

Case No. _____

In The Supreme Court of the United States

ANDREW D. ANDERSON

Petitioner,

v.

THE STATE OF NORTH CAROLINA, ET AL.,

Respondents.

On Petition for Writ of Certiorari

to the United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Andrew D. Anderson
177 Dills Branch Rd.
Sylva, NC 28779
(706) 307-9493
Petitioner in Pro se

QUESTIONS PRESENTED

Are the doctrines of judicial and prosecutorial immunities constitutionally consistent and compliant with Art. III Sec. 2. "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States"?

Has the district court erred in the process of finding these facts and application of the law in App. 1. page 7 of the Order under section I.

Background, the district court has found, as a matter of fact, "the Plaintiff alleges that Dann gave him poor grades in his class in retaliation for him exercising his free speech rights and that defendants Dann, Contino-Conn[e]r, Putman, and Brooks violated his First Amendment rights by censoring him."?

Did the district court err in its findings of facts or application of the law in App. 1. page 7 of its Order, under sec. I. the district court found as a matter of fact, that the Plaintiff's arrest outside the Clerk of Superior Court of Jackson County's office for trespassing on public property in a public place while attempting to obtain material from the clerk's office that was necessary for Plaintiff's appeal of the Superior Court's dismissal of the Plaintiff's civil action 21-CVS-244 is a separate incidents and unrelated?

Has the district court erred in its findings of facts and application of the law in App. 1. page 7 of the Order under sec. I., when the district court found as a matter of fact that the Plaintiff pled guilty to trespass?

Did the district court err in its findings of facts and application of the law in App. 1. page 7 of the Order, where the district court found as a matter of

fact, that “Plaintiff also describes a physical altercation with Defendants Bryson and Bowers at the courthouse that apparently resulted in his arrest, but the plaintiff also describes being arrested the next day.”?

Does the district court err in its findings of facts and application of the law in App. 1. pages 10-11 under section III (A) of the order, and dismisses with prejudice under the doctrine of Sovereign immunity the petitioner’s claims against Defendants “Office of the Governor of North Carolina, ” Roy Cooper III, North Carolina Superior Court District 30, North Carolina District Court, Josh Stein, and Office of the Sheriff?

Does Amend. XI bar federal subject matter jurisdiction over cases against a state arising from actions or mandates related to public health emergencies, where such actions implicate individual constitutional rights and subject matter jurisdiction in federal courts by a person or citizen of the same state as defined in Amend. XIV of the U.S. Constitution in App. 12.?

On pages 11-13 under section III (B) of the district court’s order in App. 1., was it in error of the law that the district court applied judicial immunity protections to the defendant justices, judges, clerks, magistrates and their offices?

Is Petitioner Andrew D. Anderson a person, included amongst “the people” whose rights are retained and those powers not delegated are reserved by Amendments IX and X and further defined by Amendment XIV Sec. 1. of the Constitution of the United States also provided in App. 12.?

Did the district court err in its findings of facts and application of the law at the bottom of page 13 of the court's order, under section III (B) App. 1., when dismissing with prejudice under the doctrine of prosecutorial immunity, Plaintiff's claims against Defendants Welch, Matheson, Buckner, Phelps, Hughs, 43rd Prosecutorial District, and Office of the District Attorney?

Did the district court err in its findings of facts, and application of the law in App. 1. page 14 of the court's order, under section III (C)(1), where the district court bars Plaintiff's claims challenging state court convictions?

On pages 14-15 of the court's order, under section III (C)(2) in App. 1., was it in ere the district court found these facts and application of the law, when the district court dismissed all Plaintiff's § 1983 claims against Defendants CNA Surety, Heather Baker, John Pavey Jr., and Jared R. Davis?

Has the district court erred in its findings of facts and application of the law in App. 1. pages 15-17 of the Order, under section III (C)(3), the district court dismissed all the petitioner's § 1983 claims against Defendants Jackson County North Carolina, the Jackson County Sheriff's Department, and SCC in their entirety, while also dismissing Plaintiff's claims against Defendants Allen, Hall, Queen, Bowers, Bryson, Robinson, Rhinehart, Breedlove, Dann, Contino-Conner, Putman, and Brooks in their official capacity?

Did the district court err in its findings of facts and application of the law in App. 1. page 17 of the court's order, under section III (C)(4)(a), when the district court dismissed claims against individual Defendant Allen?

On pages 17-18 of the court's order, under section III (C)(4)(b) in App. 1., was there error in the finding of these facts and application of the law where the district court dismissed § 1983 claims against individual Defendant Hall for not providing further allegations of fact that state a plausible constitutional claim?

Did the district court err in its findings of facts and application of the law in App. 1. pages 18-20 under section III (C)(4)(c), the district court has found as matters of facts, "In questioning the split-second decisions of police officers, we must avoid hindsight bias and try to place ourselves in the heat of the moment. "the Plaintiff admits, he had already failed to appear as summoned and then fled from the Defendants once he saw them. The Plaintiffs further admits that he resisted arrest when the Defendants tried to handcuff him."?

On pages 18-20 of the court's order, under section III (C)(4)(c) in App. 1., was it in error, the district court found these facts and application of the law when the district court dismissed § 1983 excessive force claims against individual Defendants Bowers and Bryson citing that Plaintiff has not alleged a plausible excessive force claim against Defendants Bowers and Bryson?

Did the district court err in its findings of facts and application of the law in App. 1. page 20 and the top of 21 of the court's order, under section III (C)(4)(d), when the district court dismissed § 1983 against Defendant Robinson?

Has the district court erred in its findings of facts and application of the law in App. 1. page 21 of the court's order, under section III (C)(4)(e), the district court dismissed § 1983 against Defendant Rhinehart and Breedlove?

Did the district court err in its findings of facts and application of the law in App. 1. page 21 of the court's order, under section III (C)(4)(f), the district court has found, as a matter of fact, and of law, that the Petitioner's claims against Defendants are barred by the doctrine of res judicata for previous claims in State Courts against Defendants being dismissed?

Has the petitioner stated sufficiently new facts to state a new claim on the same happenings not to be barred by the doctrine of res judicata?

Did the district court err in its findings of facts and application of the law in App. 1. page 21 of the court's order, under section III (C)(4)(f) the district court dismissed the petitioners First Amendment claims, § 1983 claims against Defendants?

Do the life and liberty rights guaranteed by Amend. XIV give way to Governor Roy Cooper Executive Orders 116-121 included as App. 12-18?

Is the exercise of emergency powers by government authorities constitutionally permissible under the U.S. Constitution, and if so, do these emergency powers render the individual constitutionally protected rights, by Amendments to the U.S. Constitution I, IV, V, VI, VIII, IX, X, and XIV null and void during a declared emergency (such as in an administrative court-ordered mask mandate or a panicked two weeks to slow the spread)?

PARTIES TO THE PROCEEDINGS

Petitioners: ANDREW D. ANDERSON, an individual, an American, and Disabled Veteran of Sylva, NC; We the People; All similarly situated free Americans,

Respondent: THE STATE OF NORTH CAROLINA,

Respondent: THE OFFICE OF THE GOVERNOR OF NORTH CAROLINA,

Respondent: ROY COOPER III, an individual, and Governor of North Carolina,

Respondent: THE OFFICE OF THE NORTH CAROLINA SUPREME COURT
CHIEF JUSTICE,

Respondent: CHERI BEASLEY, an individual, and former Chief Justice of The North Carolina Supreme Court,

Respondent: PAUL NEWBY, an individual, and Chief Justice of The North Carolina Supreme Court,

Respondent: BRADLEY B. LETTS, an individual, and Senior Resident Superior Court Judge 30B,

Respondent: NORTH CAROLINA DISTRICT COURT,

Respondent: ROY T. WIJEWICKRAMA, an individual, previously Chief District Court Judge, 30th District, now a Superior Court Judge

Respondent: KALEB D. WINGATE, an individual, and 30th District, District Court Judge,

Respondent: DONA F. FORGA, an individual, and 30th District, District Court Judge,

Respondent: JOHN J. PAVEY JUNIOR, an individual and court-appointed counsel,

Respondent: **JARED R. DAVIS**, an individual, and court-appointed counsel,

Respondent: **THE OFFICE OF THE ATTORNEY GENERAL OF NORTH
CAROLINA**,

Respondent: **JOSHUA STEIN**, an individual, and Attorney General of North
Carolina,

Respondent: **THE 43rd PROSECUTORIAL DISTRICT**,

Respondent: **THE OFFICE OF THE DISTRICT ATTORNEY**,

Respondent: **ASHLEY H. WELCH**, an individual, and 43rd Prosecutorial District
Attorney,

Respondent: **CHRISTINA B. MATHESON**, an individual, and Assistant District
Attorney for the 43rd Prosecutorial

Respondent: **ANDREW C. BUCKNER**, an individual, and Assistant District
Attorney for the 43rd Prosecutorial District,

Respondent: **JACOB P. PHELPS**, an individual, and Assistant District Attorney for
the 43rd Prosecutorial District,

Respondent: **JENNACA D. HUGHS**, an individual, and Assistant District Attorney
for the 43rd Prosecutorial District, Jackson Co. Justice Center

Respondent: **SUMER L. ALLEN**, an individual, and Paralegal for the 43rd
Prosecutorial District, Jackson Co. Justice Center

Respondent: **JACKSON COUNTY NORTH CAROLINA**, Jackson Co. Justice Center,

Respondent: **JACKSON COUNTY SHERIFF'S DEPARTMENT**, Jackson Co. Justice
Center,

Respondent: THE OFFICE OF THE SHERRIFF, Jackson Co. Justice Center,

Respondent: CHIP L. HALL, an individual, and retired, Jackson Co. Sheriff with
surety bond No.62231249,

Respondent: CNA SURETY, of Sioux Falls, SD, Small Commercial Service Center,

Respondent: HEATHER BAKER, an individual and former Jackson Co. Attorney,

Respondent: SHANNON H. QUEEN, an individual, and former top-ranking officer
with the Jackson Co. Sheriff's Dept.,

Respondent: ANN D. MELTON, an individual, and former Jackson Co. Clerk of
Superior,

Respondent: THE OFFICE OF THE JACKSON COUNTY CLERK
OF SUPERIOR COURT,

Respondent: THE OFFICE OF THE JACKSON COUNTY MAGISTRATE,

Respondent: JEFFERY W. POWELL, an individual, former Jackson Co Magistrate
and Deputy Magistrate,

Respondent: SAMUEL K. BOWERS, an individual, and former Jackson Co. Sheriff's
Deputy Courthouse Security,

Respondent: TYLER B. BRYSON, an individual, and former Jackson Co. Sheriff's
Deputy and Courthouse Security,

Respondent: DEREK A. ROBINSON, an individual, and former Jackson Co. Sheriff's
Deputy and Courthouse Security,

Respondent: MEGAN L. RHINEHART an individual, and Jackson Co. Sheriff's
Deputy,

Respondent: KATHLEEN D. BREEDLOVE, an individual, retired Director of Human Resources from Southwestern Community College and currently the Director of HR for Jackson Co.,

Respondent: SOUTHWESTERN COMMUNITY COLLEGE,

Respondent: LYNN P. DANN, an individual, and former Department Head, Psychology, Sociology, and Ethics Instructor at Southwestern Community College,

Respondent: CHERYL L. CONTINO-CONNER, an individual, and former Dean of Students at Southwestern Community College,

Respondent: BARBARA B. PUTMAN, an individual, and former Dean of Arts & Sciences at Southwestern Community College,

Respondent: THOMAS R. BROOKS, an individual, and President of Southwestern Community College.

CORPORATE DISCLOSURE STATEMENT

This petition is not filed in concert with, by, or on behalf of any non-governmental corporation. However, denied the petitioner did seek the assistance of the nongovernmental organization William E. Dillard American Legion Post 104 of Sylva, NC for which petitioner is the Sargant-At-Arms, in an attempt to secure the power to sue 36 USC § 21704 (8) in the filing of 1:24_cv-00034-MR-WCM.

LIST OF DIRECTLY RELATED PROCEEDINGS

In the United States District Court for the Western District of North Carolina Asheville Division Doc. 5 of case 1:24_cv-00034-MR-WCM Andrew D. Anderson v.

The State of North Carolina et al. the Honorable Martin Reidinger's Order entered-on March 18th, 2024.

In the United States District Court for the Western District of North Carolina Asheville Division, Doc. 6 1:24_cv-00034-MR-WCM, Andrew D. Anderson v. The State of North Carolina et al., Plaintiff's Notice of Appeal entered-on March 28th, 2024.

In the United States Court of Appeals for the Fourth Circuit Doc: 7 of USCA4 Appeal: 24-1277, Andrew D. Anderson v. The State of North Carolina et al., Order affirming the district court decision entered-on August 29th , 2024.

In the United States Court of Appeals for the Fourth Circuit Doc. 11 USCA4 Appeal: 24-1277, Andrew D. Anderson v. The State of North Carolina et al., Order denying the petitioner's timely petition for rehearing, and rehearing en banc entered-on September 24th, 2024.

In the General Court of Justice District Court Division in 20-CVD-618, Dann v. Anderson, the Honorable Judge Donna Forga's Order Dismissing Plaintiff's No-Contact Order against the petitioner, entered October 26th, 2020.

In the General Court of Justice Superior Court Division in 20-CVS-725 the Honorable Judge Steven Warren's Order Dismissing Plaintiff's free speech on campus claims entered March 16th, 2021.

In the General Court of Justice District Court Division in 21-CRD-050258, Dann v. Anderson, the Honorable Judge Donna Forga's Order Dismissing Plaintiff's No-Contact Order against the petitioner, entered May 25th, 2021.

In the General Court of Justice Superior Court Division in 21-CVS-244 the Honorable Judge Martin Pope’s Order Dismissing Plaintiff’s free speech on campus claims entered August 6th, 2021.

Plaintiff’s Notice of Appeal in the Superior Court Division of the General Court of Justice in 21-CVS-244, Anderson v. Dann filed August 16th, 2021.

In the General Court of Justice Superior Court Division in 21-CVS-244 the Honorable Judge Bradley Letts Order Granting Defendants Motion to Dismiss Plaintiff’s Appeal entered March 18th, 2022.

In the General Court of Justice Superior Court Division in 21 CRS 050258 the Honorable Judge Steve Warren’s Order entered June 13th, 2022.

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JURISDICTION

Art. III. S2.C2.4 of the U.S. Constitution gives the United States Supreme Court appellate jurisdiction over inferior courts. The judgment of the United States Court of Appeals for the fourth circuit was entered-on August 29th, 2024, provided at App. 3. The petitioner filed a timely joint petition for rehearing, and rehearing en banc, which was denied on September 24th, 2024 provided at App. 10. The United States District Court for the Western District of North Carolina has original subject matter jurisdiction under 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367.

STATEMENT OF THE CASE

This case arises from a 2020 first amendment violation of free speech on campus that initially was started as a state court case that was dismissed for failure to state a claim upon which relief could be granted. The bigger problem and questions arise; when the petitioner was denied access to the county clerk of court's public access area, to get necessary information and material for his appeal to the N.C. Appeals Courts and again denied access when eventually ordered to pay the clerk and attempted to do so for court costs and sanctions when the appeal was dismissed. However, not before the county sheriffs arrested the petitioner four times for trespassing on public property, for violating the court's administratively ordered mask mandates and worked over by the local court work group. Alleging new facts, in the free speech on campus matter and the constitutional violations suffered while pursuing the original state court case until petitioner could not petition the N.C. Court of Appeals due to the alleged unopen and unwelcome court the petitioner has filed these new challenges in 1:24_cv-00034-MR-WCM with the District Court for the Western District of North Carolina

PETITION FOR WRIT OF CERTIORARI

NOW COMES Petitioner, Andrew D. Anderson, while grateful for the consideration of this Supreme Court of the United States respectfully petitions the Court for a writ of certiorari to review the decision of the United States Court of Appeals for the Fourth Circuit, which affirmed the district court's ruling in this matter. The decision of the court in App 1. addresses critical constitutional questions that warrant the Court's attention and resolution. The petitioner believes

that the court misapplied protection of the Eleventh Amendment and further misapplied sovereign immunity protections to the State. While the lower courts uphold the government's actions under the assertion of immunity and that such emergency measures are constitutionally justified, thereby limiting or seemingly nullify, nearly all the Petitioner's constitutionally protected rights, including, Amend. VI right to access counsel, Amend. V and Amend. XIV rights to due process, Amend. I and N.C. Const. Art. I Sec. 14 right to free expression and speech on college campus N.C.G.S. § 116-300 N.C. Const. Art I Sec. 14, Amend. IV right to be secure in the petitioner's person and papers against illegal searches and seizures, Amend. VI right to a speedy trial also the right to an open court and that justice shall be administered without favor, denial or delay N.C. Const. Art. I Sec. 18 and Amend. VI right to a jury trial in all matters criminal, N.C. Const. Art. I Sec. 6. the right to a government with a separation of powers, and Amend. VIII rights protecting the petitioner from excessive bail, N.C. Const. Art I Sec. 18 the right to an open court and that justice shall be administered without favor, denial or delay, N.C. Const. Art I Sec. 7. right to the suspending of laws, and N.C. Const. Art. I Sec. 19. Petitioners argue that the exercise of emergency powers does not nullify constitutionally protected rights, and that such restrictions are overbroad, undue, unnecessary, unconstitutional and above all, ineffective and nefarious.

JUDICIAL AND PROSECUTORIAL IMMUNITIES

Plaintiff also challenges the dismissal with prejudice under the Prosecutorial Immunity doctrine, the District Court arrived at this decision of Prosecutorial Immunity petitioner believes in error through *Imbler v. Pachtman*, 424 U.S. 409 (1976), which went beyond affirming prosecutorial immunities. The Court set boundaries for this Prosecutorial Immunity.

“It remains to delineate the boundaries of our holding. As noted the Court of Appeals emphasized that each of respondent's challenged activities was an “integral part of the judicial process.”

And

“We have no occasion to consider whether like or similar reasons require immunity for those aspects of the prosecutor's responsibility that cast him in the role of an administrator or investigative officer, rather than that of advocate.” *Imbler* at 424 U. S. 430

Plaintiff argues that the immediate case differs much from the *Imbler* case, where Pachtman was pursuing murder charges. In the immediate case, Defendants Matheson, Buckner, Phelps, Hughs, 43rd Prosecutorial District, and Office of the District Attorney pursued second-degree trespass charges against Plaintiff for failing to comply with the Administrative Order 21R237 provided at App. 17. The Plaintiff had and retained invitee status because he was a plaintiff and appellant in the North Carolina Courts of Appeals; at the time the Plaintiff was arrested. Plaintiff was attempting to gain access to the Clerk of Superior Courts Office, a public place open to the public during normal business hours. Plaintiff argues that the facts alleged in Plaintiff's complaint are more similar and comparable to those in *Penate v. Kaczmarek*.

“As we read the core facts alleged in the complaint, in these conversations with Foster, Kaczmarek primarily functioned as a custodian of evidence. This is an administrative function not "analogous" to the advocacy of a prosecutor, Butz, 438 U.S. at 515, 98 S.Ct. 2894, nor otherwise intimately associated with the judicial process, see Odd, 538 F.3d at 213 (denying claim of absolute immunity for a "primarily administrative" function); see also, e.g., Knowlton v. Shaw, 704 F.3d 1, 5 (1st Cir. 2013) ("Absolute immunity ... is not available to ... officials whose actions are primarily administrative ..."); Perez v. Ellington, 421 F.3d 1128, 1133 (10th Cir. 2005) ("Absolute immunity does not extend to actions 'that are primarily investigative or administrative in nature'" (quoting Pfeiffer v. Hartford Fire Ins. Co., 929 F.2d 1484, 1490 (10th Cir. 1991))). Penate v. Kaczmarek, 928 F.3d 128, 139-40 (1st Cir. 2019)

Plaintiff argues that in the immediate case the sheriff deputies never had the authority to ask Plaintiff to leave the court had a constitutional duty to be open for Plaintiff to pursue justice for his claims and injuries done to him. There was no due process in the loss and deprivation of Plaintiff's rights in Administrative Order 21R237. Where the arresting Deputy Derek Robinson was not enforcing the law but essentially enforcing the local mob rule:

“Effective immediately, each individual entering the Jackson County Justice Center must wear a mask or cloth face covering while attending to court-related business.”

Defendant Phelps admitted photo evidence at trial gathered from alleged exculpatory video material that had been timely subpoenaed by Plaintiff for his defense but ignored by the prosecution until later on, after an appeal to the Superior Court, Plaintiff's court-appointed attorney Defendant John Pavey Jr. subpoenaed them again, however, the prosecution withheld from the discovery, interior camera footage of a maskless Deputy Clerk of Court holding the door for the defendant to follow her in the building although sperate entrances to the Clerk's office as her entrance was not and is not open to the public but

specifically the common entrance to the building. If played before a court and admitted into evidence the, withheld interior security camera footage would have revealed a clear double standard of the mask applicability and enforcement, which would have damaged the prosecutors' case and also detracted from the ("Emergency") hysteria manifestation by the State. Petitioner argues that the decision to withhold the alleged exculpatory material from discovery was an administrative decision and not of the prosecutorial type.

Petitioner argues further to enforce Administrative Orders inconsistent with the Constitutions and laws of North Carolina to prosecute an individual who was lawfully attempting to gain access to the Clerk's Office, a public place open to the public during normal business hours for trespassing and thus not in the scope of authority Defendants' purport to have and is beyond those powers cited in N.C. Gen. Stat. §. 114-1.1. Common-law powers,

SOVEREIGN IMMUNITY

The doctrine of sovereign immunity is a legal doctrine adopted from the English common law that state governments or officers acting on their behalf cannot be sued; in federal court by citizens of other states or foreign entities without its consent. Although he believed he was ordained by God, and that no-one but God had authority to judge or remove him, no matter how hated he was on Earth, King Charles I, was the very last of those sovereign monarchs in that ever since the Magna Carta in 1215, the King has been constrained by laws and Parliament; though it is fair to still label monarchs for several centuries in practice as being absolute monarchs.

When the prosecution of King Charles I commenced on the morning of January 20th, 1649, only 68 of the 135 appointed commissioners made appearance or participated and sat on the 'High Court of Justice.' All 68 were considered to be firmly in the Parliamentary camp, and those who were absent without leave of the court sought to disassociate themselves from the trial of a king. The formal charges against Charles I stated that,

“wherein he was charged, that he, the said Charles Stuart, being admitted King of England, and therein trusted with a limited power to govern by, and according to the law of the land, and not otherwise, and by his trust, oath, and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet, nevertheless, out of a wicked design to erect and uphold in himself an unlimited and tyrannical power to rule according to his will, and to overthrow the rights and liberties of the people, and to take away and make void the foundations thereof and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom were reserved on the people’s behalf in the right and power of frequent and successive Parliaments, or national meetings in Council; he, the said Charles Stuart, for accomplishment of such his designs, and for the protecting of himself and his adherents in his and their wicked practices, to the same end hath traitorously and maliciously levied war against the present Parliament and people therein represented, as with the circumstances of time and place is in the said charge more particularly set forth; and that he hath thereby caused and procured many thousands of the free people of this nation to be slain; and by divisions, parties, and insurrections within this land, by invasions from foreign parts, endeavored and procured by him, and by many other evil ways and means, he, the said Charles Stuart, hath not only maintained and carried on the said war both by sea and land, but also hath renewed, or caused to be renewed, the said war against the Parliament and good people of this nation in this present year 1648, in several counties and places in this kingdom in the charge specified; and that he hath for that purpose given his commission to his son, the Prince, and others, whereby, besides multitudes of other persons, many such as were by the Parliament entrusted and employed for the safety of this nation,

being by him or his agents corrupted, to the betraying of their trust, and revolting from the Parliament, have had entertainment and commission for the continuing and renewing of the war and hostility against the said Parliament and people: and that by the said cruel and unnatural war so levied, continued and renewed, much innocent blood of the free people of this nation hath been spilt, many families undone, the public treasure wasted, trade obstructed and miserably decayed, vast expense and damage to the nation incurred, and many parts of the land spoiled, some of them even to desolation; and that he still continues his commission to his said son, and other rebels and revolters, both English and foreigners, and to the Earl of Ormond, and to the Irish rebels and revolters associated with him, from whom further invasions of this land are threatened by his procurement and on his behalf; and that all the said wicked designs, wars, and evil practices of him, the said Charles Stuart, were still carried on for the advancement and upholding of the personal interest of will, power, and pretended prerogative to himself and his family, against the public interest, common right, liberty, justice, and peace of the people of this nation” (1648/9, January 27. *Rushworth*, viii. 1420. *Gardiner*, 377-380.)

As the trial began, Charles was brought forth before the High Court of Justice, for the first three days while the high court ineffectively compelled Charles to enter a plea as to the charges. Charles refused, steadfastly, and maintained that he had been given the crown by God and that no court had jurisdiction, over the monarch. As his demise proves the notion of sovereign immunity a fiction; Petitioners renew our grievances and advance our petition for rehearing by the Fourth Circuit Court of Appeals panel, and petition for rehearing en banc in the United States Court of Appeals for the Fourth Circuit.

AMENDMENT XI PROTECTIONS

As Petitioner is a naturalized citizen born at Cumberland Co. Hospital in Fayetteville, North Carolina now Cape Fear Valley Medical Center, while the petitioner is a current registered voter and resident in Jackson Co. NC, Petitioners have not filed any actions under diversity jurisdiction. Petitioners argue Art. III Sec. 2, of the Constitution was modified by Amendment XI. “ The Judicial power of the United States shall not be construed to extend to any suit in law or equity,

commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State. “that when the Eleventh Amendment is read and interpreted literally and narrowly as cited below, the Eleventh Amendment protections are misapplied in a subject matter jurisdiction case, where federal laws are in question as the language contained in Amendment XI does not change alter or nullify the language contained in Art. III Sec. 2 “between a State, or the Citizens thereof “, but does explicitly bar “Citizens of another State, or by Citizens or Subjects of any Foreign State.”

“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.” (Amend. XI.)

Petitioners further reason, that to accept immunity or Amend. XI arguments, absent of express constitutional provision undermines the separation of powers that was at the core of a workable government as well as gravely impairs the role of the courts under Art. III. of the U.S. Const. Petitioner is a person and of the people, We the People, and We, the people who are the posterity, benefactors, protectees, and sovereigns as Petitioners read from the Preambles to the U.S. Const. and N.C. Const. and read further in the constitutionally protected rights of We, the people of North Carolina in N.C. Const. Art. I.: Sec. 1. The equality and rights of persons, Sec. 2. Sovereignty of the people, Sec. 3. Internal government of the State, Sec. 18. Court shall be open.

Petitioners argue that all of these state constitutional rights above, express and refute any necessity of an express consent waiver requirement to sue the state as a person of the people of North Carolina or as a citizen of the same state as cited in *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264 (1821). Neither is there a constitutional notion or inference for the provision of such a waiver. Leading petitioners to standfast and stand sure in their beliefs that along with the sovereign immunity doctrine, Amend. XI protections, have a well-documented history of being misapplied and misinterpreted leaving the district court and Fourth Circuit panel

comfortable in their orders for dismissal and affirmation despite the legitimacy, reason, logic, articulation and merits of petitioners claims and arguments.

The pertinent history of Amend. XI begins in 1792 as Alexander Chisholm a resident of South Carolina attempted to sue the state of Georgia for payments due to him for supplies provided to the state during the Revolutionary War. Georgia claimed sovereign immunity under Art. III of the U.S. Const. and refused to appear in court. Court cases involving state governments and citizens of other states are known as diversity jurisdictions the Supreme Court ruled in favor of Chisholm and compelled Georgia to proceed with the case. Prior to *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419 (1793), the constitution was understood to have protected states from such suits the decision sent shockwaves through the states several of whom had cases pending against them for example a British subject named William Vassal sued the state of Massachusetts for confiscating his private property. Senator Caleb Strong of Massachusetts hastily moved to propose an amendment to the constitution that clarified Art. III. of the U.S. Const. Strong and other proponents of the amendment were intent on halting court proceedings against their states since legal actions were costly and reflected negatively on state governments Amend. XI was adopted by ratification in 1795, by several states just two years after the Supreme Court's ruling in *Chisholm v. Georgia*. The Amend. XI is an explanatory amendment it does not change the laws of the Constitution but rather explains the often-misinterpreted text contained in Art. III Sec. 2 of the U.S. Const. and allows federal courts to rule on controversies between a state and citizens of the same state, whilst however, Amend. XI affirms state sovereign immunity by clarifying that controversies between a state and citizens of another state do not include suits brought against the state by private citizens of the same state. The amendment contradicts the Supreme Court's decision in *Chisholm v. Georgia* the Amend. XI effectively reversed the Chisholm decision notifying any pending actions in that case and any other case citing it as a precedent the Supreme Court affirmed the

retroactivity of Amend. XI with the case of *Hollingsworth, et al. v. Virginia*, 3 U.S. (3 Dall.) 378 (1798)

“[T]he [Eleventh] amendment being constitutionally adopted, there could not be exercised in any jurisdiction, in any case, past or future, in which a State was sued by the citizens of another State or by citizens or subjects of any foreign state.”

Leaving cases like *Vassal v. Massachusetts* to be dismissed after the fact though Amend. XI was meant to clarify the constitution. Precedence has varied from case to case since the ratification causing significant controversy surrounding Amend. XI. The Supreme Court’s ruling in *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264 (1821) was a refreshingly unanimous ruling by the Supreme Court and construed the amendment narrowly with the framer’s intent and view in this case which the Supreme Court heard on appeal, not a writ of certiorari, the court subsequently ruled that Virginia did not enjoy sovereign immunity in this case because the Cohens were citizens of Virginia. Justice Marshall wrote for a unanimous court that the Constitution's framers had decided to:

"confer on the judicial department the power of construing the Constitution and laws of the Union in every case, in the last resort, and of preserving them from all violation from every quarter, so far as judicial decisions can preserve them."

And that:

"There is certainly nothing in the circumstances under which our Constitution was formed, nothing in the history of the times, which would justify the opinion that the confidence reposed in the States was so implicit as to leave in them and their tribunals the power of resisting or defeating, in the form of law, the legitimate measures of the Union."

However, in the case *Hans v. Louisiana*, 134 U.S. 1 (1890) the court construed the amendment broadly and ruled that Louisiana did enjoy sovereign immunity in the case brought by Hans a citizen of that state this ruling seemingly

contradicted; the conclusion of the Cohens's case. Cohens and Hans had opposite outcomes despite citing the same amendment in the decision this controversy was not resolved in 1999 with *Alden v. Maine*, 527 U.S. 706 (1999) when the court again ruled to uphold the creatively repurposed precedent of interpreting Amend. XI to extend sovereign immunity to include cases brought against states by their own citizens the court was divided in this case though with only five of the nine justices issuing the majority opinion the four dissenting justices believe that the amendment only granted state sovereign in cases of diversity jurisdiction the Eleventh Amendment in its wide range of interpretations reflect broader discussions of the constitution and amendments. Some scholars, politicians and legislators believe the constitutional document should be read literally word for word and interpreted as such, while others argue that taking the words of the constitution literally does not always lead to practical applications of the law they outline interpreting the constitution in the context of whatever is up for discussion might offer more realistic results. Supreme Court rulings on Amend. XI cases seem to mirror predominant opinions on constitutional interpretations of the day. For example, the ruling in *Cohens v. Virginia* unanimously promotes a literal and narrow reading of the amendment. On the other hand, with split decisions in *Hansby v. Louisiana* and *Alden v. Maine* the Supreme Court took a more flexible approach to reading the amendment.

REASONS FOR GRANTING THE WRIT

The constitutional questions presented in this case are of exceptional national importance and have far-reaching implications for the balance of individual rights, and governmental authority, particularly during public health emergencies.

1. Constitutional Limits on Emergency Powers:

The question of whether emergency powers can override fundamental

constitutional rights, such as freedom of religion, freedom of movement, and the right to avoid unwarranted government impositions, has profound implications for the protection of civil liberties in times of crisis. The lower courts have issued conflicting decisions on this issue, and this Court's intervention is needed to clarify whether emergency powers, while permissible, can extend so far as to nullify these rights altogether.

2. Judicial and Prosecutorial Immunities:

Petitioners believe striking down the alleged unconstitutional adoptions of the judicial and prosecutorial immunities would restore a reverence to We the people's collective and individual, constitutionally protected rights in the Justice system as well as restore a balance to the adversarial court system.

3. The 11th Amendment and Subject Matter Jurisdiction:

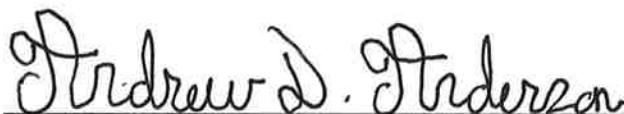
The Court should resolve the question of whether Amend. XI bars suits against states in cases involving public health emergencies where individual constitutional rights are implicated. Lower courts have reached divergent conclusions regarding the application of Amend. XI to federal jurisdiction in cases where state mandates are challenged on constitutional grounds. Clarifying the scope of Amend. XI's protections and doctrines of immunity in such contexts will guide future cases and ensure uniformity in the interpretation of federal jurisdiction over state actions where federally protected rights are involved. And that the district courts are further

abridging the petitioners' rights protected under Art. I Sec. 18 of the N.C. State Const.

CONCLUSION

This case presents a unique opportunity for the Court to address these important and unresolved constitutional questions, and restore the freedoms lost during the covid pandemic which continue to effect North Carolinians and American citizens alike across the nation in the context of ongoing and planned public health crises. For the foregoing reasons, the Petitioner respectfully requests that this Court grant the writ of certiorari to review the judgment of the Fourth Circuit Court of Appeals and resolve the significant constitutional questions presented in this case.

Respectfully submitted by *Petitioner in Pro se*. Dated: December 19, 2024

A handwritten signature in black ink that reads "Andrew D. Anderson". The signature is written in a cursive style and is positioned above a solid horizontal line.

Petitioner Andrew D. Anderson
177 Dills Branch Rd.
Sylva, NC 28779
(706) 307-9493

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:24-cv-00034-MR-WCM

ANDREW D. ANDERSON,)

Plaintiff,)

vs.)

ORDER

THE STATE OF NORTH CAROLINA,)
THE OFFICE OF THE GOVERNOR OF)
NORTH CAROLINA, ROY COOPER,)
III, THE OFFICE OF THE NORTH)
CAROLINA SUPREME COURT CHIEF)
JUSTICE, CHERI BEASLEY, PAUL)
NEWBY, NORTH CAROLINA)
SUPERIOR COURT DISTRICT 30,)
BRADLEY B. LETTS, NORTH)
CAROLINA DISTRICT COURT, ROY T.)
WIJEWICKRAMA, KRISTINA L.)
EARWOOD, KALEB D. WINGATE,)
DONA F. FORGA, JOHN J. PAVEY,)
JR., JARED R. DAVIS, THE OFFICE)
OF THE ATTORNEY GENERAL OF)
NORTH CAROLINA, JOSHUA STEIN,)
THE 43RD PROSECUTORIAL)
DISTRICT, THE OFFICE OF THE)
DISTRICT ATTORNEY, ASHLEY H.)
WELCH, CHRISTINA B. MATHESON,)
ANDREW C. BUCKNER, JACOB P.)
PHELPS, JENNACA D. HUGHS,)
SUMER L. ALLEN, JACKSON)
COUNTY NORTH CAROLINA,)
JACKSON COUNTY SHERIFF'S)
DEPARTMENT, THE OFFICE OF THE)
SHERIFF, CHIP L. HALL, CNA)
SURETY, HEATHER BAKER,)

SHANNON H. QUEEN, ANN D.)
MELTON, THE OFFICE OF THE)
JACKSON COUNTY CLERK OF)
SUPERIOR COURT, THE OFFICE OF)
THE JACKSON COUNTY)
MAGISTRATE, JEFFERY W.)
POWELL, SAMUEL K. BOWERS,)
TYLER B. BRYSON, DEREK A.)
ROBINSON, MEGAN L. RHINEHART,)
KATHLEEN D. BREEDLOVE,)
SOUTHWESTERN COMMUNITY)
COLLEGE, LYNN P. DANN, CHERYL)
L. CONTINO-CONNER, BARBARA B.)
PUTMAN, THOMAS R. BROOKS,)
JOHN DOES 1-99, and JANE DOES)
1-99,)
))
Defendants.)
_____)

THIS MATTER is before the Court on initial review of the Plaintiff's Complaint as Amended [Docs. 1, 4]. See 28 U.S.C. § 1915(e)(2). Also before the Court is the Plaintiff's Motion to Process *In Forma Pauperis* [Doc. 3].

I. BACKGROUND

On February 2, 2024, the *pro se* Plaintiff Andrew D. Anderson ("Plaintiff") filed this action against Defendants the State of North Carolina; the Office of the Governor of North Carolina; Roy Cooper, III, an individual, and Governor of North Carolina; the Office of the North Carolina Supreme Court Chief Justice; Cheri Beasley, an individual, and former Chief Justice

of the North Carolina Supreme Court; Paul Newby, an individual, and Chief Justice of the North Carolina Supreme Court; North Carolina Superior Court District 30; Bradley B. Letts, an individual, and Senior Resident Superior Court Judge 30B; North Carolina District Court; Roy T. Wijewickrama, an individual, and Chief District Court Judge, 30th District; Kristina L. Earwood, an individual, and 30th District Court Judge; Kaleb D. Wingate, an individual, and 30th District Court Judge; Dona F. Forga, an individual, and 30th District Court Judge; John J. Pavey, Jr., an individual and Court-appointed counsel; Jared R. Davis, an individual, and Court-appointed counsel; the Office of the Attorney General of North Carolina; Joshua Stein, an individual, and Attorney General of North Carolina; the 43rd Prosecutorial District; the Office of the District Attorney; Ashley H. Welch, an individual, and 43rd Prosecutorial District Attorney; Christina B. Matheson, an individual, and Assistant District Attorney for the 43rd Prosecutorial District; Andrew C. Buckner, an individual, and Assistant District Attorney for the 43rd Prosecutorial District; Jacob P. Phelps, an individual, and Assistant District Attorney for the 43rd Prosecutorial District; Jennaca D. Hughs, an individual, and Assistant District Attorney for the 43rd Prosecutorial District; Summer L. Allen, an individual, and Paralegal for the 43rd Prosecutorial District; Jackson County North Carolina; Jackson County Sheriff's Department; the Office of the Sheriff;

Chip L. Hall, an individual, and retired Jackson Co. Sheriff; CNA Surety, of Sioux Falls, SD, Small Commercial Service Center; Heather Baker, an individual, and former Jackson Co. Attorney; Shannon H. Queen, an individual, and former top-ranking officer with the Jackson Co. Sheriffs Dept.; Ann D. Melton, an individual and former Jackson Co. Clerk of Superior; the Office of the Jackson County Clerk of Superior Court; the Office of the Jackson County Magistrate; Jeffery W. Powell, an individual, Former Jackson Co. Magistrate and Deputy Magistrate; Samuel K. Bowers, an individual, and former Jackson Co. Sheriff's Deputy Courthouse Security; Tyler B. Bryson, an individual, and current Jackson Co. Sheriff's Deputy and Courthouse Security; Derek A. Robinson, an individual, and Former Jackson Co. Sheriff's Deputy and Courthouse Security; Megan L. Rhinehart, an individual and Current Jackson Co. Sheriff's Deputy; Kathleen D. Breedlove, an individual, retired Director of Human Resources from Southwestern Community College and currently the Director of HR for Jackson Co.; Southwestern Community College; Lynn P. Dann, an individual, and former Department Head, Psychology, Sociology, and Ethics Instructor at Southwestern Community College; Cheryl L. Contino-Conner, an individual, and former Dean of Students at Southwestern Community College; Barbara B. Putman, an individual, and former Dean of Arts & Sciences at

Southwestern Community College; Thomas R. Brooks, an individual, and President of Southwestern Community College; John Does 1-99; and Jane Does 1-99. [Doc. 1].

In his 79-page Complaint, with over 200 pages of exhibits, the Plaintiff brings numerous federal and state law claims, including federal constitutional claims pursuant to 28 U.S.C. §§ 1981, 1983, and 1985 for violations of his First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendment rights; claims under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968; "[l]everaging malfeasance under color-of-law to levy administrative terrorism, economic and psychological warfare," state law constitutional claims under Article I, Sections 1, 2, 3, 6, 7, 12, 13, 14, 18, 19, 21, 23, 24, 27, 35, 36, and 37 of the North Carolina Constitution; as well as state law claims for intentional torts, negligence, "breaches of public trust," and promissory estoppel. [Doc. 1].

The Plaintiff's prayer for relief spans more than two full pages of his Complaint and includes "declaratory statements," damages, injunctive relief, "ordering the governments to maintain their statutory obligation to Plaintiff's rights," "declaratory relief that emergency powers do not exist, and that North Carolina's Governor Roy Cooper's abuses of emergency declarations are not powers vested in him by God nor with the consent of the governed," an

“order relieving the Jackson Co. Sheriff’s Dept of the frivolous duty to guard the main entrance and scan every individual entering,” four years of the Plaintiff’s lost earnings, special damages in the form of “0.1% of North Carolina’s state and local direct general expenditures” of \$93.7 million, treble damages, attorneys’ fees and court costs, and post-judgment interest. [Id.]

On February 29, 2024, the Plaintiff filed an Amended Complaint with an updated request for relief and submitted additional exhibits via CD Drive. [Doc. 4]. Specifically, the Plaintiff removed his request for pre-judgment injunctive relief, but the particular requests remain largely the same. [Id.]. It appears that this is a piecemeal amendment, as the Plaintiff references exhibits filed with the original complaint and includes them in his exhibit index but did not reattach them to the Amended Complaint.

While at times difficult to follow, the Plaintiff’s allegations appear to arise from several different incidents, some of which are seemingly unrelated. Given the volume of the alleged facts contained in the Complaint and its accompanying exhibits, the Court will summarize some of the alleged facts here and will refer to others as necessary throughout its analysis.

One alleged incident arose out of the Plaintiff’s participation in an ethics course at Southwestern Community College (“SCC”), where his professor, Defendant Dann, removed a post that the Plaintiff made on the

class online forum because Dann considered it disrespectful. [Doc. 1-2 at 185]. The Plaintiff complained to multiple other officials at SCC, including Defendants Contino-Connor, Putman, and Brooks. [Id. at 186-87]. The Plaintiff alleges that Defendant Dann gave him poor grades in his class in retaliation for him exercising his free speech rights, and that Defendants Dann, Contino-Connor, Putman, and Brooks violated his First Amendment rights by censoring him. [Id. at 187; Doc. 1 at 18-21].

In a separate incident, the Plaintiff was charged with trespass, failure to appear on misdemeanor, resisting a public officer, and violation of a court order. [Id. at 101, 104, 106]. These charges apparently arose from the Plaintiff refusing to wear a face mask, and instead wearing a toy football helmet, when visiting the Jackson County Courthouse. [Id. at 190-91]. It appears that the Plaintiff pled guilty to the trespass charge in exchange for the dismissal of his other charges, but he also alleges that he was found guilty of trespass at a trial presided over by Defendant Judge Forga.¹ [Id. at 124-26, 194]. The Plaintiff also describes a physical altercation with Defendants Bryson and Bowers at the courthouse that apparently resulted in his arrest, but the Plaintiff also describes being arrested the next day. [Id. at 197-98].

¹ Complete state court records have not been provided by the Plaintiff.

The Plaintiff alleges that there was at least one other incident at the Jackson County Courthouse where he refused to "don the court-ordered mandatory face diaper," and was refused access to the clerk's office by Defendant Robinson. [Id. at 195]. The Plaintiff further alleges that Defendant Bryson harassed him on multiple occasions "about wearing a face mask which is unlawful, to begin with." [Id. at 196].

From the exhibits attached to the Plaintiff's Complaint, it appears that the Plaintiff filed a previous civil case in state court against Defendants Dann, Breedlove, Contino-Connor, Brooks, Putman, Southwestern Community College, and several Jane Does and John Does. [Doc. 1-2 at 82-84, 91]. Although the Plaintiff does not specify what the claims in this previous case were, from the records provided, it appears that the case was dismissed by Judge Pope and the Plaintiff's appeal was dismissed by Defendant Judge Letts. [Id.]. Although Judge Pope is not named as a Defendant in this case, the Plaintiff claims that because of Judge Pope's order for Rule 11 sanctions for frivolously filing a second civil suit, he was "reduced to liquidating private property, 260 ounces of .999 fine silver bullion to raise funds to cover" his sanctions." [Id. at 195].

II. STANDARD OF REVIEW

Because the Plaintiff, who is proceeding *pro se*, seeks to proceed *in forma pauperis*, the Court must examine the pleadings to determine whether this Court has jurisdiction and to ensure that the action is not frivolous or malicious and states a claim upon which relief can be granted. See 28 U.S.C. § 1915(e)(2)(B)(i) and (ii); see also Michau v. Charleston Cnty., 434 F.3d 725, 728 (4th Cir. 2006) (noting that § 1915(e) “governs IFP filings in addition to complaints filed by prisoners”). A complaint is deemed frivolous “where it lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). The Fourth Circuit has offered the following guidance to a court tasked with determining whether a complaint is frivolous under § 1915(e):

The district court need not look beyond the complaint’s allegations in making such a determination. It must, however, hold the *pro se* complaint to less stringent standards than pleadings drafted by attorneys and must read the complaint liberally. Trial courts, however, are granted broad discretion in determining whether a suit is frivolous or malicious.

White v. White, 886 F.2d 721, 722-23 (4th Cir. 1989). While the complaint must be construed liberally, the Court may “pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are

clearly baseless,” including such claims that describe “fantastic or delusional scenarios.” Neitzke, 490 U.S. at 327, 328.

Rule 8 of the Federal Rules of Civil Procedure provides that “[a] pleading that states a claim for relief must contain (1) a short and plain statement of the grounds for the court’s jurisdiction . . . [and] (2) a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(1), (2). A complaint fails to state a claim where it offers merely “labels and conclusions,” “a formulaic recitation of the elements of a cause of action,” or “naked assertion[s]” devoid of “further factual enhancement.” See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 557 (2007) (internal quotation marks omitted)).

III. DISCUSSION

A. Sovereign Immunity

The Plaintiff purports to name the State of North Carolina as a Defendant. The Eleventh Amendment deprives federal courts of any jurisdiction to hear state law claims by private parties against states. See Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 104-106 (1984). The Eleventh Amendment applies with its full sweep to bar any relief, whether legal or equitable. Id. at 106. The bar includes pendent state law

claims as well as all federal claims, except in those cases where Congress has expressly abrogated the states' Eleventh Amendment rights. See Huang v. Board of Governors of Univ. of N.C., 902 F.2d 1134, 1138 (4th Cir. 1990). A state may waive the protection of the Eleventh Amendment by state statute or state constitutional provision. Edelman v. Jordan, 415 U.S. 651, 673-74 (1974). Any such waiver, however, must be clearly and unequivocally expressed.

Because Congress has not abrogated the states' immunity in any of the types of claims brought by the Plaintiff, and the State has not waived its immunity, the Plaintiff's claim against the State of North Carolina is dismissed with prejudice. Furthermore, sovereign immunity also extends to state agencies and departments. Halderman, 465 U.S. at 101-02. As such, the Plaintiff may not proceed with any of his claims against Defendants "Office of the Governor of North Carolina," Roy Cooper, III, "North Carolina Superior Court District 30," "North Carolina District Court," "Office of the Attorney General of North Carolina," Joshua Stein, or "Office of the Sheriff."

B. Judicial and Prosecutorial Immunity

The Plaintiff names as Defendants several judges, including Justices of the North Carolina Supreme Court and Superior Court and District Court Judges of Jackson County. [Doc. 1]. Judges are immune from suit under

the doctrine of judicial immunity. See Stump v. Sparkman, 435 U.S. 349, 359 (1996) (“A judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors.”); Imbler v. Pachtman, 424 U.S. 409, 419 (1976) (stating that judicial “immunity applies even when the judge is accused of acting maliciously and corruptly, and it is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences”) (internal quotations omitted).

Accordingly, the Plaintiff’s claims against former Chief Justice Beasley, Chief Justice Newby, and Judges Letts, Wijewickrama, Earwood, Wingate, Forga, and Powell are barred by judicial immunity and are therefore dismissed with prejudice. See, e.g., Galloway v. Davis, No. 23-1386, 2023 WL 4105708 (4th Cir. June 21, 2023) (affirming dismissal with prejudice of a Bivens action under § 1915(e)(2) as barred by judicial immunity); Mills v. Marchant, No. 8:19-cv-1512-TMC-JDA, 2019 WL 2647600, at *2-3 (D.S.C. June 4, 2019), adopted, 2019 WL 2644216 (D.S.C. June 27, 2019) (noting that dismissal with prejudice is proper under 28 U.S.C. § 1915 where claims against a judge are barred by the doctrine of judicial immunity and therefore

frivolous). The same goes for Defendants "Office of the North Carolina Supreme Court Chief Justice" and "Office of the Jackson County Magistrate."

Judicial immunity also extends to persons other than a judge where performance of judicial acts or activity as an official aide of the judge is involved. Wiley v. Buncombe County, 846 F.Supp.2d 480, 485 (W.D.N.C. Mar. 2, 2012) (citations omitted). Clerks of court, therefore, have been ruled immune from suit under § 1983 when performing "quasi-judicial" duties. Id. "The doctrine of absolute quasi-judicial immunity has been adopted and made applicable to court support personnel because of the 'danger that disappointed litigants, blocked by the doctrine of absolute immunity from suing the judge directly, will vent their wrath on clerks, court reporters, and other judicial adjuncts.'" Id. (quoting Kincaid v. Vail, 969 F.2d 594, 601 (7th Cir. 1992)). As such, the Plaintiff's claims against Defendants Melton and "Office of the Jackson County Clerk of Superior Court" are barred by judicial immunity as well.

Prosecutors are also immune from suit under the doctrine of prosecutorial immunity. Imbler, 424 U.S. at 419. Therefore, the Plaintiff's claims against Defendants Welch, Matheson, Buckner, Phelps, Hughs, "43rd Prosecutorial District," and "Office of the District Attorney" must be dismissed on this basis alone.

C. Section 1983 Claims

To state a claim under § 1983, a plaintiff must allege that he was “deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed under color of state law.” Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 (1999).

1. Claims Challenging State Court Convictions

To the extent he aims to do so, the Plaintiff may not bring a § 1983 claim challenging the validity of his state court convictions. Heck v. Humphrey, 512 U.S. 477, 487 (1994). “Heck v. Humphrey bars a § 1983 action if it is clear from the record that its successful prosecution would necessarily imply that the plaintiff’s earlier conviction was invalid. The Heck analysis requires a close factual examination of the underlying conviction.” Riddick v. Lott, 202 F. App’x 615, 616 (4th Cir. 2006). Again, it is not entirely clear what the Plaintiff is alleging in regard to his state court criminal proceedings, but he does appear in part to be seeking expungement of his convictions. [Doc. 1 at 76]. Any such claim is barred under Heck and must be dismissed.

2. Claims Against Private Party Defendants

The Court next turns to the private parties that the Plaintiff names as defendants.

[T]he Fourth Circuit has recognized four exclusive circumstances under which a private party can be deemed to be a state actor [under § 1983]. These are: (1) when the state has coerced the private actor to commit an act that would be unconstitutional if done by the state; (2) when the state has sought to evade a clear constitutional duty through delegation to a private actor; (3) when the state has delegated a traditionally and exclusively public function to a private actor; or (4) when the state has committed an unconstitutional act in the course of enforcing a right of a private citizen. If the conduct does not fall into one of these four categories, then the private conduct is not an action of the state.

Davison v. Facebook, Inc., 370 F. Supp. 3d 621, 628 (E.D. Va.), aff'd, 774 F. App'x 162 (4th Cir. 2019) (internal citations and quotations omitted).

With regard to the private parties named as Defendants in this case, the Plaintiff has not alleged any of the circumstances that would compel the Court to treat those Defendants as state actors. Therefore, all § 1983 claims against Defendants CNA Surety, Heather Baker, John J. Pavey, Jr., and Jared R. Davis cannot go forward.

3. Claims Pursuant to Monell

The Court next turns to the remaining Defendants: Jackson County, Jackson County Sheriff's Department, multiple current and former Sherriff's Deputies, Summer Allen, SCC, and several employees of SCC.² Suits

² For purposes of initial review, the Court will assume that SCC and its employees are state actors subject to suit under § 1983. See Tann v. Ludwikoski, 393 F. App'x 51, 53

against an officer in his official capacity “generally represent only another way of pleading an action against an entity of which an officer is an agent.” Kentucky v. Graham, 473 U.S. 159, 165 (1985) (1985) (quoting Monell v. Dep’t of Soc. Servs. of the City of New York, 436 U.S. 658, 690 n.55 (1978)). The Jackson County Sheriff’s Department, for example, is not liable under § 1983 for an employee’s acts “unless action pursuant to official municipal policy of some nature caused [the] constitutional tort.” Collins v. City of Harker Heights, 503 U.S. 115, 120-21 (1992) (quoting Monell, 436 U.S. at 691). That is, “[f]or a governmental entity to be liable under section 1983, the official policy must be the moving force of the constitutional violation.” Moore v. City of Creedmoor, 345 N.C. 356, 366, 481 S.E.2d 14, 21 (1997) (internal quotation marks and citations omitted). “Thus, the entity’s ‘policy or custom’ must have played a part in the violation of federal law.” Id. (quoting Monell, 436 U.S. 658, 694).

The Plaintiff has not alleged any policy or custom, as Monell requires, that plausibly states a constitutional violation against any of the Defendants in their official capacities. On the contrary, the Plaintiff relies on broad legal conclusions that his rights were violated without providing adequate factual

(4th Cir. 2010) (“We conclude that [defendants], as employees of a state public educational institution created by state law, are state actors.”).

allegations in support of his claims. Therefore, the Plaintiff's § 1983 claims against Defendants Jackson County North Carolina, the Jackson County Sheriff's Department and SCC will be dismissed in their entirety. The Plaintiff's claims against Defendants Allen, Hall, Queen, Bowers, Bryson, Robinson, Rhinehart, Breedlove, Dann, Contino-Conner, Putman, and Brooks in their official capacities are also accordingly dismissed.

4. Claims Against Individual Defendants

The Court next looks to the Plaintiff's constitutional claims against the remaining Defendants in their individual capacities.

a. Defendant Allen

Beginning with Defendant Allen, the Plaintiff appears to state no claim against her and instead has only submitted an email communication on which she was copied. [Doc. 1-2 at 92]. Therefore, Defendant Allen will be dismissed as a Defendant.

b. Defendant Hall

The Plaintiff alleges that Defendant Hall refused to comply with the Plaintiff's request pursuant to the Freedom of Information Act ("FOIA") and "conspired to obstruct justice and tampered with evidence to produce the discovery that withheld the exculpatory or Brady material," but provides no

further allegations of fact that state a plausible constitutional claim. Therefore, any § 1983 claims against Defendant Hall will be dismissed.

c. Defendants Bowers and Bryson

The Plaintiff additionally alleges claims of excessive force against Defendants Bowers and Bryson. “Whether an officer has used excessive force is judged by a standard of objective reasonableness.” Stanton v. Elliott, 25 F.4th 227, 233 (2022) (quoting Clem v. Corbeau, 284 F.3d 543, 550 (4th Cir. 2002)). Moreover, “recognizing that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—we take care to consider the facts from the perspective of a reasonable officer on the scene and avoid judging the officer’s conduct with the 20/20 vision of hindsight.” Id.; Stanton, 25 F.4th at 233 (“In questioning the split-second decisions of police officers, we must avoid hindsight bias and try to place ourselves in the heat of the moment.”).

The Plaintiff alleges the following with regard to his excessive force claim against Defendants Bowers and Bryson:

Under color of state law, [Defendant] Bryson then grabbed the [P]laintiff by one arm and put it behind his back in a bent arm bar maneuver, and with [Defendant] Bryson’s other hand, grabbed the [P]laintiff by the opposing side of his jacket and forced the [P]laintiff out of the courtroom where the [P]laintiff, was summoned to appear absent of all jurisdictions in Superior Court. Plaintiff Anderson

alleges the deputies never stated or even surmised that the [P]laintiff was under arrest at any point, where the [P]laintiff alleges he would have readily surrendered. Plaintiff Anderson alleges Defendants then proceeded to exit the court to the right and not to the [left]³ (which was the direction of the jail). Thus, Plaintiff Anderson alleges he [feared for his life]⁴ and that they were about to throw him down the stairs and simply claim the [P]laintiff was resisting arrest, it was an accident; whoops, he should not have resisted arrest, so before they all ([P]laintiff and three⁵ deputies) could make it to the stairs, with the [P]laintiffs [sic] one free hand grabbed the center frame door pole of a double-door walkway to the staircase and would not let go. The deputies tried to get Plaintiff Anderson's hand loose for several seconds but were unsuccessful. In Deputy Bryson's frustration, he shouted at the [P]laintiff, "DO YOU WANT TO GO TO JAIL?!" Plaintiff Anderson alleges he answered, "YES!!!" Plaintiff Anderson further alleges Defendant Deputy Bryson immediately attempted multiple times to suplex or body slam Plaintiff Anderson over the [D]efendant's left shoulder simultaneously; Deputy Bowers attempted to break loose the [P]laintiff's one-handed death grip on the center pole of the double door. If Defendants, Deputy Bowers and Deputy Bryson, had succeeded in their attempts to suplex Plaintiff Anderson, alleges [sic] the [D]efendants attempted murder and intended to slam Plaintiff Anderson's head hard on the hard marble/concrete floor, resulting in his potential death or severe maiming by the deputies; Plaintiff alleges rather than allowing the [D]efendants

³ Alteration in original.

⁴ Alteration in original.

⁵ It is unclear from the Plaintiff's Complaint as to who he alleges the third deputy to be; only Defendants Bowers and Bryson are named in this part of the Plaintiff's allegations.

to have their way, Plaintiff Anderson planned his fall to mitigate serious injuries.

[Doc. 1 at 45-46]. The Plaintiff admits, he had already failed to appear as summoned and then fled from the Defendants once he saw them. The Plaintiff further admits that he resisted arrest when the Defendants tried to handcuff him. Judging the allegations by a standard of objective reasonableness, the Plaintiff fails to plausibly assert any claim, but merely alleges that the Defendants used only as much force as was necessary, which force was reasonably calculated to detain and arrest the Plaintiff, who was resisting arrest.⁶ Therefore, even accepting these allegations as true and taking them in the light most favorable to the Plaintiff, he has not alleged a plausible excessive force claim against Defendants Bowers and Bryson.

d. Defendant Robinson

The Plaintiff additionally alleges that Defendant Robinson asked him to leave the Jackson County courthouse because the Plaintiff refused to wear a face mask and arrested the Plaintiff for trespass. [Doc. 1-2 at 192]. These allegations fail to state any claim of a violation of the Plaintiff's constitutional rights; it appears instead that the Defendant lawfully arrested

⁶ Even if the Plaintiff had stated a viable claim for excessive force, such a claim would almost certainly be barred by the doctrine of qualified immunity, as the Plaintiff has not alleged the violation of a clearly established right. See Pearson v. Callahan, 555 U.S. 223, 232 (2009).

the Plaintiff for failing to comply with a lawful command to leave the premises. This claim will accordingly be dismissed.

e. Defendants Rhinehart and Breedlove

In his claims against Defendants Rhinehart and Breedlove, the Plaintiff alleges that both Defendants coerced him into not filing complaints with the court. What can best be surmised from the Plaintiff's allegations is that these Defendants went to the Plaintiff's residence to serve him with a civil restraining order and summonses for his felony charges. [Doc. 1-2 at 188]. On these facts, the Plaintiff has not stated any viable claim that his constitutional rights were violated.

f. Defendants Dann, Contino-Connor, Putman, and Brooks

The Plaintiff also claims that Defendants Dann, Contino-Connor, Putman, and Brooks violated his First Amendment rights by censoring his free speech and retaliating against him for exercising his free speech rights in the context of his participation in a community college course. "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 506 (1969). "But conduct by the student, in class or out of it, which for any reason—whether it stems from time, place, or type of behavior—materially disrupts classwork

or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech.” Id. at 513.

The facts alleged by the Plaintiff show that he posted a disruptive and disrespectful comment making a series of jokes about Confucius. [Doc. 1-2 at 18]. Defendant Dann, the instructor for the course, removed the Plaintiff’s post and explained to the Plaintiff that he did so “because of the offense it would cause to followers [of Confucius], and disrespect to their personal beliefs.” [Id.]. Dann also explained that he would not permit such comments to be made about other religious figures, like Jesus or Muhammed, and he “can’t treat Confucius any differently.” [Id.]. It appears from these facts that Defendant Dann, and subsequently Defendants Contino-Connor, Putman, and Brooks, acted precisely in accord with Tinker by prohibiting a particular expression of opinion because of its potential “substantial disruption of or material interference with school activities.” Tinker, 393 U.S. at 514. Indeed, Dann explained that he was concerned precisely with the “invasion of rights of others,” in this case, followers of Confucius. [Id. at 513].

The Court turns next to the Plaintiff’s claim of retaliation under the First Amendment. “In order to state a colorable retaliation claim under Section 1983, a plaintiff ‘must allege that (1) he engaged in protected First

Amendment activity, (2) the defendant took some action that adversely affected his First Amendment rights, and (3) there was a causal relationship between his protected activity and the defendant's conduct.” Martin v. Duffy, 858 F.3d 239, 249 (4th Cir. 2017) (quoting Constantine v. Rectors & Visitors of George Mason Univ., 411 F.3d 474, 499 (4th Cir. 2005)) (alterations omitted). The Plaintiff alleges that the SCC employees named as Defendants retaliated against him by giving him a zero on his final paper. [Doc. 1 at 77]. However, records provided by the Plaintiff himself do not support this allegation. Defendant Dann’s comments in response to Plaintiff’s final paper instead indicate that the Plaintiff did not answer any of the questions asked in the assignment using ethical theories, as instructed. [Doc. 1-2 at 23]. There is no indication that the Defendant’s decision to give the Plaintiff a low grade was in any way related to the content of his speech but was instead genuinely based on his deficient performance on the assignment. Therefore, the Plaintiff has failed to state a plausible retaliation claim against Defendants Dann, Contino-Connor, Putman, or Brooks.

The Court further notes that documents provided by the Plaintiff indicate that the Plaintiff has already brought civil claims against these Defendants in state court, and that those claims were dismissed, further

suggesting their lack of viability.⁷ [Doc. 1-2 at 82-84, 91]. For all of the foregoing reasons, the Plaintiffs have not alleged a plausible First Amendment claim against these Defendants, and these claims will be dismissed.

g. Doe Defendants

Finally, the Plaintiff names as Defendants John Does 1-99 and Jane Does 1-9, but provides no further information about who these Defendants are or what claims the Plaintiff is bringing against them. As such, these Defendants will be dismissed.

D. Section 1981 Claims

Pursuant to 42 U.S.C. § 1981, “[a]ll persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, . . . and to the full and equal benefit of all laws and proceedings . . . as is enjoyed by white citizens.” 42 U.S.C. § 1981(a). The statute also guarantees equal treatment in “the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.” *Id.* § 1981(b). To establish a Section 1981 claim, the plaintiff must show that (1) he is a member of a racial minority; (2) the defendant had an intent to

⁷ While the full details of such claims were not provided to the Court, any claims that were dismissed in state court with prejudice that the Plaintiff attempts to relitigate in this Court are barred by *res judicata*.

discriminate based on race; and (3) the discrimination concerned one or more of the activities enumerated in the statute. Bobbitt by Bobbitt v. Rage Inc., 19 F. Supp. 2d 512, 517 (W.D.N.C. 1998) (quoting Bellows v. Amoco Oil Co., 118 F.3d 268, 274 (7th Cir. 1997)).

The Plaintiff has not alleged that he is a racial minority, nor that any of the Defendant's had any racially discriminatory intent. Therefore, the Plaintiff's § 1981 claims will be dismissed in their entirety.

E. Section 1985 Claims

The Fourth Circuit has explained that “to establish a sufficient cause of action for “conspiracy to deny equal protection of the laws” under § 1985(3), a plaintiff must prove: (1) a conspiracy of two or more persons, (2) who are motivated by a specific class-based, invidiously discriminatory animus to (3) deprive the plaintiff of the equal enjoyment of rights secured by the law to all, (4) and which results in injury to the plaintiff as (5) a consequence of an overt act committed by the defendants in connection with the conspiracy.” Simmons v. Poe, 47 F.3d 1370, 1376 (4th Cir. 1995) (citing Buschi v. Kirven, 775 F.2d 1240, 1257 (4th Cir. 1985); Griffin v. Breckenridge, 403 U.S. 88, 102-03 (1971)); see also Bhattacharya v. Murray, 515 F. Supp. 3d 436, 463 (W.D. Va. 2021). Courts “have specifically rejected section 1985 claims whenever the purported conspiracy is alleged in a merely conclusory

manner, in the absence of concrete supporting facts.” A Soc’y Without A Name v. Virginia, 655 F.3d 342, 346 (4th Cir. 2011) (quoting Simmons, 47 F.3d at 1376); see also Womack v. Paragon Systems, No. 3:17-cv-00667-FDW, 2018 WL 2418557, at *4 (W.D.N.C. May 29, 2018) (“Allegations of ‘parallel conduct and a bare assertion of a conspiracy’ are not enough for a claim to proceed.”).

Here, Plaintiff has made only conclusory allegations regarding a purported conspiracy and has not made any allegation regarding discriminatory animus. Therefore, all of his § 1985 claims will be dismissed.

F. RICO Claims

The Racketeer Influenced and Corrupt Organizations Act “creates civil liability for those who engage in a pattern of racketeering activity.” GE Investment Private Placement Partners II v. Parker, 247 F.3d 543, 548 (4th Cir. 2011). Under 18 U.S.C. § 1964(c), “RICO contains a private right of action for ‘[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter.’” Chubirko v. Better Bus. Bureau of S. Piedmont, Inc., 763 F. Supp. 2d 759, 766 (W.D.N.C. 2011). RICO “does not cover all instances of wrongdoing. Rather, it is a unique cause of action that is concerned with eradicating organized, long-term, habitual criminal

activity." U.S. Airline Pilots Ass'n v. AWAPPA, LLC, 615 F.3d 312, 317 (4th Cir. 2010).

The elements of a RICO claim under 18 U.S.C. § 1962(c) are: (1) the conducting; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity. See Whitney, Bradley, & Brown, Inc. v. Kammermann, 436 F. App'x 257, 258 (4th Cir. 2011) (citing Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479, 496 (1985)). A "pattern of racketeering activity" is defined as at least two acts of racketeering, typically referred to as predicate acts. See 18 U.S.C. § 1961(5). To plead a conspiracy violation under § 1962(d), a plaintiff must allege that "each defendant agreed that another coconspirator would commit two or more acts of racketeering." Walters v. McMahan, 795 F. Supp. 2d 350, 355 (D. Md. 2011), aff'd in relevant part, 684 F.3d 435 (4th Cir. 2012). "[T]he person committing the racketeering acts must be separate from the 'enterprise' that the person participates in or conducts" and the plaintiff must show "that the defendants conducted or participated in the conduct of the enterprise's affairs, not just their own affairs." Carter v. Rogers, Townsend & Thomas, P.C., No. 1:12cv495, 2014 (U.S. Dist. LEXIS 25622, at *14-15 (M.D.N.C. Feb. 28, 2014)).

Here, the Complaint is devoid of any factual allegations as to who any of the Defendants conspired with, when this alleged agreement occurred,

where it occurred, how it occurred, or even the nature of the agreement. The Plaintiff instead appears to allege, as already described, a wide-ranging series of unrelated incidents, none of which indicate a violation of federal law on the part of any of the Defendants. Moreover, the Plaintiff's claims of conspiracy read as mere legal conclusions rather than factual allegations that support a plausible finding of any actual conspiracy.

In sum, the Plaintiff has failed to allege any violation of federal law, let alone any agreement or conspiracy on behalf of any of the Defendants to commit racketeering. The Plaintiff's allegations therefore fail to state a viable claim for relief under RICO.

G. Remaining State Law Claims

Federal district courts may entertain claims not otherwise within their adjudicatory authority when those claims "are so related to claims . . . within [federal-court competence] that they form part of the same case or controversy." 28 U.S.C. § 1367(a). To exercise supplemental jurisdiction, a court must find that "[t]he state and federal claims . . . derive from a common nucleus of operative fact" where a plaintiff "would ordinarily be expected to try them all in one judicial proceeding." United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 725 (1966). When a district court dismisses all claims independently qualifying for the exercise of federal jurisdiction, it "ordinarily

dismiss[es] all related state claims.” Artis v. Dist. Of Columbia, 583 U.S. 71, 71 (2018); see 28 U.S.C. § 1367(c)(3). A district court may also dismiss the related state claims if (1) the claim raises a novel or complex issue of state law; (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction; or (3) in exceptional circumstances, there are other compelling reasons for declining jurisdiction. 28 U.S.C. § 1367(c)(1), (2), (4).

To the extent that the Plaintiff seeks relief under North Carolina law, the Court declines to exercise supplemental jurisdiction, as no federal claim has passed initial review. See Artis, 583 U.S. at 71; 28 U.S.C. § 1367(c)(3). Accordingly, the Plaintiff’s state law claims are dismissed without prejudice.

H. Motion to Proceed *In Forma Pauperis*

The Plaintiff seeks to proceed with this civil action without having to prepay the costs associated with prosecuting the matter. [Doc. 3]. Upon review of the Plaintiff’s Application, the Court finds that the Plaintiff has sufficient resources from which to pay the filing fee required for this action. Accordingly, the Court finds that the application should be denied.

IV. CONCLUSION

For the foregoing reasons, the Court concludes that Plaintiff's Complaint fails initial review and will dismiss his Complaint without prejudice. The Court will allow the Plaintiff thirty (30) days to amend his Complaint, if he so chooses, to properly state a claim upon which relief can be granted. Any amended complaint will be subject to all timeliness and procedural requirements and will supersede the Complaint. Piecemeal amendment will not be permitted. The Plaintiff is further cautioned against combining multiple causes of action against multiple defendants in one Complaint and should instead separate his unrelated causes of actions where appropriate. Should the Plaintiff fail to timely amend his Complaint in accordance with this Order, the Court will dismiss and terminate this action.

Furthermore, litigants do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, successive, abusive, or vexatious actions. See Demos v. Keating, 33 F. App'x 918, 920 (10th Cir. 2002); Tinker v. Hanks, 255 F.3d 444, 445 (7th Cir. 2002); In re Vincent, 105 F.3d 943, 945 (4th Cir. 1997). District courts have inherent power to control the judicial process and to redress conduct which abuses that process. Silvestri v. Gen. Motors Corp., 271 F.3d 583, 590 (4th Cir. 2001).

The Plaintiff is hereby informed that future frivolous filings will result in the imposition of a pre-filing review system. Cromer v. Kraft Foods N. Am., Inc., 390 F.3d 812, 818 (4th Cir. 2004); Vestal v. Clinton, 106 F.3d 553, 555 (4th Cir. 1997). If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance, will be summarily dismissed as frivolous. See Foley v. Fix, 106 F.3d 556, 558 (4th Cir. 1997). Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. In re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir. 1984).

ORDER

IT IS, THEREFORE, ORDERED that the Plaintiff's Complaint as Amended [Docs. 1, 4] fails initial review under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim for relief and shall be **DISMISSED WITHOUT PREJUDICE** in accordance with the terms of this Order.


IT IS FURTHER ORDERED that the Plaintiff shall have thirty (30) days in which to amend his Complaint in accordance with the terms of this Order. **If Plaintiff fails to so amend his Complaint, the matter will be dismissed.**

IT IS FURTHER ORDERED that the Plaintiff's Motion to Proceed *In Forma Pauperis* [Doc. 3] is **DENIED**.

IT IS FURTHER ORDERED that the Plaintiff shall pay the required filing fee within thirty (30) days of entry of this Order. **Failure to pay the required filing fee within thirty (30) days of the entry of this Order will result in the dismissal of this action.**

IT IS SO ORDERED.

Signed: March 18, 2024



Martin Reidinger
Chief United States District Judge



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:24-CV-00034-MR-WCM

FILED
ASHEVILLE, NC

MAR 28 2024

U.S. DISTRICT COURT
W. DISTRICT OF N.C.

ANDREW D. ANDERSON,)
)
 PLAINTIFF,)
)
 vs.)
)
 THE STATE OF NORTH CAROLINA,)
 ET AL.)
)
 Defendants.)

NOTICE OF APPEAL

NOW COMES MOVANT ANDREW D. ANDERSON proceeding pro se and pursuant Rule 4 of the Federal Rules of Appellate Procedure, and hereby gives notice of appeal to the United State Court of Appeals for the Fourth Circuit, all plaintiff(s) appeal from the order and final judgments entered by this court on 3/18/24.

Dated: March 26, 2024,

Respectfully Submitted, pro se



By: Plaintiff, Appellant
Andrew D. Anderson
177 Dills Branch Road
Sylva, NC 28779

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-1277

ANDREW D. ANDERSON, an individual, an American, and Disabled Veteran of
Sylva, NC; We the People; All similarly situated free Americans,

Plaintiff - Appellant,

v.

THE STATE OF NORTH CAROLINA; THE OFFICE OF THE GOVERNOR OF
NORTH CAROLINA; ROY A. COOPER, III, an individual, and Governor of North
Carolina; THE OFFICE OF THE NORTH CAROLINA SUPREME COURT CHIEF
JUSTICE; CHERI BEASLEY, an individual, and former Chief Justice of the North
Carolina Supreme Court; PAUL NEWBY, an individual, and Chief Justice of the
North Carolina Supreme Court; NORTH CAROLINA SUPERIOR COURT
DISTRICT 30; BRADLEY B. LETTS, an individual, and Senior Resident Superior
Court Judge 30B; NORTH CAROLINA DISTRICT COURT; ROY T.
WIJEWICKRAMA, an individual, and Chief District Court Judge, 30th District;
KRISTINA L. EARWOOD, an individual, and 30th District Court Judge; KALEB
D. WINGATE, an individual, and 30th District Court Judge; DONA F. FORGA, an
individual, and 30th District Court Judge; JOHN J. PAVEY, JR., an individual and
Court-appointed counsel; JARED R. DAVIS, an individual, and Court-appointed
counsel; THE OFFICE OF THE ATTORNEY GENERAL OF NORTH
CAROLINA; JOSHUA STEIN, an individual, and Attorney General of North
Carolina; THE 43RD PROSECUTORIAL DISTRICT; THE OFFICE OF THE
DISTRICT ATTORNEY; ASHLEY H. WELCH, an individual, and 43rd
Prosecutorial District Attorney; CHRISTINA B. MATHESON, an individual, and
Assistant District Attorney for the 43rd Prosecutorial District; ANDREW C.
BUCKNER, an individual, and Assistant District Attorney for the 43rd Prosecutorial
District; JACOB P. PHELPS, an individual, and Assistant District Attorney for the
43rd Prosecutorial District; JENNACA D. HUGHS, an individual, and Assistant
District Attorney for the 43rd Prosecutorial District; SUMER L. ALLEN, an
individual, and Paralegal for the 43rd Prosecutorial District; JACKSON COUNTY,
NORTH CAROLINA; JACKSON COUNTY SHERIFF'S DEPARTMENT; THE
OFFICE OF THE SHERIFF; CHIP L. HALL, an individual, and retired Jackson Co.
Sheriff; CNA SURETY, of Sioux Falls, SD; Small Commercial Service Center;

HEATHER BAKER, an individual, and former Jackson Co. Attorney; SHANNON H. QUEEN, an individual, and former top-ranking officer with the Jackson Co. Sheriff's Dept.; ANN D. MELTON, an individual and former Jackson Co. Clerk of Superior; THE OFFICE OF THE JACKSON COUNTY CLERK OF SUPERIOR COURT; THE OFFICE OF THE JACKSON COUNTY MAGISTRATE; JEFFERY W. POWELL, an individual, former Jackson Co. Magistrate and Deputy Magistrate; SAMUEL K. BOWERS, an individual, and former Jackson Co. Sheriff's Deputy Courthouse Security; TYLER B. BRYSON, an individual, and current Jackson Co. Sheriff's Deputy and Courthouse Security; DEREK A. ROBINSON, an individual, and former Jackson Co. Sheriff's Deputy and Courthouse Security; MEGAN L. RHINEHART, an individual and Current Jackson Co. Sheriff's Deputy; KATHLEEN D. BREEDLOVE, an individual, retired Director of Human Resources from Southwestern Community College and currently the Director of HR for Jackson Co.; SOUTHWESTERN COMMUNITY COLLEGE; LYNN P. DANN, an individual, and former Department Head, Psychology, Sociology, and Ethics Instructor at Southwestern Community College; CHERYL L. CONTINO-CONNER, an individual, and former Dean of Students at Southwestern Community College; BARBARA B. PUTMAN, an individual, and former Dean of Arts & Sciences at Southwestern Community College; THOMAS R. BROOKS, an individual, and President of Southwestern Community College; JOHN DOES, 1-99, JANE DOES, 1-99,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, Chief District Judge. (1:24-cv-00034-MR-WCM)

Submitted: August 27, 2024

Decided: August 29, 2024

Before KING and BENJAMIN, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Andrew Douglas Anderson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew D. Anderson appeals the district court's order dismissing, after a review pursuant to 28 U.S.C. § 1915(e)(2), Anderson's federal and state civil claims against Defendants. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Anderson v. State of N. Carolina*, No. 1:24-cv-00034-MR-WCM (W.D.N.C. Mar. 18, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

STATE OF NORTH CAROLINA
JACKSON County
 File No. 20 CV 618
 In The General Court Of Justice
 District Court Division

Name And Address Of Plaintiff
Lynn Bucky Dann
 2020 OCT 26 AM 10:03

VERSUS
 Name And Address Of Defendant
Andrew Anderson

**NO-CONTACT ORDER
 FOR STALKING OR
 NONCONSENSUAL SEXUAL CONDUCT**

G.S. 50C-7

FINDINGS

This matter was heard by the undersigned district court judge, the court has jurisdiction over the parties and subject matter, and the defendant has been provided notice of the hearing.

The Court hereby finds that:

(If this block is checked, skip to the Order portion of the Order.) This Order is entered by default for the remedy sought in the complaint because the defendant failed to file an answer appear at this hearing and the allegations in the complaint are sufficient to justify a no-contact order for stalking or nonconsensual sexual conduct.

- 2. Present at the hearing were: the plaintiff, represented by PRO SE
 the defendant, represented by PRO SE
- 3. The plaintiff has suffered unlawful conduct by the defendant in that:

4. Other: Plaintiff failed to prove nonconsensual sexual conduct or stalking.

CONCLUSIONS

- 1. The defendant committed acts of unlawful conduct against the plaintiff.
- 2. The plaintiff has failed to prove grounds for issuance of a no-contact order.

ORDER

It is ORDERED that:

- 1. The defendant shall not visit, assault, molest, or otherwise interfere with the plaintiff.
- 2. The defendant cease stalking the plaintiff.
- 3. The defendant cease harassment of the plaintiff.
- 4. The defendant not abuse or injure the plaintiff.
- 5. The defendant not contact the plaintiff by telephone, written communication, or electronic means.
- 6. The defendant not enter or remain present at the plaintiff's residence, school, place of employment, and other places listed below at times when the plaintiff is present.

List Other Places Where Defendant Ordered Not To Be

(Over)

7. Other: (specify)

8. The terms of this Order shall be effective until one (1) year from the date of this Order.
 (specify date and time if less than one year) _____

9. The Order is denied and the case is dismissed.

Date	Name Of District Court Judge (type or print) Danna Foren
Time 9:47 AM	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM Signature Of District Court Judge Danna Foren

NOTICE TO DEFENDANT: A KNOWING VIOLATION OF A CIVIL NO-CONTACT ORDER SHALL BE PUNISHABLE AS CONTEMPT OF COURT, WHICH MAY RESULT IN A FINE OR IMPRISONMENT. THE COURT MAY FIND YOU IN CIVIL OR CRIMINAL CONTEMPT.

CERTIFICATION

I certify this Order is a true copy.

Date 10-29-2020	Signature Of Clerk 	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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NOTE TO CLERK: G.S. 50C-9 provides: "The clerk of court shall deliver on the same day that a civil no-contact order is issued, a certified copy of that order to the sheriff." The statute also provides that a copy of the order shall be issued promptly to the police department of the municipality of the victim's residence, or the sheriff and any county police department if the victim does not live within a municipality with a police department.

RETURN/CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this No-Contact Order For Stalking Or Nonconsensual Sexual Conduct was received and served as follows:

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	---	-------------------

- By delivering to the defendant named above a copy of this Order.
- By leaving a copy of this Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- By mailing a copy of this Order to the defendant by
 registered mail. certified mail (return receipt). designated delivery service.
- Defendant WAS NOT served for the following reason.

Date Received	Signature Of Deputy Sheriff Making Return
---------------	---

Date Of Return	Name Of Sheriff (type or print)
----------------	---------------------------------

Date Mailed	County Of Sheriff
-------------	-------------------

Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
--------------------	---

NOTE TO CLERK: G.S. 50C-9(b) provides: "If the [defendant] was not present in court when the order was issued, the [defendant] may be served in the manner provided for service of process in civil proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure."

NOTE: Use AOC-CR-310 for DWI offenses.
 In The General Court Of Justice
 District Superior Court Division

STATE VERSUS
 Name Of Defendant: ANDERSON, ANDREW, DOUGLAS
JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR PUNISHMENT: COMMUNITY INTERMEDIATE (STRUCTURED SENTENCING)
 (For Offenses Committed On Or After Dec. 1, 2016)
 G.S. 16A-1341, -1342, -1343, -1343.2, -1346

Race: W Sex: M Date Of Birth: 10/02/1986
 Attorney For State: JACOB PATRICK PHELPS
 Def Found Not Indigent Def Waived Attorney
 Attorney For Defendant: WAIVED
 Appointed Retained Cr Rptr initials

The defendant was found guilty/responsible, pursuant to plea pursuant to Affidavit of no contest trial by judge trial by jury of

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	CL	Pun. CL
21CR 050258	01	RESISTING PUBLIC OFFICER	02/05/2021	14-223		2
21CR 050258	02	SECOND DEGREE TRESPASS	02/05/2021	14-159.13		3

*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement)
 The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be 00 Level: I (0) II (1-4) III (5+)

- 1. The Court finds: (a) enhancement for G.S. 90-95(e)(4) (drugs) G.S. 14-3(c) (hate crime). G.S. 14-50.22 (gang misdemeanor), (b) enhancement from required suspended sentence to Class 2 misdemeanor, G.S. 90-95(e)(7).
 This finding is based on a determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.
- 2. The Court imposes mandatory punishment pursuant to G.S. 14-33(d) (assault in the presence of a minor).
- 3. The Court finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 and therefore imposes the special conditions of probation set forth on the attached AOC-CR-603D, Page Two, Side Two, and makes the additional findings and orders on the attached AOC-CR-615, Side Two.
- 4. The Court finds the above-captioned offense(s) involved the (check all that apply) physical or mental sexual abuse of a minor (if No. 3 not found) and therefore imposes the special conditions of probation set forth on the attached AOC-CR-603D, Page Two, Side Two.
- 5. The Court finds this is an offense involving assault, communicating a threat, or an act defined in G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
- 6. The Court finds the above-designated offense(s) involved (check one) (offenses committed Dec. 1, 2016 - Nov. 30, 2017) criminal street gang activity (offense committed on or after Dec. 1, 2017) criminal gang activity, G.S. 14-50.25
- 7. The Court did not grant a conditional discharge under G.S. 90-96(s) because (check all that apply) the defendant refused to consent. the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.
- 8. The Court finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor, G.S. 16A-1382.1(a1).
- 9. The Court finds that the defendant refused to consent to conditional discharge under G.S. 14-204.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned for a term of 15 days in the custody of the: (check only one)
 Sheriff of JACKSON County Other:
 Misdemeanor Confinement Program (sentences greater than 90 days for which a facility is not otherwise specified above)

This sentence shall run at the expiration of the sentence imposed in file number _____

The defendant shall be given credit for _____ days spent in confinement prior to the date of this Judgment as a result of this/these charge(s), to be applied toward the sentence imposed above. imprisonment required for special probation set forth on AOC-CR-603D, Page Two.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised unsupervised probation for 12 months.

- 1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
- 2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.
- 3. This period of probation shall begin when the defendant is released from incarceration at the expiration of the sentence in the case below.

File No	Offense	County	Court	Date
- 4. The defendant shall comply with the conditions set forth in file number _____
- 5. The defendant shall provide a DNA sample pursuant to G.S. 15A-265.4. (AOC-CR-319 required)

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee if placed on supervised probation above, pursuant to a schedule determined by the probation officer. set out by the court as follows:

Costs	Fine	Restitution*	Attorney's Fees	Comm. Serv Fee	EHA Fee	SBM Fee	Appl Fee/Misc	Total Amount Due
\$ 183.00	\$ 50.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 233.00

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.

The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other:
 Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation. A TRUE COPY

CLERK OF SUPERIOR COURT
 JACKSON COUNTY
 By: _____
 Assi./Deputy/Clerk

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342. The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. (5) Submit to the taking of digitized photographs, including photographs of the defendant's face, scars, marks, and tattoos, to be included in the defendant's records. If the defendant is on supervised probation, the defendant shall also: (6) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (7) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (8) Repon as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (9) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (10) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be required to submit to any other search that would otherwise be unlawful. (11) Submit to warrantless searches by a law enforcement officer of the defendant's person and of the defendant's vehicle, upon a reasonable suspicion that the defendant is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. (12) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it, not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances, and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used. (13) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction and Juvenile Justice for the actual costs of drug or alcohol screening and testing.

14. The Court finds that the defendant is responsible for acts of domestic violence and therefore makes the additional findings and orders on the attached AOC-CR-603D, Page Two, Side Two.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

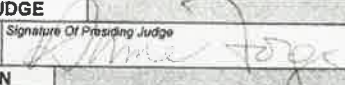
- 15. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 16. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- 17. Complete _____ hours of community service during the first _____ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is not due because it is assessed in a case adjudicated during the same term of court. to be paid pursuant to the schedule set out under Monetary Conditions above within _____ days of this Judgment and before beginning service.
- 18. Report for initial evaluation by _____ participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 19. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with _____ "Contact" includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except _____
- 20. Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of _____ days, _____ months, the Court having found that a substance abuse assessment has identified defendant's alcohol dependency or chronic abuse.
- 21. Other: **MAINTAIN PEACEFUL CONTACT WITH LAW ENFORCEMENT. NOT VIOLATE ANY LAWS.**

22. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603D, Page Two.

ORDER OF COMMITMENT/APEAL ENTRIES

- 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- 3. The current pretrial release order is modified as follows: REMAIN THE SAME
- 4. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
05/25/2021	THE HONORABLE DONNA F FORGA	

CERTIFICATION

- I certify that this Judgment and attachment(s) marked below is a true and complete copy of the original which is on file in this case.
- 1. Appellate Entries (AOC-CR-350)
 - 2. Judgment Suspending Sentence (AOC-CR-603D, Page Two) (additional conditions of probation)
 - 3. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
 - 4. Judicial Findings As To Required DNA Sample (AOC-CR-319)
 - 5. Judicial Findings And Order For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two)
 - 6. Convicted Sex Offender Permanent No Contact Order (AOC-CR-620)
 - 7. Additional File No.(s) And Offense(s) (AOC-CR-626)
 - 8. Other: _____

Date	Date Certified Copies Delivered To Sheriff	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court
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SEAL

Material opposite unmarked squares is to be disregarded as surpage

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 20 CVS 725

ANDREW ANDERSON,
Plaintiff,

vs

LYNN BUCKY DANN, KATHLEEN
BREEDLOVE, CHERYL LYN
CONTINO-CONNER, THOMAS RAY
BROOKS, BARBARA BIXBY PUTMAN,
JOHN DOES, and JANE DOES,
Defendants.

FILED
2021 MAR 12 10 11 AM
JACKSON COUNTY, NC

BY _____)

ORDER

THIS CAUSE coming on to be heard and being heard upon Motions of the Defendants as follows:

Defendants Dann and Breedlove's Objections to Plaintiff's Subpoenas and Motion to Quash and for Costs filed 22 January 2021.

Defendants Dann and Breedlove's Motion to Dismiss and Motion to Strike Plaintiff's Second Amendment to Complaint pursuant to Rule 12(b)(6) and Rule 12(f) Filed 29 January 2021.

Defendants Dann and Breedlove's Motion to Dismiss Complaint (December 30, 2020) filed 29 January 2021.

Defendants Dann and Breedlove's Motions for Sanctions pursuant to Rule 26(g) of the North Carolina Rules of Civil Procedure filed 29 January 2021.

Motion to Dismiss pursuant to Rule 12(b)(6) on behalf of Barbara Putnam, Cheryl Conner, Lynn Bucky Dann, Thomas Ray Brooks, Southwestern Community College filed 1 March 2021

Defendants Lynn Dann, Southwestern Community College, Barbara Putnam, Thomas Brooks, Cheryl Conner's Motion for Prosecution Bond filed 1 March 2021.

And the Court having considered the arguments of counsel and the Plaintiff with respect thereto, and being of the opinion that:

1. The Defendants' Collective Motion to Strike the Plaintiff's Second Amended Complaint is DENIED as the Court considers the 23 December filing by the Plaintiff part of the Original December 3, 2020 Complaint.

2. The collective Motions to Dismiss Plaintiff's Second Amended Complaint filed 31 December 2020 made pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure should be and the same is hereby ALLOWED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT Plaintiff's Second Amended Complaint be and the same is hereby DISMISSED against all Defendants.

That further ruling on all other motions are rendered moot and require no decision by this Court.

This the ²⁴16 day of March, 2021.

A handwritten signature in black ink, appearing to read "S. Warren", written over a horizontal line.

Honorable Steven R. Warren
Superior Court Judge Presiding

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 244

ANDREW D. ANDERSON,

Plaintiff,

vs.

ANDREW D. ANDERSON V. LYNN P.
DANN, KATHLEEN BREEDLOVE,
CHERYL LYNN CONTINO-CONNER,
THOMAS RAY BROOKS, BARBARA
BIXBY PUTMAN, SOUTHWESTERN
COMMUNITY COLLEGE, JOHN DOES
1-10, AND JANE DOES 1-10,

Defendants.

**ORDER DENYING MOTION TO
CONTINUE HEARING**

THIS CAUSE coming on to be heard and being heard before the undersigned Superior Court Judge presiding during the week of July 19, 2021 civil session of Civil Superior Court for Jackson County, upon Plaintiff's Motion to Postpone and Reschedule the hearing on Defendants' Motions to Dismiss and for Sanctions scheduled by defense counsel to be heard during the July 19, 2021 session of court, and with Plaintiff's motion to continue the hearings noticed to all parties and counsel to be heard at July 21, 2021 at 3:30PM via Webex, and with Plaintiff, Pro Se, appearing and counsel for defendants appearing at the motion to continue the hearing via Webex on July 21, 2021 at 3:30PM, and after hearing Plaintiff's argument that the hearing on the motions to dismiss and sanctions should be moved to September 20, 2021 on the grounds that because a Jackson County District Court (20 CVD 618) matter involving some of the same parties in this matter remains open, that the pending motions in the instant action ought to be continued, and after hearing from counsel for the defendants in opposition to the motion to continue; the Court DENIED in open Court on July 21 2021 Plaintiff's motion to continue.

IT IS SO ORDERED that the Plaintiff's Motion to Postpone and Reschedule the hearing on the Defendants' Motions to Dismiss and for Sanctions from the week of July 19, 2021 is HEREBY DENIED, *nunc pro tunc*.

This the 6th day of August, 2021.



The Hon. Marvin P. Pope, Superior Court Judge
Presiding

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 244

ANDREW D. ANDERSON,

Plaintiff,

vs.

ANDREW D. ANDERSON V. LYNN P.
DANN, KATHLEEN BREEDLOVE,
CHERYL LYNN CONTINO-CONNER,
THOMAS RAY BROOKS, BARBARA
BIXBY PUTMAN, SOUTHWESTERN
COMMUNITY COLLEGE, JOHN DOES
1-10, AND JANE DOES 1-10,

Defendants.

ORDER

THIS CAUSE coming on to be heard and being heard before the undersigned Superior Court Judge presiding at the July 19, 2021, term of Civil Superior Court for Jackson County, upon Defendants' Motions to Dismiss and Motions for Rule 11 Sanctions, the Court held a duly noticed hearing on July 21, 2021, for 3:30PM via WebEx whereupon Mr. Andrew Anderson the Plaintiff, appeared Pro Se, and Counsel for Defendants, Mr. John E. Spainhour, Mr. Wyatt Stevens, and Mr. Bill Cannon appeared, and the Court having heard from Mr. Anderson in open court and considered Plaintiff's motion to continue the hearing and having denied Plaintiff's motion to continue, as reflected in a separate order, the Court heard from heard arguments from Plaintiff, and counsel for Defendants, and the Court having further reviewed the Pleadings in this matter as well as the Pleadings in Plaintiff's previously filed civil action against the Defendants, "Andrew Anderson v. Dann, et al," 20 CVS 725, Jackson County Superior Court, and further having reviewed the Order entered March 17, 2021 by the Honorable Steven R. Warren, Superior

Court Judge Presiding that dismissed with prejudice 20 CVS 725, and having reviewed the applicable law and having heard from all parties appearing, Pro Se or through Counsel, the Court finds as a fact and concludes the matter of law as follows:

1. Under *res judicata*, a final judgment on the merits bars further claims by parties or their privies based on the same cause of action. *Res judicata* prevents re-litigation of all grounds for recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding; and that the doctrine gives parties to whom it applies finality; further, a final judgment on the merits in one action precludes a second suit based on the same cause of action between the same parties or their privies. Once the final judgment is entered, all matters, either fact or law, that were or should have been adjudicated in the prior action are deemed concluded; and that the instant action is essentially identical to the previous action Plaintiff filed against Defendants in 20 CVS 725, that there is a sufficient identity of parties and issues between the previous action 20 CVS 725, and the instant action, and that the order entered by The Hon. Steve Warren, Superior Court Judge Presiding in 20 CVS 725 was a final adjudication on the merits in favor of Defendants in 20 CVS 725; and as a result the doctrine of *res judicata* applies to Defendants and to all their privies; yet Plaintiff attempts to relitigate a previously dismissed and final judgment with the filing of the instant action against the Defendants.

2. Further, that in the instant action, the Plaintiff has failed to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure and that instant action states no plausible legal theory, just as the previous action stated no plausible legal theory;

3. With respect to Defendant's Motion for Sanctions against Plaintiff, the Court finds that Plaintiff's Complaint and Amended Complaint in this action violate Rule 11 in that they were not well grounded in fact; were frivolous and meritless; were not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and were brought for an improper purpose of attempting to re-litigate claims that have already been considered and dismissed by The Honorable Judge Steve Warren. The Court therefore finds that Defendants' Motions for Sanctions against Plaintiff are well founded and should be allowed.

5. Plaintiff Andrew Anderson is further cautioned by the Court that filing frivolous and meritless actions wastes the courts' resources and that no courthouse is a stage to harass others with meritless causes of action;

Therefore, Defendants Motion to Dismiss IS HEREBY GRANTED; Defendants' Motion for Sanctions is HEREBY GRANTED and counsel for Defendants are to submit fee and cost affidavits with respect to the time and expenses related to defending the instant action.

This the 6th day of August, 2021.



Marvin P. Pope, Superior Court Judge Presiding

TO THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA: Plaintiff Andrew Douglas Anderson hereby gives notice of appeal to the Court of Appeals of North Carolina from the final judgment of Judge Marvin P. Pope, Superior Court Judge, entered on 6 August 2021, in the Superior Court of Jackson County, which dismissed Plaintiff's action and awarded Defendants, sanctions, costs, and rule 11 fees. Whereby, the Plaintiff is appealing to the North Carolina Court of Appeals both the dismissal and sanctions costs and rule 11 fees.

Respectfully Submitted this 16th day of August 2021,

Andrew D. Anderson

By: Plaintiff, Andrew D. Anderson
177 Dills Branch Road
Sylva, NC 28779
(706) 307-9493
pfca.anderson@gmail.com

NORTH CAROLINA NOTARY ACKNOWLEDGMENT

COUNTY OF Jackson

I, Rieley M. Nichols, Notary Public, do hereby certify that Andrew D. Anderson (name of individual(s) whose acknowledgment is being taken) personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this 16 day of Aug, 2021.

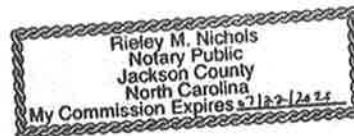
Rieley M. Nichols

Notary Public Signature

Print Rieley M. Nichols
My commission expires: 07/22/2025

(Seal)

FILED
2021 AUG 16 10:44
JACKSON COUNTY
NC
107



A TRUE COPY
CLERK OF SUPERIOR COURT
JACKSON COUNTY

By: [Signature]
Clerk of Superior Court

CERTIFICATE OF SERVICE

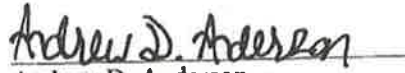
This is to certify that I have this day served the opposing party in the foregoing matter a filed copy of the Notice of Appeal by way of certified mail in a properly addressed envelope with adequate postage thereon in the manner prescribed under the Rules of Civil Procedure to:


William E. Cannon
Post Office Box 207
Waynesville, NC 28786
Attorney for Kathleen
Breedlove and
Lynn P. Dann

John E. Spainhour
McAngus Goudelock & Courie
Post Office Box 2137
Asheville, NC 28802
Attorney for Defendants Dann,
Contino-Conner, Brooks, Putman,
and Southwestern Community
College

Wyatt S. Stevens
Roberts & Stevens, P.A.
Post Office Box 7647
Asheville, North Carolina
28802
Attorney for Kathleen
Breedlove

This 16th day of August 2021.


Andrew D. Anderson

FILED
2021 AUG 16 A 10:34
JACKSON COUNTY SUPERIOR COURT
BY: 

A TRUE COPY
CLERK OF SUPERIOR COURT
JACKSON COUNTY

Clerk of Superior Court

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

ANDREW D. ANDERSON,

Plaintiff,

vs.

ANDREW D. ANDERSON V. LYNN P.
DANN, KATHLEEN BREEDLOVE,
CHERYL LYNN CONTINO-CONNER,
THOMAS RAY BROOKS, BARBARA
BIXBY PUTMAN, SOUTHWESTERN
COMMUNITY COLLEGE, JOHN DOES 1-
10, AND JANE DOES 1-10,

Defendants.

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2022 MAR 24 9:57

21 CVS 244

2022 MAR 25 P 1:25

JACKSON CO., C.S.C.

BY

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS APPEAL**

THIS CAUSE, being heard before the undersigned Superior Court Judge presiding at the February 28, 2022, term of Civil Superior Court for Jackson County, upon Defendants' Motions to Dismiss Appeal, the Court held a duly noticed hearing on February 28, 2022, for 3:15PM via WebEx whereupon Mr. Andrew Anderson the Plaintiff, appeared Pro Se, and Counsel for Defendants, Mr. Daniel L. Fox and Mr. Daniel Walsh appeared, and the Court having heard arguments from Mr. Fox, Mr. Walsh and Mr. Anderson in open court and considered Defendants' Motion to Dismiss Appeal and the Court having further reviewed the Pleadings in this matter and having reviewed the applicable law and Rules and having heard from all parties appearing, Pro Se or through Counsel, the Court finds and concludes follows:

Defendants' Motion to Dismiss Appeal is GRANTED.

This the 18th day of March, 2022.

BY B. Letts
HON. BRADLEY B. LETTS
SUPERIOR COURT JUDGE PRESIDING

STATE OF NORTH CAROLINA

File No.

21CRS050258

52

JACKSON County

In The General Court Of Justice
 District Superior Court Division

NOTE: The AOC-CR-645 (Optional Form For Criminal Judgment (District Court)) and other criminal judgment forms are available for use in district court cases. For superior court cases, other criminal judgment forms are available for use.

STATE VERSUS

Name Of Defendant
 ANDERSON, ANDREW, DOUGLAS
 Race W Sex M Date Of Birth 10/02/1986

JUDGMENT/ORDER OR OTHER DISPOSITION

Attorney For State ANDREW C BUCKNER Def. Found Not Indigent Def. Waived Attorney Attorney Denied Attorney For Defendant SHIRA LOREE HEDGEPEETH Appointed Retained Cr Rptr Inhab's DM

Offense(s)
 52/SECOND DEGREE TRESPASS - THIS IS AN ALFORD PLEA.

PRAYER FOR JUDGMENT IS CONTINUED IN THIS MATTER

ATTORNEY FEES ARE WAIVED.


COSTS ARE WAIVED.

SIGNATURE OF JUDGE

Date 06/13/2022 Name Of Presiding Judge (type or print) THE HONORABLE STEVE R WARREN Signature Of Presiding Judge 

Material opposite unmarked squares is to be disregarded as surplusage

AOC-CR-305, Rev. 2/21
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 CLERK OF SUPERIOR COURT
 JACKSON COUNTY
 By: 
 Ass't./Deputy/Clerk

FILED: September 24, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1277
(1:24-cv-00034-MR-WCM)

ANDREW D. ANDERSON, an individual, an American, and Disabled Veteran of
Sylva, NC; We the People; All similarly situated free Americans

Plaintiff - Appellant

v.

THE STATE OF NORTH CAROLINA; THE OFFICE OF THE GOVERNOR
OF NORTH CAROLINA; ROY A. COOPER, III, an individual, and Governor of
North Carolina; THE OFFICE OF THE NORTH CAROLINA SUPREME
COURT CHIEF JUSTICE; CHERI BEASLEY, an individual, and former Chief
Justice of the North Carolina Supreme Court; PAUL NEWBY, an individual, and
Chief Justice of the North Carolina Supreme Court; NORTH CAROLINA
SUPERIOR COURT DISTRICT 30; BRADLEY B. LETTS, an individual, and
Senior Resident Superior Court Judge 30B; NORTH CAROLINA DISTRICT
COURT; ROY T. WIJEWICKRAMA, an individual, and Chief District Court
Judge, 30th District; KRISTINA L. EARWOOD, an individual, and 30th District
Court Judge; KALEB D. WINGATE, an individual, and 30th District Court
Judge; DONA F. FORGA, an individual, and 30th District Court Judge; JOHN J.
PAVEY, JR., an individual and Court-appointed counsel; JARED R. DAVIS, an
individual, and Court-appointed counsel; THE OFFICE OF THE ATTORNEY
GENERAL OF NORTH CAROLINA; JOSHUA STEIN, an individual, and
Attorney General of North Carolina; THE 43RD PROSECUTORIAL DISTRICT;
THE OFFICE OF THE DISTRICT ATTORNEY; ASHLEY H. WELCH, an
individual, and 43rd Prosecutorial District Attorney; CHRISTINA B.
MATHESON, an individual, and Assistant District Attorney for the 43rd
Prosecutorial District; ANDREW C. BUCKNER, an individual, and Assistant
District Attorney for the 43rd Prosecutorial District; JACOB P. PHELPS, an
individual, and Assistant District Attorney for the 43rd Prosecutorial District;
JENNACA D. HUGHS, an individual, and Assistant District Attorney for the

43rd Prosecutorial District; SUMER L. ALLEN, an individual, and Paralegal for the 43rd Prosecutorial District; JACKSON COUNTY, NORTH CAROLINA; JACKSON COUNTY SHERIFF'S DEPARTMENT; THE OFFICE OF THE SHERIFF; CHIP L. HALL, an individual, and retired Jackson Co. Sheriff; CNA SURETY, of Sioux Falls, SD; Small Commercial Service Center; HEATHER BAKER, an individual, and former Jackson Co. Attorney; SHANNON H. QUEEN, an individual, and former top-ranking officer with the Jackson Co. Sheriff's Dept.; ANN D. MELTON, an individual and former Jackson Co. Clerk of Superior; THE OFFICE OF THE JACKSON COUNTY CLERK OF SUPERIOR COURT; THE OFFICE OF THE JACKSON COUNTY MAGISTRATE; JEFFERY W. POWELL, an individual, former Jackson Co. Magistrate and Deputy Magistrate; SAMUEL K. BOWERS, an individual, and former Jackson Co. Sheriff's Deputy Courthouse Security; TYLER B. BRYSON, an individual, and current Jackson Co. Sheriff's Deputy and Courthouse Security; DEREK A. ROBINSON, an individual, and former Jackson Co. Sheriff's Deputy and Courthouse Security; MEGAN L. RHINEHART, an individual and Current Jackson Co. Sheriff's Deputy; KATHLEEN D. BREEDLOVE, an individual, retired Director of Human Resources from Southwestern Community College and currently the Director of HR for Jackson Co.; SOUTHWESTERN COMMUNITY COLLEGE; LYNN P. DANN, an individual, and former Department Head, Psychology, Sociology, and Ethics Instructor at Southwestern Community College; CHERYL L. CONTINO-CONNER, an individual, and former Dean of Students at Southwestern Community College; BARBARA B. PUTMAN, an individual, and former Dean of Arts & Sciences at Southwestern Community College; THOMAS R. BROOKS, an individual, and President of Southwestern Community College; JOHN DOES, 1-99; JANE DOES, 1-99

Defendants - Appellees

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge King, Judge Benjamin, and
Senior Judge Keenan.

For the Court

/s/ Nwamaka Anowi, Clerk

Table of Cited Constitutional and Statutory Appendix

The Preamble to, Constitution of the United States, Bill of Rights, Amendments I,

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N.C. State Const. Preamble , N.C. State Const. Art. I Declaration of Rights.

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28 U.S.C. § 1367

36 USC § 21704 (8)

42 U.S. Code § 1983 - Civil Action for Deprivation of Rights,

N.C.G.S § 14-12.8. Wearing masks, hoods, etc., on public property.

N.C.G.S. §. 114-1.1. Common-law powers:

N.C.G.S. § 116-300: Free Speech on Campus

CITED CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, AND
REGULATIONS VERBATEM

Preamble to the U.S. Const.

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Art. III. Sec.2 U.S. Const.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;— between a State and Citizens of another State,—between Citizens of different States,— between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The U.S. Bill of Rights

Amend. I

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Amend. V

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases

arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.””

Amend. VI

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

Amend. VIII

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Amend. IX

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

Amend. X

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

Amend. XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amend. XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 1331- Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 U.S.C. § 1367- Supplemental jurisdiction

Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

36 USC § 21704- Powers

The corporation may—

(8) sue and be sued; and

42 U.S. Code § 1983 - Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

N.C. State Const. Preamble

“That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:”

N.C. Const. Art. I Sec. 1. The equality and rights of persons.

“We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these

are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.”

N.C. Const. Art. I Sec. 2. Sovereignty of the people.

“All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.”

N.C. Const. Art. I Sec. 3. Internal government of the State.

“The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.”

N.C. Const. Art. I Sec. 6. Separation of powers.

“The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.”

N.C. Const. Art. I Sec. 7. Suspending laws.

“All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.”

N.C. Const. Art. I Sec. 14. Freedom of speech and press.

“Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.”

N.C. Const. Art. I Sec. 18. Court shall be open.

“All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.”

N.C. Const. Art. I Sec. 19. Law of the land; equal protection of the laws.

“No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.”

N.C. Const. Art. I Sec. 24. Right of jury trial in criminal cases.

“No person shall be convicted of any crime but by the unanimous verdict of a jury in open court, except that a person accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, in writing or on the record in the court and with the consent of the trial judge, waive jury trial, subject to procedures prescribed by the General Assembly. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.” (2013-300, s. 1.)

N.C. Gen. Stat. § 14-12.8. Wearing of masks, hoods, etc., on public property.

“No person or persons shall in this State, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, or appear upon or within the public property of any municipality or county of the State, or of the State of North Carolina.” (1953, c. 1193, s. 7.)

N.C. Gen. Stat. §. 114-1.1. Common-law powers:

“The General Assembly reaffirms that the Attorney General has had and continues to be vested with those powers of the Attorney General that existed at the common law, that are not repugnant to or inconsistent with the Constitution or laws of North Carolina.” (1985, c. 479, s. 137.)

Article 36.

Campus Free Speech.

N.C. Gen. Stat. § 116-300. **Policies required.**

The Board of Governors of The University of North Carolina shall develop and adopt a policy on free expression that states, at least, the following:

- (1) The primary function of each constituent institution is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, the constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression.
- (2) It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.
- (3) The constituent institution shall not require students, faculty, or administrators to publicly express a given view of social policy.
- (3a) The constituent institution shall remain neutral, as an institution, on the political controversies of the day.

- (4) Students and faculty have the freedom to discuss any problem that presents itself, as the First Amendment permits and within the limits of narrowly tailored viewpoint- and content-neutral restrictions on time, place, and manner of expression that are consistent with this Article and that are necessary to achieve a significant institutional interest, provided that these restrictions are clear, published, and provide ample alternative means of expression. Students and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the constituent institution, subject to the requirements of this section.
- (5) Access to campus for purposes of free speech and expression shall be consistent with First Amendment jurisprudence regarding traditional public forums, designated public forums, and nonpublic forums, subject to reasonable time, place, and manner restrictions.
- (6) Consistent with First Amendment jurisprudence, including any reasonable time, place, and manner restrictions adopted by a constituent institution, campuses of the constituent institutions are open to any speaker whom students, student groups, or members of the faculty have invited.
- (7) The constituent institution shall implement a range of disciplinary sanctions for anyone under the jurisdiction of a constituent institution who substantially disrupts the functioning of the constituent institution or substantially interferes with the protected free expression rights of others, including protests and demonstrations that infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity has been scheduled pursuant to this policy or is located in a nonpublic forum.
- (8) In all student disciplinary cases involving expressive speech or conduct, students are entitled to a disciplinary hearing under published procedures, including, at a minimum, (i) the right to receive advance written notice of the charges, (ii) the right to review the evidence in support of the charges, (iii) the right to confront witnesses against them, (iv) the right to present a defense, (v) the right to call witnesses, (vi) a decision by an impartial arbiter or panel, (vii) the right of appeal, and (viii) the right to active assistance of counsel, consistent with G.S. 116-40.11. (2017-196, s. 1; 2023-102, s. 4(a), (b).)



State of North Carolina

ROY COOPER
GOVERNOR

MARCH 10, 2020

EXECUTIVE ORDER NO. 116

DECLARATION OF A STATE OF EMERGENCY TO COORDINATE RESPONSE AND PROTECTIVE ACTIONS TO PREVENT THE SPREAD OF COVID-19

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person to person; and

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has warned of the high public health threat posed by COVID-19 globally and in the United States and has deemed it necessary to prohibit or restrict travel to areas designated by the CDC; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 319 of the Public Health Service Act; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed multiple cases of COVID-19 in North Carolina as of March 10, 2020; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, health insurance companies have begun to waive the costs for COVID-19 testing and are encouraged to continue to ensure ease of access to health care for diagnostics and treatment without regard to the issue of cost or a patient's ability to pay; and

WHEREAS, first responders and health care professionals remain integral to ensuring the state is best situated to respond to and mitigate the threat posed by COVID-19 and such first responders and health care professionals should have the availability of all necessary personal protective equipment and continue to follow all necessary response protocols; and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the congregation of persons in public places or buildings; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned has authority to requisition state property and state resources to utilize state services, equipment, supplies and facilities in response to a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 and similar rules should be waived for essentials, as defined in N.C. Gen. Stat. § 166A-19.70(f)(3), for assisting in the restoration of utility services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, the Governor shall direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry or crops to include timber ready to be harvested; and

WHEREAS, 49 C.F.R. § 390.23 allows the governor of a state to suspend the rules and regulations under 49 C.F.R. §§ 390-399 for up to thirty (30) days if the governor determines that an emergency condition exists; and

WHEREAS, the undersigned, in consultation with the Secretary of NCDHHS, has determined it is necessary and appropriate to act to ensure that COVID-19 remains controlled and that residents and visitors in North Carolina remain safe and secure; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. State of Emergency

I hereby declare a State of Emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19) for the State of North Carolina based on the public health emergency posed by COVID-19.

The emergency area, as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b) is the State of North Carolina (the "Emergency Area").

Section 2. Application

All state and local government entities and agencies are ordered to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan (the "Plan").

Section 3. Delegation of Authority

I delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety ("DPS"), or his designee, the power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Secretary Hooks, or his designee, shall implement the Plan in coordination with the Secretary of the Department of Health and Human Services, Dr. Mandy Cohen, and the State Health Director, Dr. Elizabeth Tilson.

Section 4. Exercise of Powers

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. §§ 143B-602 and 166A-19.11.

Section 5. Maximum Hours of Service

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381, if the driver is transporting medical supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19, through the duration of the State of Emergency or until further notice.

Section 6. Height and Weight Restrictions

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles throughout the Emergency Area involved in transporting medical supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles throughout the Emergency Area used to transport medical supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops to include timber ready to be harvested and feed to livestock and poultry in the Emergency Area.

Section 7. Unwaived Size and Weight Restrictions

- I. Notwithstanding the waivers set forth above in Section 6, size and weight restrictions and penalties have not been waived under the following conditions:
 - a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
 - b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
 - c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
 - d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (i) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (ii) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. When operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet 6 inches in width.
- II. Vehicles subject to this Executive Order shall adhere to the following conditions:
 - a. The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. This Order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.
 - b. The waiver of regulations under Title 49 of the Code of Federal Regulations ("Federal Motor Carrier Safety Regulations") does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.
 - c. Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are limited to medical supplies and other equipment to be used in support of the Plan or other efforts to address the public health threat posed by COVID-19.
- III. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 5 through 8 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 8. Additional Transportation Waivers

Vehicles subject to this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. § 20-382.1 concerning intrastate for hire authority and N.C. Gen. Stat. § 20-382 concerning interstate for-hire authority; however, vehicles shall maintain insurance as required as required by law.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 9. Consumer Protection

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38.

I further hereby encourage the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report price gouging as well as unfair and deceptive trade practice under Chapter 75 of the North Carolina General Statutes to the public.

Section 10. Task Force

I hereby memorialize the establishment of the Governor's Novel Coronavirus Task Force on COVID-19 ("Task Force"). The Director of Emergency Management and the State Health Director shall continue to serve as co-chairs of the Task Force. The Task Force shall continue to work with state, local, and federal partners in responding to challenges posed by COVID-19.

Section 11. State Employee Policy Guidance

- a. I hereby authorize hiring of temporary employees and contractors to support NCDHHS and local health departments in responding to the threats posed by COVID-19.
- b. I hereby authorize the State Health Director to monitor areas of concentration of COVID-19 and make recommendations regarding travel restrictions for travel of state employees conducting state business. Agencies shall have the authority to cancel, restrict or postpone travel of state employees as needed to protect the wellbeing of others. Agencies are urged to cancel travel to restricted areas (as defined by the Division of Public Health of NCDHHS and the CDC). Exceptions to travel restrictions may be needed based on the unique circumstances or job duties of state employees.

Section 12. Public Health Surveillance and Control Measures

Notwithstanding the public health authorities in place under Chapter 130A of the North Carolina General Statutes, I hereby order the State Health Director to work with local health directors to implement public health surveillance and control measures where appropriate for individuals who have been diagnosed with or are at risk of contracting COVID-19 in order to control or mitigate spread of the disease. I hereby order the State Health Director to utilize all authorities under N.C. Gen. Stat. Chapter 130A to obtain information and records necessary to prevent, control, or investigate COVID-19.

Section 13. Laboratory Testing

I hereby order the State Health Director to work with the State Laboratory of Public Health to maximize the availability of laboratory testing for COVID-19.

I further encourage private laboratories and universities to take all reasonable steps to expand COVID-19 testing capacity.

Section 14. Right of Entry and Disinfection for Local Health Departments and NCDHHS Secretary

With the concurrence of the Council of State and notwithstanding the public health authorities in place under Chapter 130A of the North Carolina General Statutes, I hereby grant local health departments, the Secretary of NCDHHS, and Division of Public Health employees serving the Secretary of NCDHHS' agents, and on her direction, a right of entry into public places for the purposes of assisting with or investigating potential COVID-19 cases or exposure and requiring cleaning and disinfecting measures to help control transmission of COVID-19.

Section 15. Cleaning of Regulated Facilities

With the concurrence of the Council of State, I hereby waive restrictions related to the type of product or chemical concentration used to control COVID-19 at facilities whose sanitation is regulated by NCDHHS, if conducted and handled in a safe manner and approved by the local health department in consultation with the Division of Public Health of NCDHHS. The State Health Director may issue additional orders or regulations consistent with the state's Public Health Law to regulate the sanitation of public facilities regulated by NCDHHS or local health departments.

Section 16. Out of State Health Care Licensure and Additional Testing Resources

With the concurrence of the Council of State, I hereby temporarily waive North Carolina licensure requirements for health care and behavioral health care personnel who are licensed in another state, territory, or the District of Columbia to provide health care services within the Emergency Area.

With the concurrence of the Council of State, and in the interest of alleviating immediate human suffering, nothing in Subchapters 32B, 32M, or 32S of Article 21 of the North Carolina Administrative Code shall be interpreted to prevent physicians, nurse practitioners, and physician assistants from issuing a standing order for qualified agents or employees who are working under the direct supervision of a physician, physician assistant or nurse practitioner to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing.

Section 17. Federal Support

I further direct Secretary Hooks, or his designee, to seek assistance from any and all agencies of the United States Government as may be needed to address the emergency and seek reimbursement for costs incurred by the state in responding to this emergency.

Section 18. Local County Public Health Aid Funding Formula

With the concurrence of the Council of State, I hereby grant the Secretary of NCDHHS, or her designee, the authority to waive the formula requirements of 15A NCAC 18A .2901 and adjust aid-to-county funding, if a local health department's resources are diverted in response to COVID-19.

Section 19. Access to State Funds

I hereby order access to the State Emergency Response and Disaster Relief Fund to the extent necessary to cover costs associated with responding to this State of Emergency as provided in N.C. Gen. Stat. § 166A-19.42, including but not limited to the substance of this Executive Order.

Section 20. Purchase and Contract Regulation Waivers

With the concurrence of the Council of State, I hereby temporarily waive Sections .0301 through .0317 of Chapter 5B in Title 1 in the North Carolina Administrative Code to the extent necessary to permit NCDHHS, DPS, and local governmental entities to enter into contracts to secure resources and equipment needed to respond to COVID-19.

In addition to the provisions in Section 11, I further order all components of state government to expedite and prioritize the leasing of real property, including but not limited to, laboratories and health care facilities in order to provide the state with the resources needed to address COVID-19.

Section 21. Cost Sharing Reduction

Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby direct NCDHHS and the North Carolina Department of Insurance to immediately work with health insurance plans operating in the state to identify any burdens for testing for COVID-19 as well as access to prescription drugs and telehealth services, as needed, in order to reduce cost-sharing (including, but not limited to, co-pays, deductibles, or coinsurance) to zero for all medically necessary screening and testing for COVID-19.

Section 22. Clinical Coverage Policy

With the concurrence of the Council of State, and in order to provide the immediate relief of human suffering, I hereby temporarily waive the regulatory requirements and suspend the enforcement of the statutory requirements under N.C. Gen. Stat. § 108A-54.2 for modifications of Medicaid Clinical Coverage Policy.

I order the NCDHHS, Division of Health Benefits to create coverage policies necessary for Medicaid and Health Choice Beneficiaries to receive medically necessary services for testing and treatment of COVID-19 and to create coverage policies or modify existing policies that will allow beneficiaries to continue to receive necessary services without disruption during the State of Emergency.

Section 23. Inapplicability of Section 166A-19.30(c)

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 24. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of DPS, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 25. Effective Date

This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 10th day of March in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER

GOVERNOR

March 14, 2020

EXECUTIVE ORDER NO. 117

PROHIBITING MASS GATHERINGS AND DIRECTING THE STATEWIDE CLOSURE OF K-12 PUBLIC SCHOOLS TO LIMIT THE SPREAD OF COVID-19

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declares a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the undersigned established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 11, 2020, the President of the United States took executive action to restrict travel from Europe into the United States of America; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, first responders and health care professionals remain integral to ensuring the state is best situated to respond to and mitigate the threat posed by COVID-19 and such first responders and health care professionals should have the availability of all necessary personal protective equipment and continue to follow all necessary response protocols; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, has the power to regulate and control the congregation of persons in public places or buildings; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, reduce the number of people infected, and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Prohibition of Mass Gatherings

Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), which allows for the undersigned to regulate and control the congregation of persons in public places or buildings and with the concurrence of the Council of State, to help protect the health and well-being of North Carolinians, I hereby prohibit mass gatherings in the State of North Carolina.

- a. A mass gathering is defined as any event or convening that brings together more than one hundred (100) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.
- b. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers, or other spaces where more than one hundred (100) persons are gathered. It also does not include office environments, restaurants, factories, grocery stores or other retail establishments.
- c. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provision of this section shall be enforced by state and local law enforcement officers.
- d. Violations of this section or orders issued pursuant to N.C. Gen. Stat. § 166A-19.30 may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 2. School Closures

- a. Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) which allows the undersigned to perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population, and with the concurrence of the Council of State, I hereby direct that all public schools close for students effective Monday, March 16, 2020 until March 30, 2020, unless extended beyond that date.
- b. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby direct NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education to immediately work together to implement measures to provide for the health, nutrition, safety, educational needs and well-being of children during the school closure period.

Section 3. Social Distancing

In coordination with the State Health Director and alignment with guidance from the Centers for Disease Control and Prevention, all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible and to continue to wash hands, utilize hand sanitizer and practice proper respiratory etiquette (including coughing into elbow).

Section 4. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Effective Date

With the exception of section 2, this Executive Order is effective immediately and shall remain in effect for thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of March in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

MARCH 17, 2020

EXECUTIVE ORDER NO. 118

LIMITING OPERATIONS OF RESTAURANTS AND BARS AND BROADENING UNEMPLOYMENT INSURANCE BENEFITS IN RESPONSE TO COVID-19

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117 which prohibited mass gatherings of more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 15, 2020, the Centers for Disease Control ("CDC") updated their guidance for large events and mass gatherings, and recommended that for the next eight (8) weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of fifty (50) people or more throughout the United States; and

WHEREAS, on March 16, 2020, the White House issued new guidelines called The President's Coronavirus Guidelines for America -- 15 Days to Slow the Spread of Coronavirus (COVID-19), calling on people to "avoid social gatherings in groups of more than ten (10) people"; and

WHEREAS, the undersigned, pursuant to Section 401 of the Stafford Act is requesting a major disaster declaration from the United States Federal Government; and

WHEREAS, the North Carolina Department of Health and Human Services (“NCDHHS”) confirmed that the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the Governor has established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, COVID-19 has caused and will continue to cause substantial economic disruption in North Carolina, including disruptions to employees and employers; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, the Governor, Secretary of Public Safety, and Director of Emergency Management have the authority to act under N.C. Gen. Stat. §§ 166A-19.10, 166A-19.12, and 166A-19.30(a)-(b); and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4) gives the Governor the authority to “cooperate and coordinate” with the President of the United States; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set “the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Governorially declared State of Emergency, the Governor has the power to “give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this article; and

WHEREAS, pursuant to N.C. Gen. Stat. § 130A-145(a), the State Health Director has the power to exercise quarantine and isolation authority when the public health is endangered; and

WHEREAS, quarantine authority is defined by N.C. Gen. Stat. § 130A-2(7a) to mean the authority to issue an order to limit the freedom of movement or action of persons or animals which been exposed to or are reasonably suspected of having been exposed to a communicable disease or communicable condition for a period of time as may be necessary to prevent the spread of that disease; and

WHEREAS, under N.C. Gen. Stat. § 130A-2(3), an “imminent hazard” is defined as a situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken; and

WHEREAS, under N.C. Gen. Stat. § 130A-20(a), if the Secretary of Health and Human Service determines that an imminent hazard exists, the Secretary may order the owner, lessee, operator, or other person in control of the property to abate the imminent hazard; and

WHEREAS, quarantine authority is defined by N.C. Gen. Stat. § 130A-2(7a) to also mean the authority to issue an order to limit access by any person or animal to an area of facility that may be contaminated with an infection agent; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, protect our most vulnerable citizens, and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained the necessary concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30(b) for Sections 2 and 3 of this Order, and reserves the right to act under N.C. Stat. §§ 166A-19.10 and 166A-19.30(a).

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Limiting the Sale of Food and Beverages, to Carry-Out, Drive-Through, and Delivery Only.

- (a) Pursuant to the following authorities, the Governor, in consultation and at the recommendation of the state Secretary of Health and Human Services, the State Emergency Management Director, and the State Health Director, orders the following limitations on the sale of food and beverages to carry-out, drive-through, and delivery only:
- (i) Per N.C. Gen. Stat. §§ 166A-19.30(c),-19.31(b)(2), the Governor has authority to restrict or prohibit the operation of business establishments and other place to or from which people may travel or at which they may congregate;
 - (ii) Per N.C. Gen. Stat. § 166A-19.10(b)(4), giving the Governor authority to "cooperate and coordinate" with the President of the United States, who issued guidelines directing the reduction of the congregating of persons to no more than ten (10) people the President's Coronavirus Guidelines for America, March 16, 2020, and this Order is cooperating therewith;
 - (iii) Per N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set "the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease," and the Emergency Management Director and State Health Director having done so, have recommended the Governor order the actions identified in this Section;
 - (iv) Per N.C. Gen. Stat. § 130A-20(a), the Secretary has determined an imminent hazard exists and that entities subject to this Section must limit the sale of food and beverages to carry-out, drive-through, and delivery only in order to abate the hazard, and has issued an order of abatement dated March 17, 2020;
 - (v) Per N.C. Gen. Stat. § 130A-145(a), the State Health Director is exercising quarantine and isolation authority to limit access to facilities that sell food and beverage to carry-out, drive-through and delivery services only.
 - (vi) Per N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the Governor has the power to "give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this article that restaurants are restricted to carry-out, drive-through, delivery, and onsite consumption in outdoor seating areas, subject to mass gathering restrictions to create an environment where staff and patrons maintain social distancing (at least 6 feet from other people) whenever possible. Bars are directed to close. These restrictions are effective as of 5:00pm, Tuesday, March 17, 2020 until March 31, 2020, or until this Order is rescinded or replaced.
- (b) For the purposes of this Order, restaurants are defined as permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food, including but not limited to, restaurants, cafeterias, food halls, dining halls, food kiosks at airports and shopping centers, or educational institutions, ("food courts"), as well as private or members-only clubs where food and beverages are permitted to be consumed on premises.

- (c) For purposes of this Order, bars are defined as establishments that are not restaurants and that have a permit to sell alcoholic beverages for onsite consumption, under N.C. Gen. Stat. § 18B-1001.
- (d) This Order does not direct the closure of retail beverage venues that currently provide for the sale of beer, wine, and liquor for off-site consumption only. It also does not require the closure of production operations at breweries, wineries, or distilleries.
- (e) This Order does not affect grocery stores, pharmacies, convenience stores, gas stations and charitable food distribution sites to the extent they sell or distribute prepared food. However, sit-down food or beverage service within these facilities is prohibited.
- (f) If the Alcoholic Beverage Control Commission “ABC Commission” identifies other state laws, regulations, and policies that may affect bars, restaurants, and other dining establishments identified in this Section, it is directed to inform the Office of the Governor in writing. Upon written authorization from the Office of the Governor, the ABC Commission may interpret flexibly, modify, or waive those state laws, regulations and policies, as appropriate, and to the maximum extent permitted under applicable state and federal law, to effectuate the purposes of this Order.
- (g) In light of this Executive Order, Executive Order No. 117 Section 1(b) (March 14, 2020) is revised as follows:

“A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers. It also does not include office environments, factories, grocery stores, and child care centers.”

These locations or facilities, however, are subject to the dine-in food and beverage restrictions listed in this Order.

Section 2. Unemployment Insurance Policy Related to COVID-19

The undersigned has sought and obtained the necessary concurrence from the Council of State consistent with the Governor’s emergency powers authority in N.C. Gen. Stat. § 166A-19.30 (b), and reserves the right to act under N.C. Stat. §§ 166A-19.10 and 166A-19.30(a).

The Department of Commerce, through the Secretary of Commerce and Assistant Secretary of the Division of Employment Security, is directed to ensure that individuals who, as a result of COVID-19, are separated from employment, have had their hours of employment reduced, or are prevented from working due to a medical condition caused by COVID-19 or due to communicable disease control measures, shall be eligible for unemployment benefits to the maximum extent permitted by federal law. For purposes of this Executive Order, communicable disease control measures shall include quarantine or isolation directives or orders related to COVID-19 issued by the State of North Carolina, the federal government, a local governmental entity, or a medical or public health professional.

Section 3. Unemployment Insurance Changes

- (a) To provide the necessary unemployment benefits to those affected by COVID-19, the Department of Commerce is authorized, to the maximum extent permitted under federal law, and for so long as the Declaration of a State of Emergency regarding COVID-19, dated March 10, 2020, remains in place, to interpret flexibly or waive, as appropriate, the following:
 - i. the one-week waiting period for benefits (N.C. Gen. Stat. § 96-14.1(b));
 - ii. the able to work and available to work requirements (N.C. Gen. Stat. § 96-14.9(b));
 - iii. the work search requirements (N.C. Gen. Stat. § 96-14.9(b));
 - iv. the actively seeking work requirements (N.C. Gen. Stat. § 96-14.9(e)); and
 - v. the “lack of work” requirement of the unemployed provisions of N.C. Gen. Stat. § 96-15.01(b)(2)(a).

- (b) The Department of Commerce is further directed not to allocate charges to employers' accounts for individuals who are paid benefits for reasons related to COVID-19 (N.C. Gen. Stat. § 96-11.2 and 96-11.3(b)). The Department of Commerce shall separately account for these expenditures so that the State of North Carolina can seek reimbursement from the federal government.
- (c) If the Department of Commerce identifies other state laws, regulations, and policies that may inhibit the fair and timely distribution of unemployment benefits to those affected by COVID-19, it is directed to inform the Office of the Governor in writing. Upon written authorization from the Office of the Governor, the Department of Commerce may interpret flexibly, modify, or waive those state laws, regulations, and policies, as appropriate, to the maximum extent permitted under applicable federal law to effectuate the purposes of this Order.
- (d) The Department of Commerce is ordered to postpone all mandatory in-person contact with individuals seeking unemployment benefits, including but not limited to the Employability Assessment Interview, as long as the State of Emergency for COVID-19 remains in effect. The Department of Commerce is further ordered to provide reasonable means for the filing of initial claims and weekly certifications, including both telephone and internet access.

Section 4. Enforcement

- (a) Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Order shall be enforced by state and local law enforcement officers.
- (b) Violations of this Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 5. Effective Date

Section 1 of this Executive Order is effective as of 5:00 pm, Tuesday, March 17, 2020 through March 31, 2020. The remainder of this Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 17th day of March in the year of our Lord two thousand and twenty.



 Roy Cooper
 Governor

ATTEST:



 Rodney S. Maddox
 Chief Deputy Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

March 20, 2020

EXECUTIVE ORDER NO. 119

FACILITATING CRITICAL MOTOR VEHICLE OPERATIONS AND DELEGATING AUTHORITY TO THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO WAIVE REGULATIONS IN ORDER TO EXPAND ACCESS TO CHILD CARE AND SUPPORT LOCAL HEALTH DEPARTMENTS

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117 which prohibited mass gatherings to no more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118 which limited operations of restaurants and bars and broadened unemployment insurance benefits in response to COVID-19; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation of community spread; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, as a result of Executive Order No. 117 providers of health care, emergency medical services, law enforcement, and many other services may be in need of child care for their school-aged children due to the closure of schools; and

WHEREAS, as a result of the COVID-19 pandemic, providers of health care, emergency medical services, law enforcement, and other services may be in need of child care for children ages 0-5 in the event their child care providers cease service; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3) the undersigned, is authorized and empowered to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, to expand capacity for child care services, it will be necessary to suspend certain State child care regulations; and

WHEREAS, to support local health departments on the front lines of responding to the COVID-19 pandemic, it will be necessary to waive certain local health department regulations; and

WHEREAS, it is necessary to protect the public health, welfare and safety to waive and suspend the effects of certain regulations regarding child care and local health departments; and

WHEREAS, the Division of Motor Vehicles operates 115 offices across the state with the primary purpose of examining applicants and issuing driver licenses to the general public and that these "Driver License Offices" serve thousands of residents on a daily basis; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, treat those affected by COVID-19 and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**

Section 1. Delegation of Authority

With the concurrence of the Council of State, N.C. Gen. Stat. § 166A-19.30(b)(4) provides authority for the undersigned to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering.

Pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3), which allows the undersigned to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority, I hereby delegate my authority to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) as follows:

1. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to child care facilities and families responding to the COVID-19 pandemic and will not endanger the public health, welfare, or safety, waive the effect and enforcement of any or all of the provisions within the following regulations:
 - i. Chapter 09 of Title 10A of the North Carolina Administration Code – Child Care Rules.
 - ii. Chapter 10 of Title 10A of the North Carolina Administrative Code – Subsidized Child Care.
2. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive local health department mandated services requirements under 10A NCAC 46 Section .0200 and extend the time period for public health nurses to complete training sponsored by NCDHHS under 10A NCAC 46 .0301(2)(b).
3. Upon subdelegation of authority from the Secretary of NCDHHS, the Local Health Department Accreditation Board may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive the accreditation scheduling requirements of 10A NCAC 48A .0205 and grant an extension of accreditation of no more than twelve (12) months.

While this Executive Order is in effect, upon a finding by the Secretary or Local Health Department Accreditation Board that such requirement is necessary, the Secretary or Local Health Department Accreditation Board may exercise this delegated or subdelegated authority as appropriate. Actions taken consistent with the delegation or subdelegation of the authority granted in this Section shall be reported to the Office of the Governor.

Section 2. Access to Child Care for Essential Personnel

North Carolina has a critical need to support first responders, hospital staff, front-line healthcare providers, nursing and adult group home staff, child care program staff, food service staff, emergency management workers, public safety officers and others working to keep communities safe and healthy during the COVID-19 pandemic, as well as care for their children and those children who are homeless or in unstable or unsafe living arrangements. Recognizing that childcare is an essential service for these priority groups during this time, I hereby encourage communities across the State in counties, cities and municipalities to support the continued operation of child care facilities for children of all ages.

Section 3. Motor Vehicles

Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby order the Commissioner of the Division of Motor Vehicles (“DMV”) take the following actions to protect the general public and limit the spread of COVID-19:

- a. Limit services at all Driver License Offices to appointment only.
- b. Encourage all customers to limit appointments to those services unavailable online.
- c. Close to the public all Driver License Offices that are of insufficient size to maintain social distancing, that are insufficiently staffed to operate on an appointment-only basis, or that are otherwise unable to maintain normal operations due to the COVID-19 pandemic.
- d. To the extent practicable, expand service hours at those Driver License Offices that remain in operation during this State of Emergency.
- e. Discontinue mobile services through the duration of the State of Emergency.
- f. Postpone all DMV-related hearings not required by statute to be held within a set number of days for a period of sixty days.

- g. Suspend all road tests for applicants seeking learner's permits, provisional driver licenses, or unrestricted Class C licenses until such a time as it is determined that such tests can be conducted with minimal risk of transmission of COVID-19. DMV, to the extent practicable, shall continue to conduct road tests for Class A and Class B licenses and for those applicants who must complete a road test due to a medical restriction.

Section 4. Waiver of Certain Registration Requirements

In addition to the previous relief provided in Executive Order No. 116 to vehicles throughout the Emergency Area involved in transporting medical supplies and other equipment in support of the Plan or other efforts to the public health threat posed by COVID-19, and pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) with the concurrence of the Council of State, I hereby waive the enforcement of the registration requirements of N.C. Gen. Stat. § 20-86.1 and any related regulations in Chapter 3 of Title 19A of the North Carolina Administrative Code, including but not limited to 19A NCAC 03E .0400 to the extent it requires vehicles' immediate compliance with the International Registration Plan for the duration of the State of Emergency declared in Executive Order No. 116.

Section 5. Waiver of Certain CDL Renewal Requirements for School Bus Operators

To ensure the continued operation of school and activity buses and the transport of medical supplies, essentials in commerce, transporting essential fuels, food, water, and other supplies and equipment in support of the Plan and other efforts to address the public health threat posed by COVID-19, the Division of Motor Vehicles and the Department of Public Safety ("DPS"), to the maximum extent permitted under state and federal law, to interpret flexibly, or waive enforcement of N.C. Gen. Stat. § 20-7(f) as it pertains to the renewal of commercial driver's licenses for school bus drivers and activity bus drivers who hold a commercial driver license with both "S" (school bus) and "P" (passenger) endorsements and who are assisting or seeking to assist with emergency-related activities.

Section 6. Amending Sections 5 and 6 of Executive Order No. 116

Executive Order No. 116 Sections 5 and 6, are amended as follows:

Section 5. Maximum Hours of Service

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381, if the driver is transporting medical supplies, essential fuels, food, water, and other supplies and equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19, through the duration of the State of Emergency or until further notice.

Section 6. Height and Weight Restrictions

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles throughout the Emergency Area involved in transporting medical supplies, transporting essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles throughout the Emergency Area used to transport medical supplies, essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops to include timber ready to

be harvested and feed to livestock and poultry in the Emergency Area.

Section 7. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 8. Effective Date

This Executive Order is effective immediately and shall remain in effect for a period of thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order. Any orders issued by the Secretary of Health and Human Services and the Local Health Department Accreditation Board consistent with the authority delegated or subdelegated in this Executive Order shall remain in effect until the date such waiver ends, unless the authority is explicitly rescinded or superseded by another applicable Executive Order, regardless of whether this Order remains in effect or State of Emergency is lifted.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 20th day of March in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

March 23, 2020

EXECUTIVE ORDER NO. 120

ADDITIONAL LIMITATIONS ON MASS GATHERINGS, RESTRICTIONS ON VENUES AND LONG TERM CARE FACILITIES, AND EXTENSION OF SCHOOL CLOSURE DATE

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117, which prohibited mass gatherings to no more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118, which limited operations of restaurants and bars and broadened unemployment insurance benefits in response to COVID-19; and

WHEREAS, on March 20, 2020, the undersigned issued Executive Order No. 119, which provides provisions to improve access to childcare and helps facilitate critical motor vehicle operations; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation of community spread; and

WHEREAS, on March 13, 2020, NCDHHS issued a document entitled “Recommendations on Visitation in Long Term Care Facilities to Reduce Risk of Transmission of COVID-19” urging limitations on visitors at long term care facilities in the state to help limit the spread of COVID-19 among at-risk populations; and

WHEREAS, NCDHHS has now recommended that increased measures are required to control the spread of COVID-19 in long term care settings; and

WHEREAS, needed control cannot be imposed locally because local authorities in some jurisdictions have not enacted appropriate ordinances or issued appropriate declarations as authorized by N.C. Gen. Stat. § 166A-19.31; and

WHEREAS, the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, the area subject to the COVID-19 emergency is statewide, covering the jurisdictions of multiple city, county and tribal governments, thus making legal control measures difficult to coordinate and severely hampering efforts to protect life and property; and

WHEREAS, the undersigned has determined that local control measures for the emergency, taken alone, are insufficient to assure adequate protection for lives and property because the scale of the COVID-19 emergency is so great that it exceeds the capability of local government officials to cope with it; and

WHEREAS, the undersigned has determined that the measures identified below are necessary for the purpose of taking care that North Carolinians health, safety, and welfare are protected in accordance with the laws of the state; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, reduce the number of people infected, avoid strain on our healthcare system, and to address adverse economic impacts that will lead to additional human suffering upon individuals adversely impacted by the COVID-19 pandemic; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c) during a gubernatorially declared state of emergency, the undersigned determined that local control of the emergency is insufficient to assure adequate protection for lives and property because the area in which the emergency exists has spread across local jurisdictional boundaries; and the legal control measures are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, based upon the findings above, N.C. Gen. Stat. §§ 166A-19.31(b)(1), (b)(2), and (b)(5) authorizes the Governor to prohibit or restrict the operation of business establishments, the congregation of people as well as the movement of people in public places and take other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Mass Gathering

For the reasons and pursuant to the authority set forth above:

- a. Executive Order No. 117 § 1 is amended as follows:
 1. A mass gathering is defined as any event or convening that brings together more than fifty (50) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.
 2. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, shopping malls and centers. It also does not include office environments, factories, grocery stores, and child care facilities.
 3. Pursuant to N.C. Gen. Stat. §§ 166A-19.30(a)(2) and 19.30(c), the provision of this section shall be enforced by state and local law enforcement officers.
- b. In addition to the restrictions on mass gatherings identified in Executive Order No. 117 § 1, entertainment facilities without a retail or dining component are ordered to close at 5:00 pm on Wednesday, March 25, 2020, though any retail or dining component may operate within that establishment solely for that purpose. Any dining facilities may operate only within the restrictions for restaurants as set out in Executive Order No. 118. These facilities include, but are not limited to, the following types of business:
 - Bingo Parlors, including Bingo sites operated by charitable organizations
 - Bowling Alleys
 - Indoor Exercise Facilities (e.g. gyms, yoga studios, martial arts facilities, indoor trampoline and rock climbing facilities)
 - Health Clubs
 - Indoor/ Outdoor Pools
 - Live Performance Venues
 - Movie Theaters
 - Skating Rinks
 - Spas
 - Gaming and business establishments which allow gaming activities (e.g. video poker, gaming, sweepstakes, video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)
- c. In addition, because the ability to practice the social distancing necessary to reasonably protect against COVID-19 is significantly reduced in certain establishments where individuals are in close proximity for extended periods of time, or service personnel are in direct contact with clients, personal care and grooming businesses, including but not limited to the following, are also ordered to close:
 - Barber Shops
 - Beauty Salons (including waxing and hair removal centers)
 - Hair Salons
 - Nail Salons/Manicure/Pedicure Providers
 - Massage Parlors
 - Tattoo Parlors
- d. Violations of this section or orders issued pursuant to N.C. Gen. Stat. § 166A-19.30 may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and are punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 2. Mandatory Local Government Operations

- a. Consistent with my authority under N.C. Gen. Stat. §§ 166A-19.30(c)(1) and (c)(2), and to the extent that local government functions are required under state and federal law, I hereby direct the appropriate local government agencies and officials to continue to exercise their responsibilities, including but not limited to local county Department of Social Services

of Social Services (“DSS”) offices, Health Departments, Registers of Deeds, and other local government functions that are required to protect lives and property.

- b. Notwithstanding Section (a) of this Section, local government must take appropriate precautions to maintain the health of the general public and their employees who are required to perform their official duties in a manner that brings them in contact with the general public by putting in place appropriate public health measures, such as social distancing, use of reasonable personal protective equipment, and offering reasonable accommodations to employees who provide services to the public with consideration for their health.

Section 3. Long Term Care Visitation Limitations

- a. Long term care facilities shall restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations, for example, an end-of-life situation.
- b. This restriction does not include essential health care personnel.
- c. For purposes of this Executive Order only, long term care facilities include all of the following:
 - i. Skilled nursing facilities;
 - ii. Adult care homes;
 - iii. Family care homes;
 - iv. Mental health group homes; and
 - v. Intermediate care facilities for individuals with intellectual disabilities.

Section 4. Continued School Closure

For the reasons and pursuant to the authority set forth above:

Executive Order No. 117 § 2 is amended as follows:

I hereby direct that all public schools close for students effective Monday, March 16, 2020, as set forth in Executive Order No. 117, through Friday, May 15, 2020, unless extended beyond that date.

Section 5. Effective Date

This Executive Order is effective at 5:00 pm Wednesday, March 25, 2020, and shall remain in effect for thirty (30) days unless rescinded or superseded by another applicable Executive Order. Section 4 of this Executive Order is effective Monday, March 16, 2020, as set forth in Executive Order No. 117, through Friday, May 15, 2020. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23rd day of March in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

MARCH 27, 2020

EXECUTIVE ORDER NO. 121

STAY AT HOME ORDER AND STRATEGIC DIRECTIONS FOR NORTH CAROLINA IN RESPONSE TO INCREASING COVID-19 CASES

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117 – 120 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, on March 27, 2020, the North Carolina Department of Health and Human Services ("NCDHHS") has documented 763 cases of COVID-19 across 60 counties, and has identified the occurrence of widespread community transmission of the virus; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, to mitigate community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit unnecessary person-to-person contact in workplaces and communities; and

WHEREAS, such limitations on person-to-person contact are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, some areas of the state have seen more rapid and significant spread of COVID-19 than others, and some but not all local authorities have taken steps to address community spread of the illness in their communities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because needed control cannot be imposed locally because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact in workplaces and communities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if issued, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places, including by: (a) imposing a curfew; (b) directing and compelling the voluntary or mandatory evacuation of people from an area; (c) prescribing routes, modes of transportation and destinations in connection with evacuation; (d) controlling the movement of persons within an emergency area; and (e) closing streets, roads, highways, and other areas ordinarily used for vehicular travel, except to the movement of persons necessary for recovery from the emergency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict activities which may be reasonably necessary to maintain order and protect lives and property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, IT IS ORDERED:

Section 1. Stay at Home

1. **Stay at home or place of residence.** All individuals currently in the State of North Carolina are ordered to stay at home, their place of residence, or current place of abode, (hereinafter “residence”) except as allowed in this Executive Order. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible, maintain social distancing of at least six (6) feet from any other person, with the exception of family or household members, consistent with the Social Distancing Requirements set forth in this Executive Order. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Operations, or to participate in or access COVID-19 Essential Businesses and Operations, all as defined below.

Individuals experiencing homelessness are exempt from this Executive Order, but are strongly urged to obtain shelter that meets Social Distancing Requirements. Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location.

2. **Prohibited and permitted travel.** Only travel for Essential Activities as defined herein is permitted. People riding on public transit must comply with Social Distancing Requirements to the greatest extent feasible. This Executive Order allows travel into, within, or out of the State to maintain COVID-19 Essential Businesses and Operations and Minimum Basic Operations.
3. **Leaving the home and travel for Essential Activities is permitted.** For purposes of this Executive Order, individuals may leave their residence only to perform any of the following Essential Activities:
 - i. **For health and safety.** To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members or persons who are unable to or should not leave their home (including, but not limited to, pets), such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional or veterinarian.
 - ii. **For necessary supplies and services.** To obtain necessary services or supplies for themselves and their family or household members or persons who are unable or should not leave their home, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, household consumer products, supplies they need to work from home, automobile supplies (including sales, parts, supplies, repair and maintenance), and products necessary to maintain the safety, sanitation, and essential operation of residences or places of employment.
 - iii. **For outdoor activity.** To engage in outdoor activity, provided individuals comply with Social Distancing Requirements and Mass Gatherings, as defined below, such as, by way of example and without limitation, walking, hiking, running, golfing, or biking. Individuals may go to public parks and open outdoor recreation areas. However, public playground equipment may increase spread of COVID-19, and therefore shall be closed. These activities are subject to the limitations on events or convenings in Section 3 of this Executive Order.

- iv. **For certain types of work.** To perform work at businesses authorized to remain open under Section 2 of this Executive Order (which, as defined below, includes Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Operations, and Essential Infrastructure Operations) or to otherwise carry out activities specifically permitted in this Executive Order, including Minimum Basic Operations.
- v. **To take care of others.** To care for or assist a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed by this Executive Order. This includes attending weddings and funerals provided individuals comply with Social Distancing Requirements and Mass Gatherings as set forth below.
- vi. **Place of worship.** Travel to and from a place of worship.
- vii. **To receive goods and services.** To receive goods and services provided by a COVID-19 Essential Business or Operation.
- viii. **Place of residence.** To return to or travel between one's place or places of residence for purposes including, but not limited to, child custody or visitation arrangements.
- ix. **Volunteering.** To volunteer with organizations that provide charitable and social services.

Section 2. COVID-19 Essential Businesses and Operations

In order to slow the spread of COVID-19, it is necessary to reduce the instances where individuals interact with one another in a manner inconsistent with the Social Distancing Requirements set forth below. Many of those interactions occur at work. At the same time, it is necessary that certain businesses, essential to the response to COVID-19, to the infrastructure of the State and nation, and to the day-to-day life of North Carolinians, remain open.

- A. In light of the above considerations, non-essential business and operations must cease. All businesses and operations in the State, except COVID-19 Essential Businesses and Operations as defined below, are required to cease all activities within the State except Minimum Basic Operations, as defined below. For clarity, businesses, including home-based businesses, may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).
- B. All COVID-19 Essential Businesses and Operations are directed, to the maximum extent possible, to direct employees to work from home or telework.
- C. For purposes of this Executive Order, a COVID-19 Essential Business and Operation includes the following businesses, not-for-profit organizations and educational institutions.
 - 1. **Businesses that meet Social Distancing Requirements.** Businesses, not-for-profit organizations or educational institutions that conduct operations while maintaining Social Distancing Requirements:
 - a. Between and among its employees; and
 - b. Between and among employees and customers except at the point of sale or purchase.

2. **Businesses operating in CISA identified sectors.** Businesses, not-for-profit organizations or educational institutions operating in the federal critical infrastructure sectors as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19> or any subsequent guidance issued by the U.S. Department of Homeland Security that amends or replaces said guidance.

3. **Healthcare and Public Health Operations.** Healthcare and Public Health Operations includes, but is not limited to: hospitals; clinics; dental offices; pharmacies; laboratories and laboratory service providers; public health entities, including those that compile, model, analyze and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology and agricultural biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood, platelets, plasma, and other necessary materials; obstetricians and gynecologists; eye care centers, including those that sell glasses and contact lenses; dietary supplement retailers; naturopathic healthcare providers; home healthcare services providers; local management entities/managed care organizations (LME/MCO); mental health and substance use providers; other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services; and entities that transport and dispose of medical materials and remains.

Specifically included in Healthcare and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.

Healthcare and Public Health Operations also includes veterinary care and all healthcare services provided to animals.

Healthcare and Public Health Operations shall be construed broadly to avoid any impacts to the delivery of healthcare, or public health operations broadly defined. Healthcare and Public Health Operations does not include those businesses ordered to close by Executive Order No. 120.

4. **Human Services Operations.** Human Services Operations includes, but is not limited to: long-term care facilities; child care centers, family child care homes; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs, including food, cash assistance, medical coverage, child care, child support services, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, social services, transportation and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

5. **Essential Infrastructure Operations.** Essential Infrastructure Operations includes, but is not limited to: food and beverage production, distribution, fulfillment centers, storage facilities; construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long term care facilities, public works construction, school construction, and essential commercial and housing construction); building and grounds management and maintenance including landscaping; airport operations; operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video and telecommunications systems (including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications, and web-based services).

(including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure Operations shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

6. **Essential Governmental Operations.** Essential Governmental Operations means all services provided by the State or any municipality, township, county, political subdivision, board, commission or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Governmental Operations. Each government body shall determine its Essential Governmental Operations and identify employees and/or contractors necessary to the performance of those functions.

For purposes of this Executive Order, all first responders, emergency management personnel, emergency dispatchers, legislators, judges, court personnel, jurors and grand jurors, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support COVID-19 Essential Businesses and Operations are categorically exempt from this Executive Order.

This Executive Order does not apply to the United States government. Nothing in this Executive Order shall prohibit any individual from performing or accessing Essential Governmental Operations. Nothing in this Executive Order rescinds, amends, or otherwise modifies Section 2 of Executive Order No. 120.

7. **Stores that sell groceries and medicine.** Grocery stores, pharmacies, certified farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, prepared food, alcoholic and nonalcoholic beverages, any other household consumer products (such as cleaning and personal care products), and specifically includes their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including medication not requiring a medical prescription, and also that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and COVID-19 Essential Businesses and Operations.
8. **Food, beverage production and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, fishing, forestry, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption; and businesses that provide food, shelter, services and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities.
9. **Organizations that provide charitable and social services.** Businesses as well as religious and secular not-for-profit organizations, including food banks, when providing food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
10. **Religious entities.** Religious facilities, entities, groups, gatherings, including funerals. Also, services, counseling, pastoral care, and other activities provided by religious organizations to the members of their faith community. All of these functions are subject to the limitations on events or convenings in Section 3 of this Executive Order.
11. **Media.** Newspapers, television, radio, film, and other media services.
12. **Gas stations and businesses needed for transportation.** Gas stations and auto supply, sales, tire, auto-repair, roadside assistance and towing services, farm equipment, construction equipment, boat repair, and related facilities and bicycle shops and related facilities.

13. **Financial and insurance institutions.** Bank, currency exchanges, consumer lenders, including but not limited to, pawnbrokers, consumer installment lenders and sales finance lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, affiliates of financial institutions, entities that issue bonds, related financial institutions, and institutions selling financial products. Also insurance companies, underwriters, agents, brokers, and related insurance claims and agency services.
14. **Home improvement, hardware and supply stores.** Home improvement, building supply, hardware stores, and businesses that sell building materials and supplies, electrical, plumbing, and heating materials.
15. **Critical trades.** Building and construction tradesmen and tradeswomen, and other trades, including but not limited to, plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, cleaning services, moving and relocation services, landscaping and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and COVID-19 Essential Businesses and Operations. This includes organizations that represent employees.
16. **Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods, vehicles or services to end users or through commercial channels.
17. **Educational institutions.** Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating remote learning, performing critical research, or performing essential functions, provided that the Social Distancing Requirements set forth below of this Executive Order are maintained to the greatest extent possible. This Executive Order is consistent with and does not amend or supersede prior Executive Orders regarding the closure of public schools.
18. **Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers.
19. **Restaurants for consumption off-premises.** Restaurants and other facilities that prepare and serve food, but only for consumption off-premises, through such means as in-house delivery, third-party delivery, drive-through, curbside pick-up, and carry-out. Schools and other entities that provide free food services to students or members of the public may continue to do so under this Executive Order when the food is provided for carry-out, drive-through or delivery. This Executive Order is consistent with and does not amend or supersede prior COVID-19 related Executive Orders restricting the operations of restaurants and temporarily closing bars.
20. **Supplies to work from home.** Businesses that sell, manufacture, or supply office supply products or other products needed for people to work from home.
21. **Supplies for COVID-19 Essential Businesses and Operations.** Businesses that sell, manufacture, support, or supply other COVID-19 Essential Businesses and Operations with the service or materials necessary to operate, including computers, audio and video electronics, household appliances; payroll processing and related services; IT and telecommunication equipment; elections personnel and election-related equipment supplies; hardware, paint, flat glass, electrical, plumbing and heating material; sanitary equipment; personal hygiene products; food, food additives, ingredients and components; medical and orthopedic equipment; optics and photography equipment; and diagnostics, food and beverages, chemicals, soaps and detergent.
22. **Transportation.** Airlines, taxis, automobile dealers, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, trains, marinas, docks, boat storage, and other private, public, and commercial transportation and logistics providers, and public transportation necessary to access COVID-19 Essential Businesses and Operations.

23. **Home-based care and services.** Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery.
 24. **Residential facilities and shelters.** Residential facilities and shelters for adults, seniors, children, pets, and/or people with developmental disabilities, intellectual disabilities, victims of domestic violence, people experiencing homelessness, substance use disorders, and/or mental illness.
 25. **Professional services.** Professional services, such as legal services, accounting services, insurance services, professional engineering and architectural services, land surveying services, real estate services (including brokerage, appraisal and title services) and tax preparation services.
 26. **Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, communications, as well as products used or commonly sold by other COVID-19 Essential Businesses and Operations.
 27. **Defense and military contractors.** Defense and military contractors that develop products, processes, equipment, technology, and related services that serve the United States military, national defense, and national security interests.
 28. **Hotels and motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food services.
 29. **Funeral Services.** Funeral, mortuary, cremation, burial, cemetery, and related services. These services are subject to the limitations on events or convenings in Section 3 of this Executive Order.
 30. **Additional COVID-19 Essential Retail Businesses.** Additional COVID-19 Essential Retail Businesses are:
 - Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
 - Lawn and garden equipment retailers;
 - Book stores that sell educational material;
 - Beer, wine, and liquor stores;
 - Retail functions of gas stations and convenience stores;
 - Retail located within healthcare facilities;
 - Pet and feed stores.
- D. All COVID-19 Essential Businesses and Operations shall, to the extent practicable, maintain the Social Distancing Requirements set forth in this Executive Order.
- E. "Social Distancing Requirements" as used in this Executive Order means:
- a. maintaining at least six (6) feet distancing from other individuals;
 - b. washing hands using soap and water for at least twenty (20) seconds as frequently as possible or the use of hand sanitizer;
 - c. regularly cleaning high-touch surfaces;
 - d. facilitating online or remote access by customers if possible.

- F. Businesses excluded from the list of COVID-19 Essential Businesses and Operations set forth in this Executive Order who believe that they may be essential may direct requests to be included to the North Carolina Department of Revenue (the "Department"). The Department may grant such request if it determines that it is in the best interest of the State to have the business continue operations in order to properly respond to this COVID-19 pandemic. The Department shall post on its website a point of contact and procedure for businesses seeking to be designated as essential. A business that has made a request to the Department to be included as a COVID-19 Essential Business or Operation may continue to operate until that request is acted upon.
- G. Businesses that are not COVID-19 Essential Businesses and Operations are required to cease all activities within the State except Minimum Basic Operations, as defined below. Businesses that are not COVID-19 Essential Businesses and Operations should comply with Social Distancing Requirements, to the maximum extent possible, when carrying out their Minimum Basic Operations.
- As used in this Executive Order, "Minimum Basic Operations" include the following:
- i) The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions.
 - ii) The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- H. Notwithstanding any other provision of this Executive Order, the businesses, not-for-profit organizations and educational institutions that were ordered closed by Executive Order Nos. 118 and 120 shall remain closed.

Section 3. Mass Gatherings

For the reasons and pursuant to the authority set forth above:

- A. Section 1(a) of Executive Order Nos. 117 and 120 is rescinded and replaced as follows:
1. A mass gathering is defined as any event or convening that brings together more than ten (10) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.
 2. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers. It also does not include any COVID-19 Essential Business or Operation as defined in this Executive Order.
 3. Notwithstanding the above, and in an effort to promote human dignity and limit suffering, funerals are permitted to include no more than fifty (50) persons, while observing Social Distancing Requirements to the extent practicable.
 4. Pursuant to N.C. Gen. Stat. §§ 166A-19.30(a)(2), -19.30(c) the provisions of this section shall be enforced by state and local law enforcement officers.

The remainder of Executive Order Nos. 117 and 120 continue to be in effect.

Section 4. Local Orders

- A. The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Urban areas have seen more rapid and significant spread than most rural areas of the state. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this

Executive Order. To that end, nothing herein is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

- B. Notwithstanding the language in paragraph (A) of this Section, no county or city ordinance or declaration shall have the effect of restricting or prohibiting COVID-19 Essential Governmental Operations of the State as determined by the State.
- C. Nothing in this Executive Order rescinds, amends, or otherwise modifies Section 2 of Executive Order No. 120.

Section 5. Savings Clause

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 6. Enforcement

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.
- C. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 7. Effective Date

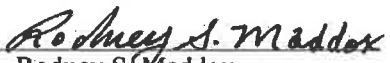
This Executive Order is effective Monday, March 30, 2020, at 5:00pm, and shall remain in effect for thirty (30) days from that date or unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 27th day of March in the year of our Lord two thousand and twenty.



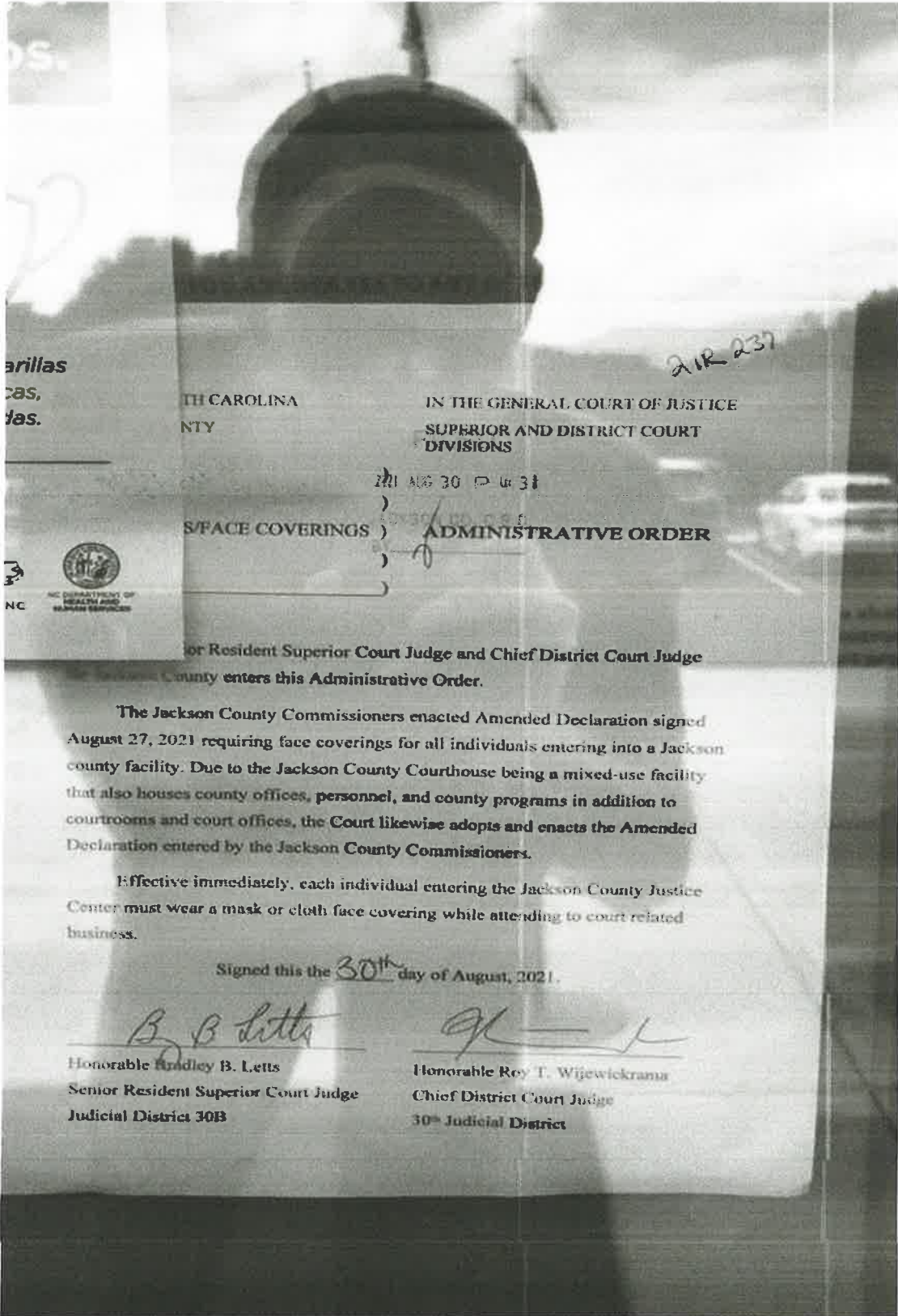
Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State





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IN THE GENERAL COURT OF JUSTICE
SUPERIOR AND DISTRICT COURT
DIVISIONS

2021 AUG 30 10 43 11

S/FACE COVERINGS)

ADMINISTRATIVE ORDER



for Resident Superior Court Judge and Chief District Court Judge
County enters this Administrative Order.

The Jackson County Commissioners enacted Amended Declaration signed August 27, 2021 requiring face coverings for all individuals entering into a Jackson county facility. Due to the Jackson County Courthouse being a mixed-use facility that also houses county offices, personnel, and county programs in addition to courtrooms and court offices, the Court likewise adopts and enacts the Amended Declaration entered by the Jackson County Commissioners.

Effective immediately, each individual entering the Jackson County Justice Center must wear a mask or cloth face covering while attending to court related business.

Signed this the 30th day of August, 2021.

Bradley B. Letts

Honorable Bradley B. Letts
Senior Resident Superior Court Judge
Judicial District 30B

Roy T. Wijewickrama

Honorable Roy T. Wijewickrama
Chief District Court Judge
30th Judicial District