

No. 83-1968

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

LACY H. THORNBURG, *et al.*,

Appellants,

v.

RALPH GINGLES, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Motion for Leave to File Brief *Amicus Curiae*

The Honorable James G Martin, Governor of North Carolina, hereby respectfully moves for leave to file the attached brief *amicus curiae* in this case. The consent of the attorney for the appellee has been obtained. The consent of the attorney for the appellant has been requested but refused.

The interest of Governor Martin arises from his position as the chief executive of the State of North Carolina, and hence, as the senior elected representative of all North Carolinians.

In the instant case the appellant argues that the recent electoral success of some minority candidates makes the District Court's findings of racial vote dilution clearly erroneous. The brief which Governor Martin is requesting to file argues that the District Court's finding is clearly

correct and that perpetuation of North Carolina's multi-member district system, particularly in those districts where its discriminatory effects have been established, will hinder his efforts to open the political process in North Carolina to all of its citizens.

Respectfully submitted,

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August 30, 1985

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**BRIEF OF *AMICUS CURIAE*, THE HONORABLE
JAMES G. MARTIN, GOVERNOR OF NORTH
CAROLINA, SUPPORTING APPELLEES**

The Honorable James G. Martin, Governor of the State of North Carolina, submits this brief *amicus curiae* in support of the decision of the United States District Court for the Eastern District of North Carolina invalidating six of North Carolina's multimember districts on the ground that those districts had the effect of diluting black votes in violation of Section 2 of the Voting Rights Act of 1965.

Interest of *Amicus Curiae*

The Governor wishes to make clear to the Court that the highest elected official of the State of North Carolina, and one with extensive knowledge of and experience in North Carolina politics, does not share the views of the State's Attorney General as set forth in appellant's briefs

before the Court. As a former three-term Mecklenburg County Commissioner (1966-1972), during which time he was elected Commission Chairman and served as President of the North Carolina Association of County Commissioners; a six-term Congressman (1972-1984) from the 9th Congressional District, encompassing Iredell, Lincoln, Mecklenburg and part of Yadkin counties; and, since his election in November 1984, the Chief Executive Officer of the State, he believes that his views will be of special value to the Court.

The Governor's interest is two-fold. As a member of a minority political party in North Carolina (only the second Republican governor in this century), he is well aware of the disadvantages North Carolina's multimember voting system creates for *any* minority group where the majority group tends to vote on the basis of criteria other than the particular candidate's merits. As the representative of all of the people of the State, he is keenly aware of the need to eliminate as quickly as practicable the vestiges of past discrimination and to bring into the political life of the State all of its citizens without maintaining or erecting artificial barriers to full participation of any group. To the extent that multimember districts create such barriers, and the Governor agrees fully with the District Court that in the districts at issue (if not the entire State) they do, they should be stricken down.

Argument

We eschew the opportunity to enter the debate over whether the "clearly erroneous" standard governs this Court's review because of the Governor's view that, far from "clearly erroneous", the District Court's essential findings were clearly correct. There can be little question that multimember districts in North Carolina dilute the effect of black votes wherever there are smaller included

districts with clear black majorities. The election of some blacks to the State legislature does not detract from the simple, but obvious, truth that, although in some circumstances the artificial barrier of multimember districts can be overcome, the barrier surely exists.

As the record below amply demonstrates, North Carolina's multimember districts create additional difficulties for blacks seeking to participate fully in the State's political process. The significantly higher cost of campaigning in the larger multimember districts (Pl.Ex. 20; R. 130-31, 133), coupled with the greater difficulty black candidates face in raising campaign funds (R. 437, 443, 468), act as further deterrents on black candidacies. Thus, the significant economic disparity between whites and blacks in the State exacerbates the discriminatory impact of multimember districting.

This administration is committed to opening the political process to all North Carolinians. In making appointments to State Boards and Commissions, the Governor is seeking to attract qualified citizens regardless of race, age, sex, political party or geography. He has already made, and will continue to make, significant progress in broadening the base from which these executive appointments are made.

Such progress necessarily will be of limited impact, however, if the State legislature (with its unusual powers)* continues to be chosen by a process which is, after all, the remnant of an earlier time when the government in North Carolina was conducted solely by white male Democrats. Black citizens of North Carolina, because of their economic disadvantage, feel the discriminatory impact of multimember districting even more than other minorities in the political process. The Court is thus respectfully urged to strike down this anachronistic system at least in those dis-

* North Carolina is the only state where the legislature alone can enact legislation; there is no provision for any gubernatorial veto.

tricts where the District Court found ample proof of its discriminatory impact.

Conclusion

The judgment of the District Court should be affirmed.

Respectfully submitted,

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