

COURT OF APPEAL, FIRST CIRCUIT
STATE OF LOUISIANA
DOCKET NO. 2017-CA-1141

VOICE OF THE EX-OFFENDER, ET AL.,

Plaintiffs-Appellants,

versus

STATE OF LOUISIANA, ET AL.,

Defendants-Appellees

On Civil Appeal from the 19th Judicial Circuit,
Parish of East Baton Rouge, Section 22, State of Louisiana
Docket No. 649587
Honorable Judge Timothy Kelley, Presiding

**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF
IN SUPPORT OF PLAINTIFFS-APPELLANTS**

Pursuant to Uniform Court of Appeal Rule 2-12.11, Amici Curiae—the NAACP Legal Defense & Educational Fund, Inc., The Sentencing Project, and Southern Poverty Law Center (“Amici”)—respectfully move this Court for leave to file an amicus curiae brief in support of Plaintiffs-Appellants.

Amicus, the NAACP Legal Defense and Educational Fund, Inc. (LDF), is a non-profit, non-partisan legal organization founded in 1940, under the leadership of Thurgood Marshall, to achieve racial justice and ensure the full, fair, and free exercise of constitutional and statutory rights for Black Americans and other communities of color. LDF has worked for more than three-quarters of a century to

secure, protect, and advance voting rights and combat threats to equal political participation. To this end, LDF has spearheaded litigation, legislation, education, and other advocacy to end felony disenfranchisement. Specifically, LDF has affirmatively litigated cases or served as an amicus party in cases challenging felony disenfranchisement laws in: New York (*Hayden v. Paterson*, 594 F.3d 150 (2d. Cir. 2010)); Washington (*Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010) (per curiam)); Alabama (*Chapman v. Gooden*, 974 So.2d 972 (Ala. 2007) and *Glasgow v. Allen*, No. 08-cv-801 (M.D. Ala. 2008)); and Iowa (*Griffin v. Pate*, 884 N.W.2d 182 (Iowa 2016)).

LDF also was a founding member of the Right to Vote Campaign, a national collaborative of organizations challenging felony disenfranchisement laws through litigation, legislative action, and public education. Additionally, in 2015 and 2016, LDF urged the governors of Maryland and California to change state laws, which they did in conjunction with the states' respective legislatures, to expand the franchise to people with felony convictions. Over various legislative sessions, LDF also has pushed for the passage of the Democracy Restoration Act—federal legislation that seeks to restore voting rights to previously incarcerated people in federal elections.

Amicus, The Sentencing Project, founded in 1986, works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy,

addressing unjust racial disparities and practices, and advocating for alternatives to incarceration. Over two decades, The Sentencing Project has produced a series of reports and analyses that serve as the primary source of data on the scale and impact of felony disenfranchisement policies in the United States. The organization has produced policy reports, journal articles, and op-ed commentary that have received national attention. Staff of The Sentencing Project have been invited to testify on felony disenfranchisement before Congress and state legislative committees, and the organization also was a founding member of the aforementioned national Right to Vote campaign.

Amicus, Southern Poverty Law Center (SPLC), is a nonprofit civil rights organization dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of society. Since its founding in 1971, the SPLC has won numerous landmark legal victories on behalf of the exploited, the powerless, and the forgotten. In *Southern Christian Leadership Conference of Alabama v. Sessions*, 785 F. Supp 1469 (M.D. Ala. 1992), *aff'd*, 56 F.3d 1281 (11th Cir. 1995), the SPLC challenged Alabama's at-large election system, alleging that it was racially inspired, racially discriminatory, and that it denied racial minorities the opportunity to elect judicial candidates of their choice. More recently, SPLC joined the Fair Elections Legal Network in a suit against the State of Louisiana to enjoin enforcement of a statute that discriminated against naturalized citizens by subjecting them to

heightened voter registration requirements. *VAYLA New Orleans v. Schedler*, 3:16-cv-00305 (M.D. La. May 4, 2016). Less than a month after the suit was filed, Governor Edwards repealed the law.

SPLC's Criminal Justice Reform Practice Group is dedicated to reversing mass incarceration and its devastating impact on individuals, families, and communities through litigation and legislative advocacy. SPLC is a founding member of Louisianans for Prison Alternatives, a statewide coalition that works to reform sentencing practices, increase alternatives to incarceration, and eliminate racial disparities in Louisiana's criminal justice system.

Given Amici's extensive experience advocating for fair and equal political participation, including by challenging felony disenfranchisement laws, Amici submit this brief to: (1) provide historical context for the racial discrimination inherent in felony disenfranchisement laws, including Louisiana's; and (2) explain the present-day impact of such laws, including the law at issue here, on Louisiana, including on the Black community in the state.

Pursuant to Uniform Court of Appeal Rule 2-12.11, in preparing the proposed amicus brief that accompanies this Motion as Exhibit A, the Amici have reviewed the briefs of both parties in this case and have endeavored to address issues raised by them without making redundant arguments, as well as to offer a unique perspective on the issues raised by this case.

This motion should be granted and Amici Curiae—LDF, The Sentencing Project, and SPLC—should be permitted to file the amicus curiae brief that is attached as Exhibit A.

Dated: November 6, 2017

Respectfully submitted,

s/ Leah C. Aden

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**Motion to enroll pro hac vice pending*

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all counsel of record, indicated below, via electronic mail this **6th day of November, 2017**.

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[PROPOSED] ORDER

Considering the Motion for Leave to File an Amici Curiae Brief in Support of
Plaintiffs-Appellants in the above-captioned matter,

IT IS ORDERED that the NAACP Legal Defense & Educational Fund, Inc.,
The Sentencing Project, and Southern Poverty Law Center's Motion for Leave to
File an Amici Curiae Brief is hereby GRANTED.

Baton Rouge, Louisiana, signed this _____ day of _____, 2017,

**JUDGE, COURT OF APPEAL,
FIRST CIRCUIT, STATE OF LOUISIANA**