

SCOTUS Upholds 2022 NC Supreme Court Decision in *Moore v. Harper*, Rejects Independent State Legislature Theory

News

June 27, 2023

The US Supreme Court today delivered a “complete victory” to our clients and affirmed the 2022 decision of the North Carolina Supreme Court in *Moore v. Harper*, a consolidation of three cases stemming from North Carolina’s redistricting process.

We are proud to have successfully represented the North Carolina League of Conservation Voters (NCLCV) and 15 North Carolina citizens in securing a 2022 ruling from the North Carolina Supreme Court that the state constitution prohibits partisan gerrymandering. As a result of that ruling, North Carolina voters in the 2022 congressional elections voted in fair districts rather than egregiously gerrymandered ones.

But in *Moore v. Harper*, North Carolina legislative leaders took the case to the US Supreme Court, arguing that they are not bound by their state constitution when making the rules for congressional elections.

Partners Jessie Amunson and Sam Hirsch and former Partner Zach Schauf led the case for the NCLCV et al., and in their joint Supreme Court brief with co-respondents Common Cause and Rebecca Harper, et al., laid bare the flaws in the legislators’ “independent state legislature theory” approach:

It is rare to encounter a constitutional theory so antithetical to the Constitution’s text and structure, so inconsistent with the Constitution’s original meaning, so disdainful of this Court’s precedent, and so potentially damaging for American democracy.

Moore v. Harper, Supreme Court Brief No. 21-1271

The US Supreme Court’s decision, written by Chief Justice Roberts, agreed with our clients and rejected the “independent state legislature” theory. Tracking the arguments made in our brief, the Court’s opinion stated that the elections clause “does not insulate state legislatures from the ordinary exercise of state judicial review,” and that “a state legislature may not create congressional

districts independently of requirements imposed ‘by the state constitution with respect to the enactment of laws.’”

Furthermore, “when a state legislature carries out its federal constitutional power to prescribe rules regulating federal elections, it acts both as a lawmaking body created and bound by its state constitution, and as the entity assigned particular authority by the Federal Constitution. Both constitutions restrain the state legislature’s exercise of power.”

This landmark decision rejects the controversial “independent state legislature theory” that would have given state legislatures unprecedented power in drawing gerrymandered congressional districts and would have stripped state courts of the oversight role granted to them in state constitutions.

In a statement, Jessie and Sam said, “We are pleased the Court ruled in our clients’ favor and thoroughly rejected the radical independent state legislature theory pressed by petitioners. This ruling is a complete victory for our democratic system and makes clear that state legislatures cannot ignore or defy state law when regulating federal elections.”

Jessie's remarks on the case at a post-argument press conference on the steps of the Supreme Court can be heard [here](#). She and Sam were assisted in the US Supreme Court case by Partner David Bradford; former Partner Zach Schauf; Associates Leonard Powell, Illyana Green, Sophia Cai, and Benjamin Hand; and former Associates Karthik Reddy, Urja Mittal, and Carter Smith.

Members of the team who helped litigate the case in the North Carolina courts also included Partners Kali Bracey, Benjamin Bradford, Alex Trepp, and David Greenwald and Associate Mary Marshall. Senior paralegal Cheryl Olson and Paralegals Thomas Scholtus and Adam Weidman also assisted. Others in the firm provided important assistance, including Partners Robert Stauffer and David Sanders; former Partner David Jimenez-Ekman; Associates Brandon Polcik, Huiyi Chen, and Allison Tjemsland; Department Counsel Adam M. Caldwell; Senior Paralegals Daniel Garcia and Theresa Busch; and Paralegals Grace Liberman and Sam Rosen.

Related Attorneys

Jessica Ring Amunson

Partner

jamunson@jenner.com

+1 202 639 6023

Sam Hirsch

Partner
shirsch@jenner.com
+1 202 637 6335

David J. Bradford

Partner
dbradford@jenner.com
+1 312 923 2975

Benjamin Hand

Associate
bhand@jenner.com
+1 415 293 5938

Benjamin Bradford

Partner
bbradford@jenner.com
+1 312 840 7224

Alex S. Trepp

Partner
atrepp@jenner.com
+1 202 637 6385

David Greenwald

Partner
dgreenwald@jenner.com
+1 312 923 2774

Robert Stauffer

Partner
rstauffer@jenner.com
+1 312 923 2905

David P. Sanders

Of Counsel
dsanders@jenner.com
+1 312 923 2963

Huiyi Chen

Partner
hchen@jenner.com
+1 312 840 7389

Allison M. Tjemsland

Partner
atjemsland@jenner.com
+1 202 639 6028

Adam M. Caldwell

Department Counsel
acaldwell@jenner.com
+1 312 840 7496

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