STATE OF NORTH CAROLINA COUNTY OF WAKE JEFFERSON GRIFFIN, Petitioner, vs. NORTH CAROLINA STATE BOARD OF ELECTIONS, Respondent.	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 24CV040619-910; 24CV040620-910; 24CV040622-910

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF BY IMPACTED VOTERS AND NON-PARTISAN ORGANIZATIONS

Proposed *amici curiae* Amici Ralim Allston, Cindy Oates Anthony, Rachel Arnold, Amy Bryant, Denise Carman, Louanne Caspar, Alexia Chavis, Jose Benito del Pliego, Sofia Dib-Gomez, Mary Kay Heling, Wesley Hogan-Philipsen, Elizabeth Hunter Kesling, Kevin Hunter-Kesling, Lesley-Anne Leonard, Gaynelle Little, Jenna Marrocco, Audrey Meigs, Bruklyn Miller, Dirk Philipsen, Larry Repanes, Anna Richards, Lila Richardson, Sophia "Felix" Soto, Alexa Adamo Valverde, Diane Wynne, and Pheobe Zerwick (together, the "Impacted Voters"), together with the North Carolina State Conference of the NAACP, North Carolina Black Alliance, Common Cause Education Fund, Democracy North Carolina, El Pueblo, North Carolina Asian Americans Together, and North Carolina Poor People's Campaign (the proposed "Organizational Amici," together with the Impacted Voters, the proposed "Amici") respectfully move under North Carolina Rule of Civil Procedure 7(b) for leave to file the appended Brief of Amici Curiae in opposition to the relief sought by Petitioner Jefferson Griffin, which would change the rules of the 2024 election after the voters of our state already went to the polls. As the proposed Brief of Amici Curiae and accompanying voter affidavits show, granting the relief requested by Judge Griffin would

invalidate the lawful ballots of eligible North Carolina voters who simply followed the rules of voting then in effect.

As nonpartisan, nonprofit organizations dedicated to protecting and advancing the rights of voters, and as the voters at risk of disenfranchisement if these protests are successful, proposed *Amici* have a substantial interest in this case and in ensuring that the election protest statutory scheme is properly applied, that the protestor is held to the correct burden of proof, and that the constitutional rights of the challenged North Carolina voters are protected.

Amici sought consent from the parties to file this motion. Counsel for Judge Griffin do not oppose the request. Counsel for the North Carolina State Board of Elections and intervenor Justice Allison Riggs consent.

NATURE OF THE INTEREST OF AMICI CURIAE

The **Impacted Voters** are individuals appearing on the list of challenged voters submitted by Judge Jefferson Griffin in the Election Protests because they (*i*) are alleged to lack certain identifying information in their voter file (driver's license number or last four digits of the Social Security Number ("SSN")) or (*ii*) voted from overseas and were not required to meet the voter identification requirements administered for domestic ballots pursuant to 8 N.C. Admin. Code § 17.0109. As set forth in the affidavits appended to the proposed Brief of Amici Curiae as Exhibits 1 through 26, each of the Impacted Voters is an eligible North Carolina voter who at the time of voting met all the requirements under North Carolina law to register and vote and lawfully voted under the laws and regulations that existed during the voting process. Many voters challenged for lacking identifying information in fact provided this information to the State Board, and others could have and would have provided this information if required to when they had registered to vote and if they were given notice that the absence of that information would place their ballot in jeopardy. All individuals were duly registered under the procedures applicable at the time of

registration and under state law when they went to cast a ballot. Similarly, the Impacted Voters who voted overseas without voter identification could have satisfied a voter ID requirement if at any point in the voting process they were informed it was required.

The **Organizational Amici** are non-partisan, non-profits registered under Section 501(c)(3) of the Internal Revenue Code that engage in extensive year-round voter outreach, voter education, and voter protection activities across North Carolina. As part of this work, Organizational Amici regularly help voters navigate every aspect of the voting process including understanding eligibility requirements, registering to vote, casting a ballot, and ensuring that the ballot is counted. Since the filing of election protests by Petitioner Jefferson Griffin, Organizational Amici have engaged with their members, their volunteers, voters and other community contacts and networks on this issue. Through that work, they have encountered numerous voters appearing on the list of challenged voters. As organizations deeply committed to and engaged in voter outreach, advocacy and education, the Organizational Amici have an interest in values directly at risk in this matter: Ensuring every eligible voter's ballot is protected, and ensuring voters maintain confidence in the integrity and fair administration of the State's elections.

REASONS WHY AN AMICUS BRIEF IS USEFUL TO THE COURT

The proposed Brief of Amicus Curiae is beneficial to the Court's consideration of this matter because it directly addresses the required showing for an election protest that challenges voter eligibility and explains in detail why Judge Griffin's protests fall far short of these requirements and must be dismissed. This is true on the face of the allegations in the protests themselves, which fail to specifically allege or show the ineligibility of any voter challenged as lacking a SSN or driver's license number in their voter registration (so-called "Incomplete") or not

presenting voter ID when voting overseas ("Overseas ID") as a sole reason for disqualification.[1] As a matter of state law, Judge Griffin must show affirmative proof of voter ineligibility to show an outcome-determinative violation of election law. His complete lack of individualized allegations as to the eligibility of "Incomplete" and "Overseas ID" voters fails to carry his statutory burden.

The inadequacy of Judge Griffin's election protests is further emphasized by the personal accounts of voters who appear on Judge Griffin's challenged lists, appended as voter affidavits to the proposed Brief of Amici Curiae as Exhibits 1 through 26. These affidavits prove that qualified North Carolina voters have been targeted here, all of whom took care to fulfill the requirements presented to them when they voted, and all of whom would have worked to resolve any issues with their registration or ballots if they had known a different set of rules would apply. Moreover, some impacted voters even *did* satisfy the alternative (erroneous) set of rules Judge Griffin has advocated for, having provided identifying information when they registered and having attempted to transmit photo ID when they voted from overseas. *See* Ex. 23, 26. In other words, the Impacted Voter Amici are qualified under North Carolina law to vote and would be unjustly denied that fundamental right if Judge Griffin's relief were granted.

Additionally, Judge Griffin cannot show that, had his preferred interpretation of the law applied to challenged voters and they had instead voted under that alternative set of laws, any of the "Incomplete" voters could not have still registered to vote, and any of the "Overseas-No ID" voters could not have met an ID requirement presented to them. He alleges no voter fraud, and no ballots cast by a non-citizen or otherwise disqualified voter. The sworn affidavits from impacted

[1] While Amici do not specifically address the "Overseas Non-Resident" category of election protest here, those number less than the margin of victory and thus would not alone cause an outcome-determinative impact on the election.

voters in fact prove otherwise, that voters were qualified and would have done everything they could to cast a ballot according to the rules presented to them.

WHEREFORE, Amici respectfully request that they be permitted to submit the attached amicus.

Respectfully submitted, this the 3rd day of February, 2025.

By: /s/ Caitlin A. Swain

FORWARD JUSTICE

Caitlin A. Swain
NC Bar No. 57042
Kathleen Roblez
NC Bar No. 57039
Ashley Mitchell
NC Bar No. 56889
P.O. Box 1932
Durham, NC 27702
Telephone: (919) 907-8586
cswain@forwardjustice.org
amitchell@forwardjustice.org
kroblez@forwardjustice.org

By: /s/ Irving Joyner
Irving Joyner
NC State Bar No. 7830
P.O. Box 374
Cary, NC 27512
Telephone: (919) 319-8353
ijoyner@nccu.edu

By: /s/ Jeffrey Loperfido

SOUTHERN COALITION FOR SOCIAL JUSTICE

Jeffrey Loperfido (State Bar #52939)
Hilary Harris Klein (State Bar #53711)
Christopher Shenton (State Bar #60442)
Mitchell D. Brown (State Bar #56122)
5517 Durham Chapel Hill Blvd.
Durham, NC 27707
Telephone: 919-794-4213
Facsimile: 919-908-1525
hilaryhklein@scsj.org
jeffloperfido@scsj.org
chrisshenton@scsj.org

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was e-filed and served upon the parties listed below via e-mail, addressed as follows:

Counsel for Plaintiffs:

Craig D. Schauer cschauer@dowlingfirm.com

W. Michael Dowling mike@dowlingfirm.com

Troy D. Shelton tshelton@dowlingfirm.com

Counsel for State Board Defendants:

Mary Carla Babb mcbabb@ncdoj.gov

Terence Steed tsteed@ncdoj.gov

Counsel for Justice Riggs

Ray Bennett ray.bennett@wbd-us.com

Sam Hartzell sam.hartzell@wbd-us.com

This the 3rd day of February, 2025.

/s/ Jeffrey Loperfido