

No. 261A18-3

TENTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

\*\*\*\*\*

NORTH CAROLINA STATE	)	
CONFERENCE OF THE NATIONAL	)	
ASSOCIATION FOR THE	)	
ADVANCEMENT OF COLORED	)	
PEOPLE	)	
	)	WAKE COUNTY
v.	)	
	)	
TIM MOORE, in his official capacity,	)	
PHILIP BERGER, in his official	)	
capacity	)	

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ORDER

Pursuant to this Court’s administrative order of 23 December 2021, after months of thorough and thoughtful deliberation, I have concluded that I can and will be fair and impartial in deciding *North Carolina State Conference of the National Association for the Advancement of Colored People v. Moore, et al.* (No. 261A18-3). Accordingly, the 23 July 2021 Motion to Disqualify filed therein is denied insofar as it requested my disqualification.

In reaching this conclusion, I thoughtfully considered: (1) the arguments presented by the appellate and amicus parties; (2) my ethical responsibilities as an Associate Justice of the Supreme Court of North Carolina under our Code of Judicial Conduct; (3) my solemn oath to serve on our state’s Court of last resort—rather than recusing myself or being disqualified to avoid controversy; and (4) my resulting

judicial duty to all North Carolinians—including the 2,746,362 who voted for me and the 2,616,265 who did not—to prevent any ideological or political affiliation from tainting my legal analysis. Finally, I am following a strong and firmly rooted tradition in reaching the conclusion not to recuse myself due to my prior legislative service. As the 101<sup>st</sup> Justice on our Court since its founding in 1819, I am following the precedent established by the 51 of my 100 predecessor Justices who first served in the legislature and later went on to fairly and impartially judge various statutes that were passed or amended during their legislative tenure before they joined the North Carolina Supreme Court. These 51 include 18 former Chief Justices of our Court—including Joseph Branch, James G. Exum, Jr. and Henry E. Frye; five former Speakers of our House of Representatives; and over two dozen associate justices—including eventual U.S. Senator Samuel. J. Ervin, Jr., former Governor Dan K. Moore, and Willis P. Whichard.

For the reasons summarized above, the relevant portion of the Motion to Disqualify is denied. This the 7<sup>th</sup> day of January 2022.

  
Tamara Patterson Barringer

WITNESS my hand and the seal of the Supreme Court of North Carolina,  
this the 7th day of January, 2022.



AMY L. FUNDERBURK  
Clerk of the Supreme Court

*Amy L. Funderburk*  
Assistant Clerk

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