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Oct 23 2020

S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
In the 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,
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 Buckeye Institute and Americans for Prosperity Foundation Foundation—South Carolina 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 how the economic incentives 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

Amici are non-profit organizations dedicated to protecting individual liberties, and especially those liberties guaranteed by the Constitution of the United States, against government interference. *Amici* are leading advocates of criminal justice reform, promoting policies that keep communities safe through fair processes and fair laws that produce just outcomes. *Amici* have a particular interest in this case because the unrestricted use of fines, fees, and civil forfeiture proceedings poses a grave threat to individual liberty and the right to use and enjoy property.

Amicus curiae The Buckeye Institute was founded in 1989, as an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states. The staff at The Buckeye Institute accomplishes the organization’s mission by performing timely and reliable research on key issues, compiling and synthesizing data, formulating free-market policy solutions, and marketing those policy solutions for implementation in Ohio and replication throughout the country. The Buckeye Institute is a nonpartisan, non-profit, tax-exempt organization as defined by I.R.C. section 501(c)(3). The Buckeye Institute’s Legal Center files and joins amicus briefs that are consistent with its mission and goals. The Buckeye Institute’s Economic Research Center provides reliable economic research, data analysis, and econometric modeling at the state level.

Amicus curiae Americans for Prosperity Foundation is a nonprofit organization that operates a state chapter in South Carolina (“AFPF – SC”). AFPF – SC is committed to educating

and training Americans to be courageous advocates for the ideas, principles, and policies of a free and open society. As part of this mission, it appears as *amicus curiae* before federal and state courts. AFPF – SC is interested in this case because it believes that, among other constitutional infirmities, South Carolina’s civil asset forfeiture scheme, on its face, offends due process by wrongly requiring property owners to prove their innocence to get their property back. AFPF – SC is also concerned by troubling empirical evidence showing that this forfeiture scheme creates perverse financial incentives for law enforcement to prosecute forfeiture actions against the most vulnerable to fund their operations. AFPF – SC believes that the trial court’s ruling should be affirmed to protect *all* South Carolinians—particularly those with fewer means who are least able to defend their interests in forfeiture proceedings—from this unjust and unconstitutional abuse of government power.

Date: October 23, 2020

Respectfully submitted,

s/ Jeffrey P. Dunlaevy

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***Motions for admission pro hac vice forthcoming*

Counsel for Amici