

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE #: 21-CVS-3915

2022 MAR 28 P 4:09

NEW HANOVER COUNTY, C.S.C.

DAVID A. PERRY,  
Plaintiff,

BY \_\_\_\_\_

v.

ORDER ON MOTION FOR SPECIFIC  
FINDINGS AND CONCLUSIONS

NEW HANOVER COUNTY BOARD OF  
EDUCATION, and NEW HANOVER  
COUNTY SHERIFF,  
Defendant.

THIS MATTER came before the undersigned Superior Court Judge in and for the County of New Hanover on motion of the plaintiff requesting entry of an order with specific findings of fact and conclusions of law in support of its prior order granting the defendant's summary judgment motion. The motion filed by plaintiff requested the motion be addressed without a hearing. The Court will grant the plaintiff's request to address the motion without a hearing but denies the relief requested. As our appellate courts have repeatedly stated:

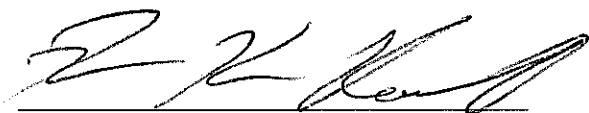
It is not a part of the function of the court on a motion for summary judgment to make findings of fact and conclusions of law. Capps v. City of Raleigh, 35 N.C. App. 290, 241 S.E.2d 527 (1978).

Finding facts, making conclusions of law and entering final judgment between the parties is far beyond the purview of summary judgment and treats the motion as a nonjury trial of the case on the merits. Stonestreet v. Compton Motors, Inc., 18 N.C. App. 527, 197 S.E.2d 579 (1973).

Even if a trial judge were to make findings of fact or conclusions of law in determining a motion for summary judgment, they are disregarded on appeal. White v. Town of Emerald Isle, 82 N.C. App. 392, 346 S.E.2d 176, 1986 N.C. App. LEXIS 2443 (1986).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's motion for findings and conclusions in support of the court's order for summary judgment is denied.

This the 28<sup>th</sup> day of March, 2022.



R. Kent Harrell  
Superior Court Judge Presiding

A TRUE COPY  
CLERK OF SUPERIOR COURT  
NEW HANOVER COUNTY  
BY: *Leni M. Knowles*  
Deputy Clerk