IN THE SUPREME COURT OF THE UNITED STATES

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No. 22-807

THOMAS C. ALEXANDER, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE SOUTH CAROLINA SENATE, ET AL., APPELLANTS

v.

THE SOUTH CAROLINA STATE CONFERENCE OF THE NAACP, ET AL.

_____

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

_____

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and requests that the United States be allowed ten minutes of argument time. Appellees have agreed to cede ten minutes of argument time to the United States and consent to this motion.

This case concerns a redistricting challenge to South Carolina's first congressional district (CD1), which was redrawn after the 2020 census. As relevant here, plaintiffs (appellees) have raised two claims against the South Carolina appellants: that

CD1 was racially gerrymandered in violation of the Equal Protection Clause of the Fourteenth Amendment, and that the mapmakers intentionally sought to dilute the strength of Black voters in drawing CD1's lines, also in violation of the Constitution. Following a trial, the three-judge district court granted judgment to plaintiffs on both of their claims.

Before this Court on appeal, the United States has filed a brief as amicus curiae. The brief primarily advocates for affirmance of the district court's judgment based on plaintiffs' racial-gerrymandering claim -- the focus of the district court's opinion below -- arguing that the court did not clearly err in finding that race predominated in the drawing of CD1's lines and that the court's analysis of the racial-gerrymandering claim was not infected by any legal error. The brief additionally argues that if the Court does not affirm on the racial-gerrymandering claim and reaches plaintiffs' alternative intentional vote-dilution claim, it should vacate and remand because the district court applied the wrong legal standards to that claim. For that reason, although the United States supports affirmance, its brief is styled as supporting neither party.

The United States has a substantial interest in this Court's resolution of the questions presented. The Department of Justice enforces Section 2 of the Voting Rights Act of 1965 (VRA), 52 U.S.C. 10301, which also prohibits racial discrimination in districting. See 52 U.S.C. 10308(d). Because the VRA prohibits

conduct that may also violate the Constitution, and because States may invoke VRA compliance to justify their reliance on race in districting, the United States has a substantial interest in the proper interpretation of the related constitutional provisions.

Consistent with those interests, the United States has previously presented oral argument as amicus curiae or as a party in cases involving constitutional racial-gerrymandering claims or vote-dilution claims. See Virginia House of Delegates v. Bethune-Hill, 139 S. Ct. 1945 (2019); Abbott v. Perez, 138 S. Ct. 2305 (2018); Cooper v. Harris, 581 U.S. 285 (2017); Wittman v. Personhuballah, 578 U.S. 1732 (2016); Bethune-Hill v. Virginia State Board of Elections, 580 U.S. 178 (2017); Alabama Legislative Black Caucus v. Alabama, 575 U.S. 254 (2015); Hunt v. Cromartie, 526 U.S. 541 (1999). The United States' participation in oral argument in this case accordingly may be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

AUGUST 2023