

**SUPREME COURT OF NORTH CAROLINA**

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TELIA KIVETT; WANDA NELSON  
FOWLER; the REPUBLICAN  
NATIONAL COMMITTEE and the  
NORTH CAROLINA REPUBLICAN  
PARTY,

Plaintiffs-Petitioners

v.

NORTH CAROLINA STATE BOARD  
OF ELECTIONS, ALAN HIRSCH,  
JEFF CARMON, KEVIN N. LEWIS,  
SIOBHAN O'DUFFY MILLEN, STACY  
"FOUR" EGGERS IV, in Official  
Capacity as Members of NCSBE, and  
KAREN BRINSON BELL, in Official  
Capacity as Executive Director of  
NCSBE,

Defendants-Respondents,

DEMOCRATIC NATIONAL  
COMMITTEE,

Defendant-Intervenor-  
Respondent.

From N.C. Court of Appeals  
No. P24-735

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**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF BY SECURE  
FAMILIES INITIATIVE AND COUNT EVERY HERO, AN  
UNINCORPORATED ASSOCIATION, IN SUPPORT OF DEFENDANTS-  
RESPONDENTS AND DEFENDANT-INTERVERNOR-RESPONDENT<sup>1</sup>**

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<sup>1</sup> Pursuant to Rule 28.1(b)(3)(c) of the North Carolina Rules of Appellate Procedure, Protect Democracy United assisted in drafting this brief. Otherwise, no other persons or entities, other than amici curiae, its members and its counsel, helped to write or financially contributed to this brief.

**TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:**

Secure Families Initiative (“SFI”) and Count Every Hero, an unincorporated association, respectfully move this Court, pursuant to Rule 28.1(i) of the North Carolina Rules of Appellate Procedure, for leave to file an *amicus curiae* brief addressing the impact that Petitioners’ requested relief would have on absentee military and overseas voters in North Carolina. SFI and Count Every Hero are filing their *amicus curiae* brief conditionally along with this motion, pursuant to Rule 28.1(i)(2) of the North Carolina Rules of Appellate Procedure.

**NATURE OF APPLICANT’S INTEREST**

SFI is a nonpartisan 501(c)(4) not-for-profit organization composed of military spouses and family members. SFI is affiliated with the 501(c)(3) organization, Secure Families Foundation. SFI’s mission is to mobilize diverse military partners, parents, children, and veterans to vote and advocate for their communities. SFI has participated as *amicus curiae* in numerous other cases in state and federal court to advance the interests of military voters in interpreting voting statutes. *See, e.g., Mi Familia Vota v. Fontes*, No. 24-3188 (9th Cir. 2024); *Reschenthaler v. Schmidt*, No. 1:24-cv-01671-CCC (M.D. Pa. 2024); *Cobb Cnty. Bd. of Elections v. State Election Bd.*, No. 24CV012491 (Ga. Super. Ct. Oct. 9, 2024); *Crawford v. State Election Bd.*, No. 24CV012349 (Ga. Super. Ct. Oct. 15, 2024); *Dekalb Bd. of Registration and Elections v. State Election Bd.*, No. 24CV9085 (Ga. Super. Ct. Oct. 9, 2024); *Eternal Vigilance Action v. State of Georgia*, No. 24CV011558 (Ga. Super. Ct. October 9, 2024).

*Amicus* Count Every Hero is an unincorporated association of nine retired four-star admirals and generals, and former secretaries of the Army, Navy, and Air Force:

Admiral Steve Abbot, U.S. Navy (Retired); Admiral Thad Allen, U.S. Coast Guard (Retired); Former Secretary of the Army Louis Caldera; General George Casey, U.S. Army (Retired); General Carlton W. Fulford, Jr., U.S. Marine Corps (Retired); Former Secretary of the Air Force Deborah Lee James; General John Jumper, U.S. Air Force (Retired); General Craig McKinley, U.S. Air Force (Retired); and Former Secretary of the Navy Sean O’Keefe. They have served under every President from John F. Kennedy to Donald J. Trump and are committed, through Count Every Hero, to protecting the voting rights of active-duty U.S. service members, veterans, and their families, among other national security issues of importance. In furtherance of that mission, Count Every Hero has participated as *amicus curiae* in other cases to advance the need for clear and orderly election administration procedures, particularly as they affect active-duty service members. *See, e.g., Trump v. United States*, No. 23-939 (July 1, 2024); *Moore v. Harper*, No. 21-1271 (June 27, 2023).

### **REASONS WHY AN *AMICI* BRIEF IS DESIRABLE**

*Amici* represent military families across the country, including North Carolinians. Because neither party to the litigation represents military families, *amici* provide a unique perspective about how the relief requested by Petitioners would cause harm to and disenfranchise military and overseas North Carolina voters, with just days left before the November 5, 2024 General Election.

SFI advocates for federal and state policies that increase accessibility for absentee voters and registered military affiliated and disenfranchised voters. For example, SFI has endorsed pieces of federal legislation that would standardize the

ballot return deadline for ballots cast under the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) and require all 50 states to provide UOCAVA voters with a ballot curing process. On the state level, SFI has consistently pushed for the expansion of electronic ballot return opportunities for UOCAVA voters. Because voting remains less accessible for its members and the broader military and overseas community, SFI also educates, registers, and engages in non-partisan “get-out-the-vote” efforts for military voters in all elections, including routinely publishing resources to assist its members and the broader military and overseas community.

*Amicus* Count Every Hero works to promote the understanding of the importance of a strong democracy to our national security; to protect the voting rights of our active-duty service members, our veterans, and their families; and to promote civic literacy and civic participation. During past election cycles, they have raised public awareness about the myriad challenges facing military voters and their families. In 2020, Count Every Hero published a report reviewing all 50 states’ standards for military ballots and advocated for the importance of counting these ballots.

*Amici* submit this brief to stress the substantial irreparable harm Petitioners’ requested relief would inflict on its members and other eligible overseas and military voters, many of whom have already received and even returned their ballots for the November General Election under the longstanding and well-established law Petitioners seek to upend.

## ISSUES TO BE ADDRESSED

Whether Petitioners' requested relief will lead to the disenfranchisement of eligible, absentee military and overseas voters in North Carolina.

## POSITION OF *AMICI CURIAE*

*Amici* believe that Petitioners' requested relief demonstrates a fundamental misunderstanding of the voting process for military and overseas voters and will lead to the disenfranchisement of eligible, absentee military and overseas voters. In short, Petitioners' requested relief demonstrates that they do not understand how absentee military and overseas voters actually cast their ballots. As a result, Petitioners do not—and cannot—explain how the ballots of the voters they target for disenfranchisement can accurately be segregated from other returned absentee ballots, let alone in time to conduct and certify the November General Election. Instead, their eleventh-hour request would upend the entire process for counting absentee ballots in North Carolina, which would (1) deliberately disenfranchise some otherwise eligible overseas and military voters—including the children and dependents of Americans stationed and living overseas; and (2) require additional verification and threaten disenfranchisement of thousands of UOCAVA voters.

Even under an ordinary timetable, Petitioners' proposed relief would only add to the already numerous barriers Americans face when voting overseas, disenfranchising eligible voters and undermining both Congress's intent in passing UOCAVA, and the North Carolina General Assembly's intent in passing the Uniform

Military Overseas Voters Act. *Amici* are uniquely positioned to understand the existing burdens on military and overseas voters, as well as the further harm Petitioners' requested relief poses to these voters.

WHEREFORE, Secure Families Initiative and Count Every Hero, an unincorporated association, respectfully request that they be permitted to submit the attached *amici curiae* brief.

Respectfully submitted this the 4th day of November, 2024.

/s/ Jeffrey Loperfido

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N.C.R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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*\*Pro Hac Vice Applications Forthcoming*

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**APPELLATE RULE 37(c) CERTIFICATION**

Pursuant to Rule 37(c) of the North Carolina Rules of Appellate Procedure, *Amici* certify that all counsel of record were notified of their intent to file this Motion for Leave to File Amici Curiae Brief. Defendants-Respondents and Defendant-Intervenor-Respondent consented to the Motion. Plaintiffs-Petitioners took no position on the motion and do not intend to respond to the motion.

This the 4<sup>th</sup> day of November, 2024.

/s/ Jeffrey Loperfido

Jeffrey Loperfido

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**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:

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This the 4th day of November, 2024.

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