

October 28, 2022

Executive Director Karen Brinson Bell
State Board Chair Damon Circosta
General Counsel Paul Cox
North Carolina State Board of Elections
P.O. Box 27255
Raleigh NC 27611-7255

Via Electronic Mail

Re: Election Misinformation Regarding Voter Eligibility and Requirements of Justice-Involved North Carolinians

Dear Executive Director Karen Brinson Bell, State Board Chair Damon Circosta and General Counsel Paul Cox:

We write to you today in our capacity as organizations concerned with protecting the right of newly enfranchised justice-involved voters to participate equally in our democracy in this election, to alert you to instances of misinformation, disinformation, and confusion about voter eligibility that we believe threatens to chill the fundamental right to vote of individuals on felony community supervision in this election and warrants a formal response from the State Board of Elections.

Preventing disinformation and voter intimidation is a central focus of our organizations during this election cycle. We therefore write to you today to request that the State Board clearly communicate the voter eligibility rules for justice-involved individuals to the public, to County Boards of Elections, and to all election officials who are serving as the frontline of our election administration in this cycle to reinforce that these voters can trust the State of North Carolina to protect their right to vote.

We believe one of the most effective ways to correct impacted individuals' confusion would be for the State Board of Elections to effectuate individualized contact with voters impacted by the ruling in *CSI v. Moore*, informing them by way of a direct mailer that they are now eligible to vote once again and, where necessary, outlining steps they may need to take to re-register due to prior removal. At minimum, however, the undersigned request that the State Board of Elections immediately issue a Numbered Memo and press release on this topic as detailed below and invest in public education and media briefings to ensure that voters impacted by this ruling are aware that they have an unfettered right to access the ballot in this election, equal to all other eligible North Carolina voters.

Our coalition is highly concerned about increasing distrust about the legal rights of people living in community with felony convictions who are currently on probation, post-release or state supervision. The source of this trust problem is manifold: rumors, misinformation, disinformation, fears about malicious prosecution, experience with past retaliation, and the high-profile coverage of prosecutions and other forms of threats focused on justice-involved voters, including in Florida, Texas and other states.

While many newly enfranchised voters have already begun exercising their right to vote, the undersigned have documented significant and increasing confusion and fear among these voters. Indeed, the level of confusion that still exists for individuals with prior felony convictions about whether they are eligible to vote in this cycle – and specifically what consequences they will face if they exercise their legally

protected right to vote— at this late date causes us great concern that many otherwise eligible voters are being chilled from participating due to disinformation, misinformation, and fear.

For example, as part of the statewide “Unlock Our Vote NC” campaign, Forward Justice hosts a dedicated hotline for justice-involved individuals to answer any questions these individuals may have about their eligibility to vote in 2022.¹ This hotline has received a steady influx of calls and e-mails from newly eligible voters with questions about their eligibility to vote in this election cycle. Hotline outreach has included questions about what the law is, calls from individuals seeking to determine their own eligibility to vote, and concerns about potential criminal prosecutions by District Attorneys in North Carolina or in another state, specifically Florida. When an inquiry is received, Forward Justice has assured voters that all North Carolina residents on felony probation, parole, and post-release supervision are currently eligible to vote and legally cannot be convicted in North Carolina for voting in this election cycle because of the order from the North Carolina Court of Appeals on April 26, 2022.² However, we are keenly aware that advisors from non-profits are a poor substitute for unequivocal official messages from state agencies and leaders committed to protecting the rights of these voters.

It has further come to the attention of the undersigned that certain County Boards and election officials may be providing justice-involved voters with incorrect information about their eligibility to vote in this cycle. For example, Forward Justice received a report through its hotline that voters impacted by the *CSI v. Moore* decision in Perquimans County were asked by representatives of the County Board of Elections for a “letter from the clerk of court” confirming their eligibility to vote. In response, Forward Justice contacted the County Board to affirm that North Carolinians who are currently on felony supervision are like all other voters in North Carolina and not legally required to provide any sort of documentation to vote – the only exception being first-time registrants that would need to provide one-time proof of residency under HAVA requirements. We asked the County Board to inform all poll workers and staff that additional documentation is not needed so that impacted voters do not experience this unlawful barrier to voting moving forward.³ We likewise have concerns that some voters who are impacted by the decision may have been wrongly asked to cast provisional rather than regular ballots in this election.

Finally, in addition to the specific incidents described above, Forward Justice has received reports from NAACP branches across the state and many partner organizations included here that their justice involved members and individuals who they are encountering in the state are still unsure if they may safely vote in this cycle.

On behalf of the undersigned organizations, we urge the State Board of Elections to take immediate action to combat dangerous disinformation, interrupt unnecessary misinformation and rumors, and quell fears being faced by newly enfranchised voters who should be clearly and consistently welcomed into the voting process. Specifically, we are requesting immediate, unequivocal messaging to NC citizens and poll

¹ <https://forwardjustice.org/stories/2020-voting-resources/>

² <https://forwardjustice.org/wp-content/uploads/2022/04/P22-153.pdf>

³ The NC Election Protection Coalition also received a report that raised concerns about whether Moore County election officials may have been improperly trained when it comes to justice-involved voters. A person who was in the poll worker training reported that she was “surprised” at the Moore County BOE’s response to questions about the eligibility of justice-involved individuals to vote. This person reported that the response given was that an individual on felony supervision is eligible to vote currently, but that since there is an appeal in the *CSI v. Moore* litigation, this individual could risk being prosecuted for a felony later if Legislative Defendants win on appeal.

workers clarifying the following, in the form of a numbered memo and a public education campaign and media briefing:

- 1) All people with felony convictions can register and vote a regular ballot so long as they are otherwise eligible to vote in this state and not currently incarcerated;
- 2) The above-mentioned individuals are not required to provide any type of documentation proving that their rights have been restored to anyone;
- 3) These rules apply to all individuals who are North Carolina residents, regardless of where they were originally convicted or placed on supervision; and
- 4) Voting rights restrictions for individuals with felony convictions from other states are not applicable in North Carolina.
- 5) If voters should have questions about their eligibility or need assistance, they may contact the State Board of Elections, call the non-partisan election protection hotline in North Carolina, 888-OUR-VOTE, or request support from Forward Justice at Legal@forwardjustice.org.

Because we believe the State Board is committed to ensuring all voters have a safe experience, free from unlawful interference, misinformation, and intimidation, we ask that your team take a speedy approach in addressing this situation that significantly impacts the ability of over 56,000 North Carolinians to utilize their newly restored right to vote. We also welcome further dialogue with the State Board and elected officials about other ways the State of North Carolina may proactively and diligently ensure that voters who have been previously told by state representatives that they have lost the right to vote may now have full confidence in 2022 that their lawful vote will be protected and that it will count.

Sincerely,

Caitlin Swain
Co-Director, Forward Justice

Daryl Atkinson
Co-Director, Forward Justice

Melissa Price-Kromm,
Director, North Carolina Voters for Clean Elections

Cheryl Carter
Co-Director, Democracy North Carolina

Corye Dunne
Disability Rights North Carolina

Mitchell Brown
Southern Coalition for Social Justice

Kate Fellman
Executive Director, You Can Vote

Kristie Puckett-Williams
ACLU-North Carolina

Dennis Gaddy
Community Success Initiative

Deborah Dicks Maxwell
President, NC NAACP

Marcus Bass
NC Black Alliance

Serena Sebring
Executive Director, Blueprint NC

Corey Purdie
Wash Away Unemployment

Diana Powell
Justice Served NC, Inc.

Dawn Blagrove
Emancipate NC

Bob Phillips
Common Cause NC