

No. 22-1830

IN THE
United States Court of Appeals
FOR THE
Fourth Circuit

NORTH CAROLINA GREEN PARTY, *et al.*, *Plaintiffs-Appellees*

v.

NORTH CAROLINA STATE BOARD OF ELECTIONS, *et al.*

*On Appeal from the U.S. District Court for the
Eastern District of North Carolina, No. 5:22-cv-276-D-BM,
Hon. James C. Dever, III*

**NATIONAL REPUBLICAN SENATORIAL COMMITTEE'S MOTION FOR
LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLEES,
AFFIRMANCE, AND DENIAL OF APPELLANTS' EMERGENCY
MOTION FOR STAY PENDING APPEAL**

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The National Republican Senatorial Committee (“NRSC”) moves this Court for leave to file an *amicus curiae* brief in support of Plaintiff-Appellees’ Opposition to the Democratic Senatorial Campaign Committee’s and the North Carolina Democratic Party’s (together “Intervenors”) Emergency Motion for Stay Pending Appeal. Doc. 26. In the district court, the court granted the NRSC leave to file an *amicus* brief in support of the Appellees’ motion for preliminary injunction, which is the subject of this appeal. *See* Doc. 4, A216.

The NRSC is a national committee devoted to aiding Republican candidates in their campaigns for the U.S. Senate and is supporting the campaign of Tedd Budd, Republican nominee for U.S. Senate in North Carolina, in the November 8, 2022 election. This Motion states the NRSC’s interest in the case and the reason why an *amicus* brief is desirable and why the matters asserted are relevant to the disposition of the case. *See* Fed. R. App. P. 29. The NRSC’s proposed *amicus* brief accompanies this motion and is offered in support of Plaintiff-Appellees and denial of the Intervenors’ Emergency Motion for Stay Pending Appeal. *See* Fed. R. App. P. 29(a)(3). As detailed below, the NRSC has a special interest in this case, and the NRSC’s *amicus* brief will be useful to the Court because it identifies Fourth Circuit precedent that instructs that the Intervenors lack standing to bring this appeal.

I. The NRSC has a special interest in this case.

The NRSC is a national organization devoted to aiding Republican candidates in their campaigns for the U.S. Senate, providing thorough support and assistance to current and prospective Republican candidates in areas such as budget planning, election law compliance, fundraising, communications tools and messaging, and research and strategy. As such, the NRSC is heavily vested in ensuring that Republican senatorial candidates, such as Tedd Budd in North Carolina, enjoy a fair electoral environment in accord with state election laws and the United States Constitution. *See Democracy N.C. v. N.C. State Bd. of Elections*, No. 1:20CV457, 2020 WL 6589359, at *1 (M.D.N.C. June 30, 2020) (finding that the NRSC has an interest in “preserving North Carolina’s voting and election laws”); *cf. N.C. State Conf. of NAACP v. McCrory*, 997 F. Supp. 2d 322, 342 (M.D.N.C. 2014), (noting that political parties “have a direct, particularized interest in the outcome of an election” (citation omitted)) *aff’d in part, rev’d in part and remanded sub nom. League of Women Voters of N.C. v. N.C.*, 769 F.3d 224 (4th Cir. 2014). Pursuant to that interest, the Eastern District of North Carolina allowed the NRSC to participate

as *amicus* below. *See* Doc. 4, A216; *see also* *Democracy N.C.*, 2020 WL 6589359, at *2 (allowing the NRSC to participate as *amicus* in a matter of election integrity).

This case directly implicates the NRSC's interest in ensuring that (1) the North Carolina senatorial ballot includes all qualified candidates, (2) North Carolina enforces its voting laws consistently and not arbitrarily, and (3) the NRSC's campaign resources are not adversely affected through politically motivated state action. The record below contains significant evidence indicating that Intervenors believe that excluding the Green Party from the general election ballot in 2022 will boost the Democratic Party's electoral prospects, to the detriment of the Republican Party and the NRSC's efforts to support Republican candidates. *See, e.g.*, Doc. 4, A110. Accordingly, the NRSC has an interest in ensuring that qualified Green Party candidates are not categorically excluded from the ballot. *See, e.g.*, *Nat. Law Party of U.S. v. Fed. Elec. Comm'n*, 111 F. Supp. 2d 33, 44 (D.D.C. 2000) ("The inability to compete on an equal footing due to the application of allegedly biased criteria has been recognized in many contexts as an injury in fact [to a political party]" (citing *Ne. Fla. Chapter v. Jacksonville*, 508 U.S. 656 (1993); *Clements v. Fashing*, 457 U.S. 957 (1982))); *Pavek v. Simon*, 467 F. Supp. 3d 718, 742 (D. Minn. 2020) (noting that "several circuits" have recognized a direct injury to political parties where "the defendant's actions hurt the candidate's or party's chances of prevailing in an

election” (collecting cases)); *Goldman v. Brink*, No. 3:21cv420 (DJN), 2022 WL 2024745, at *12 (E.D. Va. June 6, 2022) (similar), *aff’d as modified*, -- F.4th --, 2022 WL 2866015 (4th Cir. July 21, 2022).

II. The legal authorities and arguments developed in NRSC’s amicus brief will be useful to the Court in deciding Intervenors’ Motion.

The NRSC’s amicus brief focuses on a single issue: the Intervenor’s lack of standing to bring this appeal. The brief supports the standing arguments made by Plaintiff-Appellees (Doc. 26 at 17–21) by identifying and discussing on-point Fourth Circuit authority not cited by Plaintiff-Appellees, which instructs that the Intervenors lack standing. Thus, the amicus brief will help the Court resolve the dispositive standing issue.

Dated: August 10, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Federal Rules of Appellate Procedure 27 and 32 because the brief is typed in 14-point font and contains less than 5200 words.

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CERTIFICATE OF SERVICE

I certify that on August 10, 2022, I electronically filed this document with the Clerk of the U.S. Court of Appeals for the Fourth Circuit using the court's electronic case filing system, which will send electronic service to all registered counsel of record.

/s/ C. Bailey King Jr.

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One of the Attorneys for the NRSC

