

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

Sep 17 2020

S.C. SUPREME COURT

APPEAL FROM Horry COUNTY
Court of Common Pleas
Steven H. John, Circuit Court Judge

Case No. 2017-CP-07411
(Appellate Case No. 2020-000092)

Jimmy A. Richardson, II, Solicitor for the 15th Judicial Circuit,
Enforcement on Behalf of the 15th Judicial Circuit Drug Enforcement Unit.....Appellant,

v.

Twenty Thousand Seven Hundred Seventy-One and 00/100 Dollars
(\$20,771.00), U.S. Currency and Travis Green.....Respondents.

UNOPPOSED MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF

Pursuant to Rule 213 of the South Carolina Appellate Court Rules, the American Civil Liberties Union Foundation, American Civil Liberties Union of South Carolina Foundation, National Federation of Independent Business, the South Carolina Appleseed Legal Justice Center; South Carolina for Criminal Justice Reform; Root & Rebound; and Project Not A Statistic request leave to file the accompanying amici curiae brief in support of Respondents. These organizations are a group of non-partisan organizations that advocate for individuals and small businesses.

Amici wish to bring to this Court's attention the impact that South Carolina's civil forfeiture statutes have on individuals who are impoverished or low-income. To this end, amici seek to provide the Court with historical sources and recent jurisprudence from the U.S. Supreme Court and other state supreme courts that highlight the importance of considering an individual's financial means in determining whether a fine is constitutionally excessive.

For the foregoing reasons, amici respectfully request that this Court grant leave to present an amici curiae brief. A copy of the proposed brief is attached hereto, and is being conditionally filed with this motion in accordance with Rule 213 of the South Carolina Appellate Court Rules. Appellant and Respondents have been notified of the accompanying motion for leave to file an amici curiae brief and have indicated that they do not object.

INTEREST OF AMICI

Amicus Curiae the **American Civil Liberties Union Foundation** (“ACLU”) is a nationwide, nonprofit, non-partisan organization of more than 1.6 million members dedicated to defending the principles of liberty and equality embodied in the U.S. Constitution and our nation’s civil rights laws. Through its Racial Justice Program, the ACLU engages in nationwide litigation and advocacy to enforce and protect the constitutional rights of impoverished people against unlawful fine, fee, and forfeiture practices.

Amicus Curiae **American Civil Liberties Union of South Carolina Foundation** is the affiliate of the ACLU that is dedicated to defending and expanding individual rights and personal freedoms throughout the entire state of South Carolina. It is incorporated in South Carolina as a not-for-profit corporation and recognized as exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code.

Amicus Curiae **National Federation of Independent Business** (“NFIB”) is the nation’s leading small business association, representing approximately 300,000 members in Washington, D.C., and all 50 state capitals, including over 8,000 in South Carolina. A 2015 ballot of NFIB members found that 92% of respondents favor federal legislation that would require law enforcement to provide a judge with clear and convincing evidence of a crime before seizing a small business’s assets.

Amicus Curiae **South Carolina Appleseed Legal Justice Center** (“**SC Appleseed**”) is a nonprofit advocacy organization focused on overcoming social, economic, and legal injustice that affects low-income South Carolinians. SC Appleseed’s efforts include policy advocacy, litigation, and community outreach and education in areas such as consumer protection, criminal justice, education policy, housing, healthcare, hunger, public benefits, and immigration.

Amicus Curiae **South Carolina for Criminal Justice Reform** (“**SC4CJR**”) is a state-wide, non-partisan, grassroots organization composed of academics, formerly incarcerated individuals, defense attorneys, former prosecutors, business owners, and other citizens who are passionate about criminal justice reform in South Carolina. Through research, education, and advocacy, SC4CJR’s mission is to achieve practical reform and fair treatment of the accused, convicted, and incarcerated throughout each stage of South Carolina’s criminal justice system.

Amicus Curiae **Root & Rebound** (“**R&R**”) is a national reentry advocate. R&R’s mission is to restore power and resources to the families and communities most harmed by mass incarceration through legal advocacy, public education, policy reform and litigation—a model rooted in the needs and expertise of people who are directly impacted. In 2019, R&R launched the Second Chance Justice Collaborative (“**SCJC**”) in partnership with Greenville-based Soteria Community Development Corporation. The SCJC serves South Carolina’s justice-involved population statewide through direct services and policy advocacy, including advocacy around excessive fines and fees that often disproportionately impact people of color and low-income communities.

Amicus Curiae **Project Not A Statistic** (“**Project NAS**”), established in Columbia, South Carolina in 2011, is a non-profit 501(c)3 organization that provides professional guidance and resources to formerly incarcerated individuals. Project NAS’s mission is dedicated to reducing

recidivism of incarceration in South Carolina. Project NAS offers whole person development skills, re-entry consultation and training, resource workshops, legislative advocacy, community outreach and provides resource referrals.

Date: September 17, 2020

Respectfully submitted,

/s/ Susan K. Dunn

SUSAN K. DUNN*

(S.C. Bar No. 1798)

SHIRENE C. HANSOTIA*

(S.C. Bar No. 100629)

ACLU of South Carolina Foundation

P.O. Box 20998

Charleston, SC 29413

Ph. 843-282-7953

sdunn@aclusc.org

Ph. 843-405-3934

shansotia@aclusc.org

*(Counsel of Record)

JEREMIAH WILLIAMS

JONATHAN FERENCE-BURKE

Ropes & Gray LLP

2099 Pennsylvania Avenue NW

Washington, DC 20006

(202) 508-4600

Jeremiah.Williams@ropesgray.com

Jonathan.Ference-Burke@ropesgray.com

CAITLIN E. GIAIMO

Ropes & Gray LLP

1211 Avenue of the Americas

New York, NY 10036

(212) 596-9000

Caitlin.Giaimo@ropesgray.com

JAY CURRAN
MICHAEL HANIFY
Ropes & Gray LLP
800 Boylston Street
Boston, MA 02199
(617) 951-7000
Jay.Curran@ropesgray.com
Michael.Hanify@ropesgray.com

Attorneys for Amici Curiae
American Civil Liberties Union Foundation
American Civil Liberties Union of South Carolina
Foundation
National Federation of Independent Business
The South Carolina Appleseed Legal Justice Center
South Carolina for Criminal Justice Reform
Root & Rebound
Project Not A Statistic

AMREETA S. MATHAI
OLGA AKSELROD
RODKANGYIL O. DANJUMA
LEAH WATSON
American Civil Liberties Union Foundation
125 Broad St., 18th Floor
New York, NY 10004
amathai@aclu.org
oakselrod@aclu.org
odanjuma@aclu.org
lwatson@aclu.org