

Nos. 24-2044, 24-2045

In the
United States Court Of Appeals
for the
Fourth Circuit

REPUBLICAN NATIONAL COMMITTEE; NORTH CAROLINA
REPUBLICAN PARTY,
Plaintiffs-Appellees,

v.

NORTH CAROLINA STATE BOARD OF ELECTIONS, KAREN BRINSON
BELL; ALAN HIRSCH; JEFF CARMON; STACY EGGERS, IV; KEVIN N.
LEWIS; SIOBHAN O'DUFFY MILLEN,
Defendants-Appellants.

On Appeal from the United States District Court for the
Eastern District of North Carolina
Case No. (5:24-cv-00547-M-RJ)

**MOTION FOR LEAVE TO FILE BRIEF OF NORTH CAROLINA NAACP,
JACKSON SAILOR JONES, AND BERTHA LEVERETTE AS *AMICI*
CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS**

October 23, 2024

Pursuant to Rule 29(a)(3) of the Federal Rules of Appellate Procedure, amici North Carolina State Conference of the NAACP (“North Carolina NAACP”), Jackson Sailor Jones, and Bertha Leverette (Mr. Jones and Ms. Leverette, collectively, the “Individual Amici”) respectfully move this Court for leave to file an amici curiae brief in support of Defendants-Appellants.¹ Amici’s proposed brief is attached to this motion.

This appeal concerns Plaintiffs’ attempt to purge thousands of North Carolinians from voter rolls mere days before the election. Because an old version of North Carolina’s voter registration form did not clearly specify that applicants must provide either their driver’s license number or the last four digits of their Social Security number (if they had them), many North Carolinians—who are eligible to vote and will have the ability to present state-required identification on Election Day, if they have not done so already—filled out the form without including that information. Plaintiffs seek to remove those voters from the rolls at the eleventh hour

¹ Pursuant to Local Rule 27(a), amici informed the parties to the appeal of amici’s intended filing of this motion and requested the parties’ consent to the motion. The State Defendants and Democratic National Committee consented to the motion. Plaintiffs did not consent to the motion and stated: “In light of the court’s expedited briefing schedule Plaintiffs are concerned that additional briefing will be both unnecessarily duplicative and a waste of judicial resources.”

even though federal law expressly prohibits this exact type of election-eve mass voter purge.

Amici have unique and important interests in this appeal. The North Carolina NAACP “includes members who registered to vote without providing their driver’s license number or the last 4 digits of their social security number,” and Mr. Jones and Ms. Leverette are eligible voters who “are on the list of registrations in North Carolina lacking either a Social Security number or a driver’s license number in their voter file.” *Republican Nat’l Comm. v. N. Carolina State Bd. of Elections*, 2024 WL 4349904, at *2 (E.D.N.C. Sept. 30, 2024). As the district court observed, if Plaintiffs prevail, Individual Amici (and many members of North Carolina NAACP) “may be removed from voter registration lists or required to cast provisional ballots.” *Id.* at *3. In other words, if Plaintiffs prevail, amici may lose the sacrosanct right to vote through no fault of their own. Moreover, upon information and belief, Black voters are disproportionately more likely than white voters to appear on Plaintiffs’ potential removal list, and the North Carolina NAACP has a strong interest in protecting the right to vote of Black voters, especially its members. Thus, as the trial court found, there is no doubt amici here have “a significantly protectable interest in this action.” *Id.* at *2.

Further, amici's proposed brief is both desirable and relevant because it presents argument that has not been the focus of the parties' briefing to date,² but which supplies independent grounds to categorically reject all the relief Plaintiffs seek. *See, e.g., RLM Commc'ns, Inc. v. Tuschen*, 831 F.3d 190, 195 (4th Cir. 2016) ("We may affirm 'on any legal ground supported by the record and are not limited to the grounds relied on by the district court.'") (*citing Jackson v. Kimel*, 992 F.2d 1318, 1322 (4th Cir. 1993)). Specifically, the proposed brief addresses the scope and consequence of the National Voter Registration Act's (NVRA) 90-day quiet period, which bars *all* of Plaintiffs' requested relief, including Plaintiffs' state constitutional claim, and constitutes an independent basis for dismissal of the entire action. Amici's proposed brief discusses the history and larger context behind the enactment of the NVRA, including its mandated quiet period, which amici believe will aid the Court in its determination of this appeal. Thus, amici's brief is both desirable and relevant to the disposition of the case.

For the foregoing reasons, amici respectfully request that the Court grant them leave to file the attached amicus curiae brief.

² The parties have briefed some of the legal issues the appeal presents in the recent stay litigation before this Court. *See* Doc. 5, 6, 21. Given the accelerated briefing schedule, amici have submitted this brief the same day the parties' opening briefs are due and have thus been unable to review the parties' merits briefs.

DATED: October 23, 2024

Respectfully submitted,

/s/ Jeffrey Loperfido

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) because this motion contains 708 words.

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6), as required by Fed. R. App. P. 27(d)(1)(E), because this motion has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman style, with 14-point font.

DATED: October 23, 2024

/s/ Jeffrey Loperfido

Jeffrey Loperfido
Counsel for Amici Curiae

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CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2024, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

/s/ Jeffrey Loperfido
Jeffrey Loperfido
Counsel for Amici Curiae

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