme Court long ago relaxed "its traditional rules of standing to permit-in the First Amendment area-attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with the requisite narrow specificity." *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973) (internal quotation omitted). Courts will consider the case if the statute at issue "creates the unnecessary risk of chilling in violation of the First Amendment." *Bonta*, 141 S. Ct. at 2388 (internal quotation omitted). "In related contexts, we have explained that those resisting disclosure can prevail under the First Amendment if they can show a reasonable probability that the compelled disclosure [of personal information] will subject them to threats, harassment, or reprisals from either Government officials or private parties." *Doe v.*

Reed, 561 U.S. 186, 200 (2010). The District Court, in a footnote, ruled that Petitioner lacked standing – though not giving explicit reasons. 45a.

In this case, Petitioner has standing to bring a facial overbreadth challenge against N.C. Gen. Stat. § 163-82.10(c) because he has alleged sufficient facts that, taken as true, indicate that North Carolina's public address disclosure heightens candidates' risks of exposure to assassination attempts, threats, and other dangers. 59a-83a. For example, the home of a North Carolina Republican Candidate was shot into by an assailant while his children were present. 59a. The public display of Petitioner's address elevates the risk he will be subject to similar risks and chills his 1st and 14th amendment rights to seek office. Thus, Petitioner has standing to bring this facial overbreadth challenge. "Thus, when there is a danger of chilling free speech, the concern that constitutional adjudication be avoided whenever possible may be outweighed by society's interest in having the statute challenged." *Secretary of State of Md. v. J. H. Munson Co.*, 467 U.S. 947, 956 (1984).

Petitioner's case still satisfies general Article III Standing. Petitioner has alleged an injury: a chill of his 1st 14th amendment rights to seek office due to N.C. Gen. Stat. § 163-82.10(c) revealing his residential address on a public database, which can induce threats, harassment, etc. This action is enforced by Respondents. Petitioner's case is likely to be redressed by a favorable ruling.

C.) The 4th Circuit's Ruling

The 4th Circuit, without ruling on the issue of standing, found that the issue was moot because 1.) the 2024 midterms were over and 2.) that the issue was not

capable of repetition yet evading review, because the 4th Circuit believed that one can simply omit being a registered voter from the candidacy form. 15a-17a.

Addressing the 4th Circuit's first reasoning, the 4th Circuit, in a footnote, noted that Petitioner would run for Congress in 2026. 10a. Therefore, he will be subjected to N.C. Gen. Stat. § 163-82.10(c) in the future. The 4th Circuit's reasoning is in direct conflict with *Storer v. Brown*, 415 U.S. 724, 737 n.8 (1974); *Fed. Election Comm'n v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007); *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 735 (2008) because the Supreme Court has repeatedly instructed that the exception is especially appropriate when mootness would have otherwise been the result of a completed election cycle. To further bolster Plaintiff's claim, the 4th Circuit, regarding the Felony-Disclosure-Additional-Qualification-Issue, found that the issue was capable of repetition yet evading review. 10a (footnote). If the 4th Circuit found that issue capable of repetition, there is no reason as to why the same logic shouldn't be applied in regards to the Residential Address claim.

Coming to the 4th Circuit's second reasoning, the 4th Circuit believed the issue to be moot because it thought that the issue was not capable of repetition yet evading review. The 4th Circuit believed that one can simply omit being a registered voter from the candidacy form. This was based on a **factual misrepresentation** by Respondents at Oral Argument; and it is this factual misrepresentation that makes the 4th Circuit's holding in conflict with *Storer*, *Wis. Right to Life*, *Davis* – which warrants reversal by this Court.

The 4th Circuit ruled: "The Board conceded at oral argument that North Carolina will not and cannot mandate that candidates for federal office be registered voters because such a requirement would constitute an unconstitutional additional qualification on officeholding. Thus, any candidate who objects to providing his address may simply cancel his voter registration or avoid registering altogether." 17a.

Respondents misrepresented North Carolina law because N.C. Gen. Stat. § 163-106.1 says that one will not be on the primary ballot if one has not been affiliated with a political party for 90 days, and one can only be affiliated with a political party by being a registered voter via N.C. Gen. Stat. § 163-106, 106.5(a). This includes the office of U.S. House of Representatives. *See* N.C. Gen. Stat. § 163-106.2. When one becomes a Registered Voter, one's residential address is available on a database system via N.C. Gen. Stat. § 163-82.10(c). To show proof that one cannot omit being a registered voter, as the 4th Circuit claims, attached here is every candidate's candidacy form that ran in District 13. 84a-119a. The fact that every candidate filled out being a registered voter is not a mere coincidence or voluntary: it is mandatory law.

"To qualify as a case fit for federal-court adjudication, 'an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.'" *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67 (1997). Despite the 4th Circuit's Ruling that the case is moot, Petitioner's case is very much still live for all reasons stated in this brief. Coming to the heart of the argument, with the way

the 4th Circuit ruled, Petitioner will have no method to seek further redress/relief in the lower courts – this can only be remedied by this Court. Because of the way the District Court and 4th Circuit ruled, if Petitioner were to refile this claim, the District Court will rule that it lacks jurisdiction; By the time it gets to the 4th Circuit it will get ruled moot again.

Petitioner's case comes under the Mootness Exception Doctrine. That exception applies where "(1) the challenged action is in its duration too short to be fully litigated prior to cessation or expiration; and (2) there is a reasonable expectation that the same complaining party will be subject to the same action again," *Federal Election Com'n v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 450 (2007). Petitioner meets both prongs.

Satisfying the First Prong, it would be unreasonable to think Petitioner would have his claims litigated prior to an election completing. Satisfying the Second Prong, since Petitioner is running for Congress in the 2026 midterms as the 4th Circuit noted, he will be subjected to having his Residential Address revealed, via N.C. Gen. Stat. § 163-82.10(c). Because of N.C. Gen. Stat. § 163-106.1, Petitioner must be a Registered Voter to run for Congress, subsequently his residential address gets revealed.

Petitioner reverently requests this Court to reverse the 4th Circuit's ruling on mootness as this issue is capable of repetition yet evading review.

In the alternative that this Court also finds standing, Petitioner reverently requests this Court to reverse the 4th Circuit's decision so that it can determine the merits.

2.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with the *Qualifications* and *Elections* clause, and/or the 1st Amendment?

Summary:

This Court should reverse the 4th Circuit's affirmance of the District Court. First, N.C. Gen. Stat.§ 163-106 is an additional, unconstitutional qualification as applied to federal congressional candidates because it forces all candidates to answer whether, or not, they have a felony, and failure to answer disqualifies one from the ballot. Second, if this Court finds the felony disclosure to sustain being a qualification, it is an impermissible regulation of elections by handicapping Petitioner. Third, even if the felony disclosure law is a permissible regulation of elections, it is unconstitutional compelled speech in violation of the 1st and 14th Amendment and cannot withstand review under the exacting scrutiny standard.

The 4th Circuit's opinion regarding N.C. Gen. Stat. § 163-106(e) was broken into Parts A and B. Part A viewed the statute under the Qualifications Clause U.S. Const. Art. 1 Sec. 2. Cl. 2. and under the Elections Clause U.S. Const. Art. 1 Sec. 4. Part B was viewed as compelled speech under the 1st and 14th Amendments. The 4th Circuit's ruling, regarding the felony disclosure under N.C. Gen. Stat. § 163-106(e),

conflicts with *United States Term Limits v. Thornton*, 514 U.S. 779 (1995); *Cook v. Gralike*, 531 U.S. 510 (2001); *Anderson v. Martin*, 375 U.S. 399, 402 (1964).

A.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with *U.S. Term Limits v. Thornton?*

N.C. Gen. Stat. § 163-106(e) reads: ".... at the same time the candidate files notice of candidacy under this section and G.S. 163-106.1, **163-106.2**[8], 163-106.3, 163-106,5, and 163-106.6, the candidate shall file with the same office a statement answering the following question: "Have you ever been convicted of a felony?".... **The form shall be available as a public record**..... If an individual does not complete the statement required by this subsection, the board of elections accepting the filing shall notify the individual of the omission, and the individual shall have 48 hours after notice to complete the statement. **If the individual does not complete the statement** at the time of filing or within 48 hours after the notice, the individual's filing is not complete, **the individual's name shall not appear on the ballot as a candidate, and votes for that individual shall not be counted**." It is a **Class I felony** to complete the form knowing that information as to felony conviction or restoration of citizenship is untrue. (emphasis added). 52a-53a.

The noncompliance clause of N.C. Gen. Stat.§ 163-106(e), operates as an additional, unconstitutional qualification in violation of the Qualifications Clause of the United States Constitution as applied to Petitioner. In Petitioner's case, because

[8] N.C. Gen. Stat. § 163-106.2 reads: "Candidates seeking party primary nominations for the following offices shall..... United States House of Representatives."

he is a felon, it is either disclose his felony history and be subjected with pejorative labels or be denied ballot access.

The Qualifications Clause establishes that to be a candidate for the U.S. House of Representatives, a person must be twenty-five years old, "seven Years a Citizen," and an "Inhabitant of that State in which he shall be chosen" when elected. U.S. Const. Art. I, § 2, Cl. 2. These qualifications are "fixed and exclusive." *Thornton*, 514 U.S. 779, 790 (1995). Because the Constitution is the sole "source of qualifications for Members of Congress," the states are "divested" of "any power to add qualifications." *Id.* at 801; see also *id.* at 793 ("It would seem but fair reasoning upon the plainest principles of interpretation, that when the constitution established certain qualifications, as necessary for office, it meant to exclude all others, as prerequisites.") (citing 1 J. Story, Commentaries on the Constitution of the United States§ 625 (3d ed. 1858)). That is why the Supreme Court has cited approvingly courts that have struck down "restrictions on those convicted of felonies" as constituting additional, unconstitutional qualifications. See *Thornton*, 514 U.S. at 798-99.

In Part A, addressing N.C. Gen. Stat. § 163-106(e) as an unconstitutional additional qualification, the 4th Circuit ruled that "[Petitioner]'s compliance with the felony-disclosure requirement—a simple checkbox and half-page form"[9] would allow Petitioner to appear on the ballot. 12a. The 4th Circuit's rationale conflicts with *Thornton*. To comply with what is unconstitutional would handicap Petitioner

[9] This sentence is the only justification by the 4th Circuit regarding N.C. Gen. Stat. § 163-106(e) as an additional qualification.

with pejorative labels and to not comply would result in ballot access denial. The cause of concern is the noncompliance clause.

The 4th Circuit, however, ignores the Supreme Court's test for unconstitutional qualifications. 12a-13a. Instead, the 4th Circuit hinges its ruling on the test for what constitutes a "manner" regulation under the Elections Clause – ruling, that "disclosing past histories of lawbreaking in a prospective lawmaker falls within the ambit of permissible safeguards necessary to ensur[e] that elections are fair and honest, and that some sort of order, rather than chaos is to accompany the democratic process." The 4th Circuit's singular reliance on the Elections Clause test distorts the Supreme Court's holdings in *Thornton* because, when a state law is "undertaken for the twin goals of disadvantaging a particular class of candidates and evading the dictates of the Qualifications Clauses," that law is unconstitutional. *Thornton*, 514 U.S. at 835.

While states are delegated the authority to regulate the "Times, Places and Manner of holding Elections," U.S. Const. art. I, § 4, cl. 1, that authority does not "provide States with license to exclude classes of candidates from federal office." *Thornton*, 514 U.S. at 832-33. "States, of course, retain authority to prescribe the qualifications of their own officers, but '[s]uch power over governance ... does not extend to federal officeholders and candidates.'" *Trump v. Anderson*, No. 23-719, slip op. at 6 (Sup. Ct. Mar. 4, 2024).

This Court must then rely on the 4th Circuit's single statement, that "[Petitioner]'s compliance with the felony-disclosure requirement—a simple

checkbox and half-page form would allow Petitioner to appear on the ballot," as the justification for passing the Qualifications Clause. Applying the proper test, Petitioner has alleged that the felony disclosure law violates the Qualifications Clause because it has (1) "the likely effect of handicapping a class of candidates" and (2) "the sole purpose of creating additional qualifications indirectly."

First, North Carolina's felony disclosure law, though it applies to all candidates, was primarily intended to handicap federal congressional candidates who have previously been convicted of felonies. **Second**, the language of N.C. Gen. Stat.§ 163-106 is unambiguous: if you don't answer the felony disclosure you will be removed from the ballot – and even face a Class I felony if you do not answer accurately..This comports with qualifying as an additional qualification for Congress and is unconstitutional under *Thornton*, as conflicting with U.S. Const. Art. 1 Sec. 2. Cl. 2. Therefore, N.C. Gen. Stat. § 163-106(e) "is an effort to dress eligibility to stand for Congress in ballot access clothing, because the intent and the effect of [N.C. Gen. Stat. § 163-106(e)] are to 'handicap a class of candidates and has the sole purpose of creating additional qualifications indirectly.'" *Thornton*, 514 U.S. at 829, 836 (1995).

This Court should thus reject this "indirect attempt to accomplish what the Constitution prohibits [Respondents] from accomplishing directly." *Thornton*, 514 U.S. at 829. Our "constitutional rights would be of little value if they could be indirectly denied." *Id.* (cleaned up). Accordingly, this Court should hold that N.C.

Gen. Stat. § 163-106(c) is an unconstitutional qualification as applied to Petitioner as a federal congressional candidate.

B.) Does the 4th Circuit's Holding, Regarding N.C. Gen. Stat. § 163-106(e), Conflict with *Cook v. Gralike*?

The 4th Circuit, then viewing N.C. Gen. Stat. § 163-106(e) under the lens of *Cook*, said that:

"North Carolina's felony-disclosure requirement in no way disadvantages political viewpoints. The disclosure is the mere repetition of a simple fact contained in the public record...Unlike the disclosure in *Cook*, the felony disclosure does not reveal anything about Sharma's personal philosophy or opinions on public policy.....The felony-disclosure requirement is a proper exercise of North Carolina's "time, place, and manner" regulatory power... Disclosing past histories of lawbreaking in a prospective lawmaker falls within the ambit of permissible safeguards necessary to ensur[e] that elections are 'fair and honest,' and 'that some sort of order, rather than chaos is to accompany the democratic process. (citing *Cook*, 531 U.S. at 524)." 13a.

These rationales are precisely what was condemned in *Cook*.

In *Cook*, Missouri voters adopted a state constitutional amendment requiring federal congressional candidates to use their powers in Congress to pass an amendment to the Federal Constitution. 531 U.S. at 513-14. Candidates who failed to support the amendment had printed, next to their names on all primary ballots, the statements "DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS"

and "DECLINED TO PLEDGE TO SUPPORT TERM LIMITS." *Id.* at 514-15. The Supreme Court rejected the state's argument that "the labels 'merely' inform Missouri voters about a candidate's compliance with [the amendment]." *Id.* at 525. Instead, the Court concluded that the labels placed candidates at a "political disadvantage to unmarked candidates" and could have "decisively influence[d] the citizen to cast his ballot" against "branded" candidates. *Id.* at 525-26. The Court thus held that this procedural requirement was unconstitutional because "far from regulating the procedural mechanisms of elections, [the state's requirement] attempts to dictate electoral outcomes." *Id.* at 526-27 (cleaned up).

When viewing N.C. Gen. Stat. § 163-106(e) under the Elections Clause, the intention of the statute comes into play. There can be no doubt that N.C. Gen. Stat. § 163-106(e) is a political viewpoint, which brings Petitioner's past felony history into consideration, for the voters to decide – to which the 4th Circuit admits.[10] 13a. The purpose of N.C. Gen. Stat. § 163-106(e) is to put Petitioner at a disadvantage from other candidates by labeling him that he was a past lawbreaker and is susceptible to commit crimes in the future, thereby giving him a pejorative connotation[11]. In Petitioner's case, because he is a felon, he must answer the felony disclosure, and in doing so, it becomes a public record in the election context. 52a-

[10] This is further admitted by the District Court and Respondents as "allowing constituents to probe the strength of a candidate's commitment to the rule of law." *See* 40a-41a, 143a, 160a, 172a.

[11] Further supporting evidence is that the 4th Circuit further mentions that "The state is using the requirement to emphasize in a modest and restrained manner that lawmaking and lawbreaking are, **to put it gently, in tension**." (emphasis added). 15a. The fact that the 4th Circuit even mentions that N.C. Gen. Stat. § 163-106(e) causes "tension" exemplifies that the statute is pejorative in nature.

53a, 107a. Because the felony disclosure is intended to handicap Petitioner, the 4th Circuit's reasoning cannot stand.

"As we made clear in *U.S. Term Limits*, the Framers understood the Elections Clause as a grant of authority to issue procedural regulations, and not as a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints." *Cook v. Gralike*, 531 U.S. 510, 523 (2001).

The fact that Petitioner's felony history is already a public record doesn't mean that it gives Respondent's the power to disadvantage Petitioner and circumvent the Elections Clause. The 4th Circuit ruled that "significantly, the felony disclosure does not appear on the ballot." 13a. However, this doesn't change the analysis because N.C. Gen. Stat. § 163-106(e) is still disclosed to voters and is therefore "an indirect attempt to accomplish what the Constitution prohibits" Respondents "from accomplishing directly." *Thornton*, 514 U.S. 779, 829 (1995). To the extent that *Cook* only applies to labels on the ballot, then Petitioner reverently **requests this Court to expand *Cook*** to situations such as the case *sub judice*. Though the statements in *Cook* were placed directly on the ballot, the candidacy forms here are publicly accessible documents that Respondents use to educate the public about the qualifications of federal congressional candidates. 107a. In addition, just as the Missouri amendment disfavored candidates who did not support the term-limits amendment, the felony disclosure law here disfavors felons,

such as Petitioner. "As we have often noted, "'[c]onstitutional rights would be of little value if they could be . . . indirectly denied" *Id.*

N.C. Gen. Stat. § 163-106(e) is a matter of public policy because "At the same time, 'by directing the citizen's attention to the single consideration' of the candidate's [past criminal record], the labels imply that the issue 'is an important — perhaps paramount — consideration in the citizen's choice, which may decisively influence the citizen to cast his ballot' against candidates branded as unfaithful. While the precise damage the labels may exact on candidates is disputed between the parties, the labels surely place their targets at a political disadvantage to unmarked candidates for congressional office. Thus, far from regulating the procedural mechanisms of elections, [N.C. Gen. Stat. § 163-106(e)] attempts to 'dictate electoral outcomes.' (citations omitted). Such 'regulation' of congressional elections simply is not authorized by the Elections Clause." *Cook v. Gralike*, 531 U.S. 510, 525-26 (2001). See also *Anderson v. Martin*, 375 U.S. 399, 402 (1964).

The 4th Circuit doesn't exactly explain *how* revealing Petitioner's felony record to the voters makes elections fair and honest; yet it's rationale is besides the point, since revealing Petitioner's felony record allows Respondents "to wield the power granted to it by the Elections Clause to handicap those who seek federal office by affixing pejorative labels next to their names." *Cook v. Gralike*, 531 U.S. 510, 528 (2001). "A State is not permitted to interpose itself between the people and their National Government as it seeks to do here.... It simply lacks the power to impose any conditions on the election of Senators and Representatives." *Cook v.*

Gralike, 531 U.S. 510, 527 (2001). Therefore, N.C. Gen. Stat. § 163-106(e) "is not a procedural regulation. It does not regulate the time of elections; it does not regulate the place of elections; nor, we believe, does it regulate the manner of elections. As to the last point, [N.C. Gen. Stat. § 163-106(e)] bears no relation to the 'manner' of elections as we understand it, for in our commonsense view that term encompasses matters like 'notices, registration, supervision of voting....." *Cook v. Gralike*, 531 U.S. 510, 523-24 (2001).

Petitioner reverently requests that this Court to reverse the 4th Circuit's ruling that N.C. Gen. Stat. § 163-106(e) is a proper manner of regulations under U.S. Const. Art. 1 Sec. 4 Cl. 1, as applied to Petitioner as a federal congressional candidate.

C.) Does N.C. Gen. Stat. § 163-106(e) Violate Petitioner's 1st, 14th Amendment Rights?

Even if this Court were to hold that North Carolina's felony disclosure requirement is not an additional qualification, it is still an unconstitutional ballot-access requirement that violates the 1st and 14th amendment. The 4th Circuit's ruling conflicts with *Anderson v. Martin*, 375 U.S. 399, 402 (1964).

The 4th Circuit viewed Petitioner's 1st amendment argument under the Anderson/Burdick Test. 14a. In substantiating it's ruling, the 4th Circuit rules that N.C. Gen. Stat. § 163-106(e) is "Informing and educating voters with relevant information about the candidates is thus a recognized state interest, and the felony disclosure may be viewed as a reasonable assist to that endeavor. The state is using

the requirement to emphasize in a modest and restrained manner that lawmaking and lawbreaking are, to put it gently, in tension." 15a.

I.) What is the Proper Standard?[12]

Before Petitioner gets into the merits, there is the issue of what the proper standard is. The District Court applied Exacting Scrutiny, 40a; the 4th Circuit pivoted and applied the Anderson/Burdick Test. 14a. Because the 4th Circuit applied the incorrect test, the ruling conflicts with *Buckley v. American Constitutional Law Foundation, Inc.* 525 U.S. 182, 194-95 (1999); *Doe v. Reed*, 561 U.S. 186, 196 (2010) ("First Amendment challenges to disclosure requirements in electoral contexts are reviewed under an "exacting scrutiny" standard."); *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 607 (2021).

To begin, the Anderson/Burdick Test is for voters; Petitioner is a candidate, therefore Exacting Scrutiny applies. To clear any doubts, N.C. Gen. Stat. § 163-106(e) specifically mentions that it only applies to candidates. To bolster Petitioner's claim, the felony disclosure has made Petitioner's past felony history a political view for voters to decide. This is **admitted** by the 4th Circuit, District Court, and Respondents. *See* 14a-15a, 40a-41a, 143a, 160a, 172a. "Even if [Petitioner] is agnostic as to the merits of the underlying law," his felony history disclosure "still expresses the political view that the question should be considered by the whole electorate. In either case, the expression of a political view implicates a First

[12] Petitioner believes there is also an argument to apply Strict Scrutiny since this is a Viewpoint Discrimination. See *Pacific Gas Elec. Co. v. Public Util. Comm'n*, 475 U.S. 1, 12-17 (1986); *Wooley v. Maynard*, 430 U.S. 705, 717 (1977). Petitioner leaves the application of Strict Scrutiny in the discretion of the Court.

Amendment right. The State... must accord the participants in that process the First Amendment rights that attach to their roles' (citations omitted)." *Doe v. Reed*, 561 U.S. 186, 195 (2010) (cleaned up). In the election context, N.C. Gen. Stat. § 163-106(e) compels Petitioner to talk about his past felony record.

Importantly, this framing rules out the Anderson/Burdick test. The Anderson/Burdick test only applies when a party challenges a provision because it unlawfully burdens his right to vote. See *Burdick v. Takushi*, 504 U.S. 428, 433-34 (1992) (explaining the standard when a litigant challenges an election statute under the First Amendment because it burdens his right to vote). Petitioner makes no such challenge; rather he challenges the legality of disclosing his felony history as a form of compelled speech. Exacting Scrutiny is the proper standard.

II.) N.C. Gen. Stat. § 163-106(e) Fails Exacting Scrutiny

N.C. Gen. Stat. § 163-106(e) fails Exacting Scrutiny. This standard requires a "substantial relation" between the disclosure requirement and a "sufficiently important" governmental interest. "To withstand this scrutiny, 'the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.'" *Doe v. Reed*, 561 U.S. 186, 196 (2010). Specifically, even under exacting scrutiny, a commitment to free speech requires governments to "employ[ ] not necessarily the least restrictive means but ... a means narrowly tailored to achieve the desired objective." *McCutcheon v. Fed. Election Comm'n* , 572 U.S. 185, 218 (2014).

Regarding N.C. Gen. Stat. § 163-106(e) being a sufficiently important government interest, it is not. It must be reiterated that the purpose of the Felony Disclosure is to say that because Petitioner has previously been convicted of a felony, he has the propensity to commit crimes in the future – this is strictly pejorative in nature. To bolster Petitioner's point, the 4th Circuit believes "Informing and educating voters with relevant information about the candidates is thus a recognized state interest... The state is using the requirement to emphasize in a modest and restrained manner that lawmaking and **lawbreaking are, to put it gently, in tension**." (emphasis added). 15a[13]. "There can be no question about the legitimacy of the State's interest in fostering informed and educated expressions of the popular will," *Anderson*, 460 U.S. at 796, but the fact that an interest is "important" in the abstract does not end the analysis. "In the First Amendment context, fit matters." *McCutcheon v. Fed. Election Comm'n*, 572 U.S. 185 (2014).

Here, requiring Petitioner to explicitly highlight his felony history violates the right to refrain from speaking by conditioning his ability to run for Congress on his making a statement that he would otherwise choose to avoid. Importantly, "[t]he simple interest in providing voters with additional relevant information does not justify a state requirement that a [candidate] make statements or disclosures he would otherwise omit." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 348 (1995). Voters are competent enough do research on candidates themselves, but for

[13] Once again, the District Court and Respondent's confirm this point. *See* 40a-41a ("Constituents should and do expect commitment to the rule of law from their representatives."), 143a, 160a, 172a ("allowing constituents to probe the strength of a candidate's commitment to the rule of law.")

the government to interject in their decision only seeks to prejudice Petitioner and influence voters. "Nor can the attacked provision be deemed to be reasonably designed to meet legitimate governmental interests in informing the electorate as to candidates. We see no relevance in the State's pointing up the" felony history "of the candidate as bearing upon his qualifications for office." *Anderson v. Martin*, 375 U.S. 399, 403 (1964). "Thus, just as this informational interest did not justify the Ohio law in *McIntyre,* it does not justify applying" N.C. Gen. Stat. § 163-106(e) to Petitioner's candidacy. *Doe v. Reed*, 561 U.S. 186, 239 (2010).

Respondents' objectives, regarding N.C. Gen. Stat. § 163-106(e), are not narrowly tailored to complete their objectives, because Petitioner's felony history is already a public record via N.C. Gen. Stat. § 132-1 *et seq*. Thus, Respondents already have a more narrowly tailored method to complete their objective. Duplicative disclosure requirements illustrate that a state's purpose could be accomplished through better fitting means. Under these circumstances, Respondents' superfluous disclosure requirement does nothing to increase public access to information while imposing a burden on Petitioner's First Amendment rights by coercing his speech. The availability of this already-available information to the public demonstrates a poor fit between the Respondents' interests and their chosen means to achieve them.

For the reasons above, the 4th Circuit's ruling cannot stand. N.C. Gen. Stat. § 163-106(e), at heart, burdens too much and furthers too little, and this one-sided tradeoff falls short of what the First Amendment requires. Petitioner reverently

requests this Court to hold that N.C. Gen. Stat. § 163-106(e) violates Petitioner's 1st and 14th Amendment rights, as conflicting with *Anderson v. Martin*, 375 U.S. 399 (1964), and reverse the decision of the 4th Circuit.

RELIEF/CONCLUSION

WHEREFORE, Petitioner reverently requests this Court to grant Certiorari and REVERSE the 4th Circuit's Ruling.

Sign Siddhanth Sharma

Siddhanth Sharma *pro se*

Date 2-11-25

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.

Petitioner certifies, pursuant to Rule 33.2(b) that this Writ of Certiorari is in compliance with the page-count and is 8,906 words, and is less than 40 pages. Petitioner certifies, pursuant to Rule 33.1 that this Petition is typed using 12-Point Century Schoolbook font and is Double-Spaced. Petitioner also certifies, pursuant to Rule 29, that a copy has been sent to ALL PARTIES via mail/hand delivery/E-mail as follows on 11 February 2025.

Nicholas Scott Brod
Direct: 919-716-6400
Email: nbrod@ncdoj.gov
[COR NTC Government]
NORTH CAROLINA DEPARTMENT OF JUSTICE
General Counsel Office
P. O. Box 629
Raleigh, NC 27602-0629

Sign Siddhanth Sharma

Siddhanth Sharma *pro se*

Date 2-11-25