

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5: 11-cv-00472-FL

NORTH CAROLINA RIGHT TO LIFE)
POLITICAL ACTION COMMITTEE and)
NORTH CAROLINA RIGHT TO LIFE)
COMMITTEE FUND FOR INDEPENDENT)
EXPENDITURES,)

Plaintiffs,)

v.)

LARRY LEAKE, in his official capacity as)
Chairman of the North Carolina State Board)
of Elections, CHARLES WINFREE, in his)
official capacity as a member of the North)
Carolina State Board of Elections, ANITA S.)
EARLS, in her official capacity as a member of)
the North Carolina State Board of Elections,)
BILL W. PEASLEE, in his official capacity as)
a member of the North Carolina State Board of)
Elections, ROBERT CORDLE, in his official)
capacity as a member of the North Carolina)
State Board of Elections, J. DOUGLAS)
HENDERSON, in his official capacity as the)
Guilford County District Attorney, and ROY)
COOPER, in his official capacity as the)
Attorney General of North Carolina,)

Defendants.)

Second Declaration of Gary O. Bartlett

NOW COMES Gary O. Bartlett who makes this second declaration to supplement his declaration of December 9, 2011, and deposes and says:

1. On December 22, 2011, the State Board of Elections met and unanimously voted to direct the staff to inform the public and interested candidates that it would not be disbursing matching funds from the Public Campaign Fund for appellate judicial elections in light of

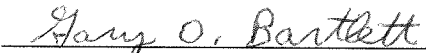
the decision in *Arizona Free enterprise Club's Freedom Club PAC v. Bennett*, 131 S.Ct. 2806 (2011), unless that opinion were to be clarified or reversed by the Supreme Court to permit the issuance of matching funds. (Ex. E; Excerpt of Transcript of Meeting) (Exhibits are lettered sequentially from those attached to the first Declaration of Gary O. Bartlett).

2. The vote on December 22 was consistent with the State Board's earlier vote on September 9 with respect to the disbursement of matching funds in the municipal elections in the Town of Chapel Hill in 2011. In light of the State Board's vote with respect to the Town of Chapel Hill, Frances Camara, the staff person in this office who is charged with the day-to-day administration of the Public Campaign Fund, has been informing interested candidates and others who asked that they should be aware that the State Board had directed that matching funds not be disbursed in the Town of Chapel Hill elections and when the State Board took up the matter for the 2012 appellate judicial elections it would most likely act consistently with its action with respect to the Town of Chapel Hill.
3. In response to the State Board's directive to staff several actions have or will be taken. First, a notice has been posted on the website of the State Board to notify the public, including interested candidates, of the State Board's action. See <http://www.ncsbe.gov/content.aspx?id=7> . Second, where N.C. Gen. Stat. §§ 163-278.66 and -278.67 appear on the State Board's website in a compilation of North Carolina election laws, a notation has made to inform the reader of the State Board's action. See <http://www.ncsbe.gov/content.aspx?id=56> . Third, a notice has been prepared to give to candidates when they file with this office for appellate judicial office, beginning on

February 13, 2012, to inform them of the State Board's action. (Ex. F; Copy of Notice to Candidates). Fourth, Ms. Camara has informed candidates in writing who had earlier expressed an interest in the Public Campaign Fund of the State Board's action. (Ex. G; Copy of Camara Letter to Participating Candidates, January 9, 2012) Finally, the news media reported the State Board's action at its December 22 meeting in major publications including, for example, *The News and Observer*. (Ex. H; Copy of news article published on December 23, 2011)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10 day of January, 2012.



Gary O. Bartlett, Executive Director
State Board of Elections