Press release from Forward Justice, North Carolina NAACP, & Southern Environmental Law Center

For Release: November 4, 2021

Bias-Free Judiciary, Transparency Sought in N.C. Supreme Court as

Voting Rights Cases Continue

RALEIGH, N.C. – The North Carolina NAACP today filed a brief in response to the North Carolina Supreme Court's request for guidance on how it should decide issues related to judicial recusal and disqualification. The question arose after the N.C. NAACP requested the recusal of Justices Philip Berger Jr. and Tamara Barringer in a matter concerning two constitutional amendments, including one mandating Voter ID. The N.C. NAACP is represented by the Southern Environmental Law Center, Forward Justice, and attorney Irving Joyner.

In the brief, the N.C. NAACP points to the longstanding constitutional principle that litigants have a right to a fair tribunal that is free from bias. The N.C. NAACP also notes that a fair and unbiased judiciary is essential for public faith in the courts. Currently, the Supreme Court does not have a standard system to handle recusal issues, which is why the NAACP asked the court to adopt clear, consistent and transparent procedures. Specifically, the N.C. NAACP argues that recusal decisions should be made by the entire court, and not left to individual justices to determine their own bias. The N.C. NAACP also requests that reasons for and against recusal be transparent, so as to keep public faith in the judiciary.

Deborah Dicks Maxwell, president of the N.C. NAACP, said on behalf of plaintiffs: "For over a hundred years the NAACP has fought to ensure the political, educational, social, and economic equality of all citizens. Time and again we have stood up where others were unwilling to do so, to ensure that there is fair representation for all, fair economic opportunity for all, fair justice for all. How appropriate then, that the NC NAACP would be asked to weigh in and ensure that our highest court remains a venue where all can go to get fair, impartial justice. We believe that today's filing is an important and historic step in our fight to ensure that the rights of the people of North Carolina are protected."

Kym Hunter, senior attorney with the Southern Environmental Law Center explained: "This case has always been about big issues. Our underlying case makes the straightforward argument that a legislature that does not represent all North Carolinians cannot act to amend our state constitution. We are eager to get a final ruling on that ultimate question and pleased to assist the court in its efforts to resolve critical questions about the impartiality and integrity of our courts. At the end of the day, we simply want to ensure that all North Carolinians have their voices heard and all to get a fair shake in the justice system."

Caitlin Swain, Co-director of Forward Justice explained: "We've been fighting to uphold the rights of North Carolinians seeking justice, free from bias or the perception of bias, from our courts. This litigation began in 2018 to ensure that the illegally racially gerrymandered General

Assembly did not seek to entrench its power by unlawfully amending this state's constitution to include further discriminatory provisions. Because of the courage and tenacity of our clients, and their determination to stand up for a fair, impartial, independent judiciary, we believe this case will now end with regained trust from the people of North Carolina in both our democracy and our courts."

The following groups also filed briefs echoing the N.C. NAACP's request for transparent recusal standards: five former heads of the Judicial Standards Commission, current North Carolina professional responsibility law professors, North Carolina constitutional law professors, the North Carolina legislative Black caucus, a group of national experts on professional responsibility and judicial ethics, and The Brennan Center for Justice.

Additional information:

The N.C. NAACP challenged two amendments – imposing a photo voter ID requirement and lowering the state income tax cap – on the grounds that the North Carolina legislature was only able to achieve the supermajority necessary to place the amendments on the ballot because it drew from racially gerrymandered districts. The districts were deemed unconstitutional, and one of the largest gerrymanders ever encountered by a federal court, but, before remedial elections could take place, the legislators rushed to use their unconstitutional power to place amendments on the ballot. In 2019, a Wake County Superior Court judge ruled for the N.C. NAACP and declared the amendments void. That ruling was overturned in a two to one ruling on the N.C. Court of Appeals, which brought the matter to the Supreme Court. A timeline of the case to date can be found here.

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About the N.C. NAACP

Founded in 1939, the NC NAACP is part of the nation's oldest and largest civil rights organization. Its branches throughout North Carolina are premier advocates for civil rights in their communities, conducting voter mobilization and monitoring equal opportunity in the public and private sectors The mission of the National Association for the Advancement of Colored People is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and discrimination. www.naacpnc.org

About Forward Justice

Forward Justice is a nonpartisan law, policy and strategy center dedicated to advancing racial, social, and economic justice in the U.S. South. Our work catalyzes success for social movements and expands opportunities for people affected by injustice. www.ForwardJustice.org

About Southern Environmental Law Center

The Southern Environmental Law Center is one of the nation's most powerful defenders of the environment, rooted in the South. With a long track record, SELC takes on the toughest environmental challenges in court, in government, and in our communities to protect our region's air, water, climate, wildlife, lands, and people. Nonprofit and nonpartisan, the organization has a staff of 170, including 90 attorneys, and is headquartered in Charlottesville, Va., with offices in Asheville, Atlanta, Birmingham, Chapel Hill, Charleston, Nashville, Richmond, and Washington, D.C. www.southernenvironment.org