

IN THE MATTER OF

GRIEVANCE: ANSON COUNTY
DEMOCRATIC PARTY EXECUTIVE
COMMITTEE MEETING**ORDER**

THIS MATTER CAME on for hearing before the North Carolina Democratic Party Council of Review, pursuant to Section 9 of the North Carolina Democratic Party Plan of Organization on October 31, 2022, via a hearing held on the Zoom Application.

PRESENT FOR THE hearing were the parties: primary Petitioner, David Scott Howell and counsel Aaron Bates, and Respondent, Dannie Montgomery. The following members of the Council of Review were present: Bronson Williams, (1st Congressional District); Brian Rhodes, (2nd Congressional District); Frances Lakey (3rd Congressional District); Sheena Matthews, (4th Congressional District); Jennifer Marshall, (5th Congressional District); Joshua Brown, (6th Congressional District); Carolina Sumpter, (7th Congressional District); Betsy Wells, (10th Congressional District); Beth Ostgaard (11th Congressional District); Vinod Thomas, (12th Congressional District); Sarah Anderson, (13th Congressional District); Mayte Sanz, (At-Large member), and Sybil Mann, Chair.

THE COUNCIL OF REVIEW having considered the grievance of the petitioners, testimony of witnesses, non-testimonial evidence, as well as arguments of petitioner and respondent, makes the following FINDINGS OF FACTS by clear and convincing evidence:

1. The Council of Review had thirteen members present for the hearing, which constituted a quorum of the eighteen-member Council of Review.
2. A petition was hand-delivered to the North Carolina Democratic Party Headquarters, 200 Hillsborough Street, Raleigh, North Carolina on October 17, 2022. The petition was submitted by primary petitioner David Scott Howell, and additional petitioners Gloria Overcash, Carol Ann Gibson, Mike Turner, Jackson Poulcott, Tracy Wilhoit, Tara Eudy, Beulah Pratt, Kelly Howell, and Patricia Poulcott.
3. All petitioners resided in Anson County, North Carolina. All petitioners are members of the North Carolina Democratic Party.
4. The petition concerned a matter and dispute arising from a meeting of the Anson County Democratic Party Executive Committee on October 8, 2022, at 10:00 a.m., held at the Anson County Public Library, 120 South Green Street, Wadesboro, North Carolina.
5. The respondent is Dannie Montgomery, Anson County Democratic Party Chair.
6. On September 21, 2022, the Honorable Sheriff of Anson County Landric Reid passed away. At the time of his passing, he was the unopposed candidate on the Anson County Ballot for the office of Sheriff in the November 8, 2022 election. The ballots had been prepared by the Anson County Board of Elections and Mr. Reid's name appeared on those printed ballots at the time of his death.

7. Pursuant to North Carolina General Statute § 164-114(a), “If any person nominated as a candidate of a political party [for any elective county office] . . . dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment (of the) County executive committee in which the county is located. The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State, or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of N.C.G.S. 163-165.3(c) shall apply.”
8. Section 12.08 of the North Carolina Democratic Party Plan of Organization instructs, “Vacancies in elected office and in nomination for elected office shall be filled as prescribed by this Plan of Organization, consistent with North Carolina General Statutes.”
9. The meeting of the Anson County Democratic Party Executive Committee on October 8, 2022 was called for the purpose of naming a nominee to receive votes cast for Sheriff Reid in the general election and who would then be elected as Sheriff of Anson County as Sheriff Reid was running without opposition.
10. Pursuant to Section 9.06 of the North Carolina Democratic Party Plan of Organization, the Council of Review has jurisdiction over the subject matter and the parties to this action.
11. The Chair of the Council of Review (hereinafter “the COR”), advised the parties, prior to the start of the hearing, pursuant to Section 9.09 of the North Carolina Democratic Party Plan of Organization that the hearing was held to enable the Council of Review to hear evidence of the acts, omissions or conditions alleged in the grievances and to adjudge on the basis of that evidence, the merits of the dispute or controversy involved, and the Council of Review had the right to confront and cross-examine the petitioners and all witnesses adverse to a party involved and to present evidence and argument in their own behalf.
12. The meeting of the Anson County Democratic Party Executive Committee, (hereinafter the “Committee”), was subject to the provisions of the North Carolina Democratic Party Plan of Organization, (hereinafter the “Plan”).
13. Section .005 of the Plan instructs, “The time and place of all meetings of the North Carolina Democratic Party at all levels shall be publicized fully and in such a manner as to assure timely notice to all interested persons. Such meetings shall be accessible to all party members and large enough to accommodate all interested persons.
14. Section 12.02 of the Plan requires, “For county executive committees . . . when meeting to fill a vacancy in nomination to elected office, or elected office, five (5) days email notice. . .Email address must be verified by return email from the member or via verification button included in a verification email. . . The first day of notice shall be considered the date indicated by the postmark imprinted by the United States Postal Service. . .”
15. The email notice sent by Anson County Democratic Party Chair, (hereinafter “Chair”), for the October 8, 2022 meeting violated Section 12.02 as it did not notify all members of the Committee of the meeting at the same time. Chair Montgomery introduced an email dated October 3, 2022, which was admitted into evidence. The email showed blind copies were sent to some members of the Committee. No email verification was included in the notice, as required by Section 12.02 of the Plan. The following members of the Committee testified that they received emails from the Chair in the past but did not receive timely notice of the meeting by email: Beverly Getzen, Beulah Pratt, Mark Hammond, and Gloria Overcash.

16. Anson County Clerk of Court David Hammond testified that he had received emails concerning Committee activities in the past. However, Mr. Hammond did not receive notice of the October 8, 2022 from Chair Montgomery. Petitioner Howell informed him of the meeting's date while Mr. Hammond was out of the area on a personal vacation. Mr. Hammond contacted Chair Montgomery to verify the meeting's date and time, cutting short his vacation to attend the Committee meeting.
17. Gloria Overcash received an email from Chair Montgomery entitled "Call Meeting to Elect Anson's Nect (*sic*) Sheriff" on October 5, 2022, which was three days before the meeting. The email was admitted into evidence by the COR as Petitioner's Document 1. Ms. Overcash forwarded that email to the Petitioner. This was Petitioner's only notice of the meeting.
18. Ms. Getzen testified that she received a text message from Chair Montgomery about a meeting on October 8, 2022; however, she thought it was about a meeting of the Wadesboro precinct.
19. The Plan defines "meeting" as "a meeting of all committees and bodies created herein in which a quorum is present." (Section 0.01) Section .01 of the Plan states the Democratic Party is an "Open Party" and requires ". . . all public meetings of the North Carolina Democratic Party at the precinct, county, district and state levels shall be open to all registered Democrats." The October 8, 2022 meeting violated this provision. The uncontroverted evidence before the Council of Review was that registered Anson County Democrats were not allowed into the meeting unless their names appeared on a list managed by uniformed Wadesboro Town Police Officers:
 - a. Tara Eudy testified that when she arrived at the library, she encountered an officer of the Wadesboro Town Police Department in full police uniform and carrying a weapon. The officer confirmed that she had a list of names of Democrats allowed into the meeting. Ms. Eudy was not on the list and was denied entry to the meeting. A picture of Ms. Eudy in front of a uniformed Wadesboro police officer, who was holding a clipboard, was admitted into evidence.
 - b. Gloria Overcash testified that she observed several persons, who she knew personally were registered Democrats, denied entry into the meeting. Ms. Overcash's mother had a valid written proxy but was denied entry into the meeting because her name was not on the list.
20. Chair Montgomery testified that she did not know that the open party provisions applied to the called meeting. She prepared the list of meeting attendees for the meeting. She requested the uniformed police officers be on duty because she thought there might be trouble at the meeting.
21. Section 12.05 of the Plan sets forth requirements for proxy voting at Party meetings. For county party executive committee meetings, the Plan instructs:

A member of a county executive committee may designate an active registered Democrat from his or her precinct, and when the member is president of a duly organized and chartered county chapter of a state auxiliary organization, he or she may designate a member of his or her auxiliary organization, to serve as his or her alternate for a particular county executive committee meeting **by notifying the county executive committee chair or secretary of such designation in writing, prior to the call to order of such meeting;** provided, however, that no person may serve as an alternate for more than one member at any meeting and no member can also serve at the same meeting as an alternate. (Emphasis added)
22. The use of proxies at the October 8, 2022 meeting violated Section 12.05 of the Plan in the following manner:
 - a. Chair Montgomery testified that she accepted proxies via text message and over the phone.

- b. Chair Montgomery testified that she prepared proxies and signed them herself on behalf of other persons.
 - c. Ms. Phyllis Watkins testified that she had prepared a proxy for Tracy Wilhoit to vote for Scott Howell on her behalf. Ms. Watkins testified that her proxy to Mr. Wilhoit was not accepted by Chair Montgomery, and he was not allowed in the meeting. Ms. Watkins identified a copy of her prepared proxy, which was admitted into evidence as Petitioner's Document 3.
 - d. Ms. Beverly Getzen testified that she was one of three precinct chairs elected for the Wadesboro precinct. The election occurred in 2019 and she could not recall any subsequent meetings. Chair Montgomery texted Ms. Getzen about voting. When Ms. Getzen informed Chair Montgomery she could not attend the October 8, 2022 meeting, Chair Montgomery texted that Margaret Knotts would be her proxy for the meeting. At no time did Ms. Getzen prepare a written proxy. Ms. Getzen was not aware that the purpose of the meeting on October 8, 2022 was to name the nominee to receive Sheriff Reid's votes.
 - e. On October 8, 2022, Dr. Donna McNair was contacted by Chair Montgomery to serve as Ms. Getzen's proxy. Dr. McNair testified that she voted nine weighted votes as Ms. Getzen's proxy for the Wadesboro Precinct. Dr. McNair testified that at the time of the vote on October 8, 2022, she was an unaffiliated voter. Her party registration was never checked prior to her participation in the meeting. Chair Montgomery acknowledged not vetting Dr. McNair's party registration.
23. There were irregularities concerning the precincts which cast votes, including the possibility that some were unorganized precincts at the October 8, 2022 meeting, including:
- a. Chair Montgomery said that she made phone calls and sent texts on February 17, 2022, asking whether chairs and/or vice-chairs would continue as officers. She filled out the documents, provided to the COR, showing electronic meetings were held on that date. She could not recall if five precinct members were present together on any of these calls. Chair Montgomery testified that to her knowledge six precincts were organized.
 - b. Gloria Overcash, who voted as the vice-chair of the Peachland precinct said that she did not participate in a meeting of the Peachland precinct in 2022.
 - c. Mr. Ross Streater, Chair of the Anson County Board of Elections, voted as the precinct chair of Gulledge Precinct. Mr. Streater cast two votes according to the records provided by the Chair Montgomery.
 - d. The Morven precinct listed only a precinct chair on the organizing documents provided by Chair Montgomery, while the office of vice-chair was not filled. Morven precinct chair Marjorie Cole cast all seven weighted votes for the Morven precinct in violation of Section 2.02 of the Plan.
 - e. The Wadesboro Precinct had three precinct chairs according to organizing records provided by Chair Montgomery. Voting records for the meeting showed that the precinct's three chairs were allowed to vote in person or by proxy. The chairs divided that precinct's 27 weighted votes between them in violation of Sections 1.02 and 2.02 of the Plan. Ms. Getzen testified that she was elected as a chair of the Wadesboro precinct in 2019; however, the precinct had not met since that time.
24. Chair Montgomery testified that she sat the petitioner in another part of the room as he was not a voting member of the Committee; however, he could see what was occurring in the room. There was no intent on her part to single him out for disparate treatment from the other nominees.

25. The Council extended time for each presentation.
26. Pursuant to Section 9.09, Council entered executive session to deliberate. Council returned to open session after discussion, debate, and vote.
27. The COR had the opportunity to view the witnesses and ascertain the credibility of each witness and the weight to be given to the testimonial and non-testimonial evidence.
28. By a unanimous vote, the Council of Review found that the grievance was meritorious.
29. By unanimous vote the Council of Review found that the incident complained of had a material adverse impact on the interests of the petitioners as participants in the meeting, adverse impact to the local and state Democratic parties and to the voters of Anson County because the North Carolina Democratic Party Plan of Organization was not followed by Respondent Chair Dannie Montgomery or the Committee.
30. By a unanimous vote, the Council of Review, approved a motion that the steps to remedy the material adverse impact will be for Anson County Democratic Party Executive Committee to conduct another meeting prior to November 8, 2022, and that the North Carolina Democratic Party assist in determining the qualifications of voting members who can participate in such a meeting.

BASED UPON THE above FINDINGS OF FACT, the Council of Review hereby ORDERS:

1. The October 8, 2022 meeting of the Anson County Democratic Party Executive Committee and all votes taken at that meeting shall be and are declared invalid. The selection of Mr. Gerald Cannon as the Anson County Democratic Party nominee for Sheriff shall be voided and set aside pending further action by the Committee.
2. Anson County Democratic Party Chair Dannie Montgomery shall provide a copy of this Order to the Anson County Board of Elections Executive Director and Board of Elections Chair upon receipt of this Order.
3. The Anson County Democratic Party Executive Committee shall hold a new meeting to name a nominee to receive the votes of former Sheriff Reid. This meeting shall be held prior to November 8, 2022.
4. The North Carolina Democratic Party shall assist in determining who is qualified to vote in the new meeting and assist in establishing the credentials for persons who may vote in the meeting due to the irregularities found by the Council of Review to exist in the precincts, voting lists, proxies, and due to the casting of nine votes by an unaffiliated voter who served as a proxy during the October 8, 2022 meeting.
5. The North Carolina Democratic Party Plan of Organization shall be followed in all respects, both in the organizing and the conducting of the new nominee meeting as well as in all further activities of the Anson County Democratic Party from this day forth.
6. Pursuant to Section 12.16 of the Plan, Roberts Rules of Order 12th Edition shall be the parliamentary authority for Anson County Democratic Party Executive Committee meetings.
7. The Council of Review condemns the use of uniformed law enforcement officers to restrict Democrats from attending meetings. All meetings of the Anson County Democratic Party Executive Committee shall be open to all Democrats as set out in the Plan and shall not be restricted.

8. Proper Notice shall be sent by email to all members of the Anson County Democratic Party Executive Committee. Chair Montgomery shall attach a receipt to each email to show that the emails she sends are received and read. If Chair Montgomery does not receive a verification that her email was received, she shall contact the individual to verify the address. Chair Montgomery shall send written notice to all persons who request written notice or for whom she has no email. To promote transparency and inclusion, Chair Montgomery shall provide notice of future meetings to local press outlets, Facebook, and other social media platforms.
9. All proxies shall conform to Section 12.05 of the Plan, in that they are to be in writing and signed by the individual giving the proxy as well as the individual accepting the proxy; all proxies for members shall be given only to Democrats residing in that person's precinct.
10. The North Carolina Democratic Party Council of Review recommends that the North Carolina State Board of Elections and the Anson County Board of Commissioners allow this democratic process to proceed and that the nominee selected at this subsequent meeting be certified.

This the third day of November 2022.

Sybil Grace Mann

Sybil Grace Mann, Chair
North Carolina Democratic Party Council of Review