

FILED
08-22-2023
CLERK OF WISCONSIN
SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN

No. 2023AP001399

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO, ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE (DEE) SWEET, AND GABRIELLE YOUNG,

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE BOSTELMANN, AND JOSEPH J. CZARNEZKI, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION, MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; SENATOR ANDRÉ JACQUE, SENATOR TIM CARPENTER, SENATOR ROB HUTTON, SENATOR CHRIS LARSON, SENATOR DEVIN LEMAHIEU, SENATOR STEPHEN L. NASS, SENATOR JOHN JAGLER, SENATOR MARK SPREITZER, SENATOR HOWARD L. MARKLEIN, SENATOR RACHAEL CABRAL-GUEVARA, SENATOR VAN H. WANGGAARD, SENATOR JESSE L. JAMES, SENATOR ROMAINE ROBERT QUINN, SENATOR DIANNE H. HESSELBEIN, SENATOR CORY TOMCZYK, SENATOR JEFF SMITH, AND SENATOR CHRIS KAPENGA,

Respondents.

MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*

Professor Charles Fried hereby moves the Court, pursuant to Wis. Stat. §§ (Rules) 809.14(1) and 809.19(7)(a), for leave to appear and file the attached brief as *amicus curiae* in the above-captioned matter. In support of this motion, proposed *amicus* submits the following:

1. Proposed *amicus* is the Beneficial Professor of Law at Harvard Law School, and has been teaching at the school since 1961. He was Solicitor General of the United States, 1985–89, and an Associate Justice of the Supreme Judicial Court

of Massachusetts, 1995–99. His scholarly and teaching interests have been moved by the connection between normative theory and the concrete institutions of public and private law.

2. As part of his work, Professor Fried also files amicus briefs in cases such as this one, which are about democracy at the state level and fighting for every American's rights to responsive government and a fair opportunity to participate in and affect the democratic process. Professor Fried has a substantial interest in ensuring that the constitutional rights derived from Wisconsin's constitution are identified correctly, and brings substantial expertise to bear on the issues raised by the Petition for an Original Action in this case.

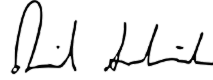
3. The proposed brief does not repeat arguments made by any of the parties. Instead, it provides critical historical-legal context for evaluating the rationale offered by Petitioners in support of granting their Petition for an Original Action, with regards to the rights offered by state constitutions such as Wisconsin's.

4. The proposed brief also explains how fundamental principles like popular sovereignty and majoritarianism interrelate with and animate the discussion about gerrymandering, and how they fit into Wisconsin's particular constitutional structure.

5. This motion is timely filed in accord with Wis. Stat. (Rule) § 809.19(7)(c) and the Court's August 15, 2023 order in this case addressing the filing of non-party briefs.

WHEREFORE, movant Professor Charles Fried hereby respectfully requests that the Court grant this motion and accept the attached brief *amicus curiae*.

Dated: August 22, 2023

/s/  _____

Daniel J. Schneider
Wis. Bar No. 1097656
2707 W. Augusta Boulevard, Unit 2
Chicago, Illinois 60622
(414) 333-4609
danieljschneid@gmail.com

Attorney for Professor Fried

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