

SUPREME COURT OF NORTH CAROLINA

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PENDER COUNTY, DWIGHT STRICKLAND,	)	
Individually and as a Pender County Commissioner,	)	
DAVID WILLIAMS, Individually and as a Pender	)	
County Commissioner, F.D. RIVENBARK,	)	
Individually and as a Pender County Commissioner,	)	
STEPHEN HOLLAND, Individually and as a Pender	)	
County Commissioner, and EUGENE MEADOWS,	)	
Individually and as a Pender County Commissioner	)	<u>From Wake County</u>
	)	(Three Judge Panel
PLAINTIFFS,	)	on Redistricting)
	)	No. 04 CVS 0696
	)	
V.	)	
	)	
GARY BARTLETT, as Executive Director of the	)	
State Board of Elections; LARRY LEAKE, ROBERT	)	
CORDLE, GENEVIEVE C. SIMS, LORRAINE G.	)	
SHINN, and CHARLES WINFREE in Their	)	
Official Capacities as Members Of the North	)	
Carolina Board of Elections; JAMES B. BLACK	)	
in His Official Capacity as Co-Speaker) of the	)	
North Carolina House of Representatives; RICHARD	)	
T. MORGAN, in His Official Capacity as Co-Speaker	)	
of the North Carolina House of Representatives;	)	
MARC BASNIGHT, in His Official Capacity as	)	
President Pro Tempore of the North Carolina Senate;	)	
MICHAEL EASLEY, in His Official Capacity as	)	
Governor of the State of North Carolina; ROY	)	
COOPER, in His Official Capacity as Attorney	)	
General of the State of North Carolina;	)	
	)	
DEFENDANTS	)	

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**MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE**

**IN SUPPORT OF DEFENDANTS**

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TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Cindy Moore, Milford Farris, and Mary Jordan (hereinafter the “Amicus Movants”), respectfully request leave to file the attached *Amicus Curiae* brief in support of Defendants who are Appellees herein, pursuant to Rule 28(i) of the North Carolina Rules of Appellate Procedure.

In support of this motion, the *Amicus Movants* show the Court the following:

In this case, the Appellants request that the Court remand to the three-judge panel for entry of an Order finding that districts 16 and 18 do not comply with the North Carolina Constitution because Section 2 of the Voting Rights Act does not require their creation. This would effectively eliminate the ability of African-American voters in District 18 to elect their candidate of choice because of the persistence of racial bloc voting in North Carolina. While the Governor of North Carolina, the Attorney General, the North Carolina State Board of Elections, the Co-Speakers of the North Carolina House of Representatives, and the President Pro-tempore of the North Carolina Senate (the Appellees) have responded to the claims of the appellants, African-American voters of District 18 are without a direct voice in this case. This Court’s decision in this case will significantly affect the fundamental right to vote, for African-American voters in District 18 and throughout the state of North Carolina, in this election and future elections.

#### **INTEREST OF AMICI MOVANTS**

Cindy Moore, Milford Farris, and Mary Jordan are African-American citizens and residents of Pender County who have been active proponents of greater African-

American political participation. They are members of various social organizations that sponsor African-American voter registration and voter education efforts. They and the organizations they belong to have a significant interest in having a representative in the General Assembly who is familiar with the needs of the African-American community.

Cindy Moore is the chairperson of Pender County Fair Share, a local chapter of North Carolina Fair Share. North Carolina Fair Share is a statewide non-partisan, non-profit membership, advocacy, and leadership development organization comprised almost entirely of non-wealthy citizens, many of whom are African-American. In June of 2004, Cindy Moore filed an affidavit in the North Carolina Superior Court emphasizing her concern that the African-American minority community would have little or no representation in Pender County if NC House District 18, as it existed, was redrawn for the purposes of keeping Pender County wholly within one single member district.

Milford Farrior is a lifelong resident of Pender County. He has remained involved in community affairs affecting the African-American community in Pender County all of his life. In June of 2004, he also filed an affidavit with the North Carolina Superior Court stressing his concern that an African-American candidate would not be elected if Pender County were kept whole in the formation of a NC House district.

Mary Jordan is a retired educator. She is a member of the local branch of the National Association for the Advancement of Colored (NAACP). The NAACP is a non-partisan and non-profit national organization, with over a hundred branches throughout North Carolina, which seeks the social, political, and legal advancement of African-American interests. She is also an active member in the Maple Hill Civic Club (an organization which seeks social health within the African-American community of

Pender County) and is one of Pender County's local business owners, among whom African-Americans are a significant minority.

In their personal capacities, Ms. Moore, Mr. Farrior, and Ms. Jordan have supported the candidate of choice of African-American voters in every election during which they resided in Pender County. Each supported Thomas Wright, an African-American Democrat, in all of his election campaigns for the North Carolina House since 1994. Because they are African-American residents of Pender County and remain significantly involved in African-American political, social and civic functions in Pender County, they each have an interest in ensuring that African-American voters have an equal opportunity to elect representatives of their choice. Though minority voters in Pender County have successfully been able to elect their candidate of choice despite the fact that they are not an absolute numerical majority, they will likely not be able to elect their candidate of choice in a district where Pender County is 61.25% of the district population because of the persistence of racial polarization in North Carolina. White bloc voting is strong enough in Pender County to usually defeat the African-Americans' candidate of choice. Therefore, it is crucial for *Amici Curiae* Moore, Farrior, and Jordan that this Court rule in favor of the Appellees. This Court should hold that the 2003 redistricting plan's creation of NC House District 18, a district in which African-Americans can continue to elect their candidate of choice, is permissible under the North Carolina Constitution because it was legitimate for the legislature to conclude that the district was necessary to comply with Section 2 of the Voting Rights Act.

### **REASONS FOR AMICUS CURIAE BRIEF**

The Amicus Movants respectfully submit that this *Amicus Curiae* Brief is necessary in this case for three compelling reasons. First, the issue presented in this case is of great significance to the fundamental right to vote for all citizens throughout the state of North Carolina in this and future elections. As Chief Justice Warren appropriately articulated in *Reynolds v. Sims*, “ since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.” 377 U. S. 533, 562 (1964)

Second, the African-American voters in District 18 (among whom are Amicus Movants) have a direct interest in maintaining a district with a sufficient number of African-American voters to overcome racial bloc voting in southeastern North Carolina, and to have an equal opportunity to elect a candidate of their choice to represent their interests in the North Carolina General Assembly.

Third, this Court would benefit from the unique viewpoint of individual voters represented by the Amicus Movants.

### **QUESTIONS OF LAW TO BE ADDRESSED**

Amicus Movants seek leave to file a brief addressing one issue: Did the North Carolina General Assembly legitimately conclude that Section 2 of the Voting Rights Act required drawing of District 18 so that its African-American voters could continue to elect their candidate of choice, even though the district contains less than an absolute numerical majority of voting age African-Americans? Movants’ position is that the General Assembly legitimately concluded that Section 2 of the Voting Rights Act

required drawing of District 18 even though the district contains less than an absolute numerical majority of voting age African-Americans because the Supreme Court has not upheld any bright line rules requiring an absolute numerical majority of African-American voters before Section 2 of the Voting Rights Act can be applied and African-Americans voters within the district have clearly demonstrated their ability to elect their candidate of choice.

### **CONCLUSION**

Amicus Movants respectfully request leave to file jointly the Brief of *Amici Curiae* in support of Defendants conditionally filed with this motion. This case will affect the fundamental right to vote for a significant number of North Carolina voters in future elections. *Amici* are North Carolina citizens who seek to protect the integrity of the voting process by making sure that qualified registered voters have an equal opportunity to elect the candidate of their choice. The Court would benefit from additional viewpoints set forth in their brief.

This the 8<sup>th</sup> day of May, 2006

/S/ Anita S. Earls  
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**CERTIFICATE OF SERVICE**

I hereby certify that as Counsel for *Amici Curiae* I have, this day, filed a copy of this Motion for Leave to File Brief as *Amici Curiae* in Support of Defendants with the Clerk of the North Carolina Supreme Court by electronic means pursuant to Rule 26 of the North Carolina Rules of Appellate Procedure and served a copy of same upon Counsel for Appellees in accordance with said rules by electronic means to their correct and current electronic mail addresses as follows:

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*Attorneys for Defendants/Appellees*

This the 8<sup>th</sup> day of May, 2006

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