**The Importance of the NC Supreme Court**

The Supreme Court of North Carolina is the final judicial authority on all state law and supersedes rulings from federal courts unless the issue is considered to have federal implications. To ensure that the rights of all citizens of North Carolina are fully represented, it is critical that the judicial makeup of this court be filled with experienced legal minds that understand both the intricacies of state law and the tools powerful individuals and groups make use of to create inequalities.

The composition of and role of state supreme courts vary from state to state. The NC Supreme was created in 1818 by the General Assembly with the appointment of 3 justices selected by elected officials. Judges were selected by that method until 1868[[1]](#footnote-1) under a new North Carolina State Constitution created during Reconstruction. The new Constitution was required for readmission for states that had seceded during the Civil War. The NC Supreme Court today is composed of 6 associate justices and one Supreme Court justice who are selected by popular vote to 8-year terms. Unlike Federal judges who have no mandatory retirement requirements, NC Supreme Court judges must retire the last day of the month in which they have turned 72.[[2]](#footnote-2) If a justice’s seat is vacated mid-term, the Governor appoints a replacement for the balance of the term.

The NC Supreme Court elections were partisan elections--party affiliation was printed on the ballot--until the 2004 elections. Debate continued within the NC General Assembly (NCGA) for several years with Republicans supporting partisan judicial elections arguing that party affiliation helped inform voters while Democrats supported non-partisan elections arguing that a party affiliation requirement unnecessarily injects politics into the judicial process.[[3]](#footnote-3) In 2017, the NCGA overrode Governor Roy Cooper’s veto and passed legislation to bring back partisan elections at the NC Supreme Court level. There is a strong correlation between partisan judicial elections and the increasing role of money in these elections.[[4]](#footnote-4) The potential for PACs and large donors to have an outsized influence on these elections is worrisome for the future of our democracy. Many organizations including the American Bar Association and The Brennan Center for Justice[[5]](#footnote-5) have expressed deep concerns about the impact of big money in the judicial system and the effect it will have on the rulings of justices.

The Supreme Court is an appellate court as opposed to a trial court, which means the focus of the court is on “… claims of error in legal procedures or in judicial interpretation of the law. It hears oral arguments on the written record of cases previously tried by the superior courts, district courts, and certain administrative agencies and commissions.”[[6]](#footnote-6) The court will generally select which Supreme cases to hear except for automatic appeals for first degree murder cases with a death sentence, certain utility rate scenarios, and in some cases concerning judicial removal or censure. Over the past 20 years, the average number of cases the Supreme Court has heard is just under 84 per year with a peak of 130 cases in 1998 down to a low of 22 cases in 2016. While the volume of cases has declined over the past few decades, the prominence of its cases in national and local media has only increased. A review of its docket reveals many of the same sort of cases the court has seen in the past: violent crime case appeals, utilities rate changes, business, and clarifications on proper court proceedings. Some of the most significant cases the court has considered relate to North Carolina redistricting and the NCGA efforts to reshape core governmental structures.

The cases garnering the most national attention since 2010 have been appeals related to gerrymandering. The timeline of parties involved in these cases are complex, but what is very clear is that the NC Supreme Court is at the center of the controversy. In Dickson v. Rucho (begun in 2011), the plaintiff claimed that the Republican drawn districts had illegally used race in drawing legislative and congressional districts. A decision made in the NC Superior Court (the Superior Court is the trial court of general jurisdiction in North Carolina. It hears all felony cases and certain misdemeanor cases) was appealed to the NC Supreme Court, who ruled that the districts were legal. That decision was in turn appealed to the US Supreme Court[[7]](#footnote-7) who referred the case back to the NC Supreme Court to ask them to consider the decision made in the US Supreme court case of Cooper v. Harris (a different gerrymandering case) in a new decision. The NC Supreme Court remanded the case to trial court. Litigation in a federal court ended in another set of redrawn maps, and another appeal in early February 2018 the court declaring claims moot n light of a pending appeal before the U.S. Supreme Court involving the same districts.[[8]](#footnote-8) This case has been intensely debated and placed the role of the courts front and center in determining the fate of democracy in North Carolina.

In the case of Cooper v. Berger and Moore, Governor Roy Cooper named Senate Leader Phil Berger and House Speaker Tim Moore in his claim that the NCGA legislation pushed through in 2017 unfairly limited the power of the governor concerning the structure of judiciary and the Board of Elections. The moves made by the Republican majority lead by Berger and Moore were described by Brennan center attorney’s in a brief submitted to the Supreme Court as “…no ordinary encroachment by one branch of government on another, but the centerpiece of a sweeping effort by the General Assembly to entrench one political party in power regardless of its loss of voter support. Unless this Court intervenes, the challenged law would foster precisely the sort of unchecked, unaccountable government dominated by one faction that the separation of powers exists to prevent.”[[9]](#footnote-9) The Supreme Court ultimately determined that the NCGA had overstepped its authority and decided in favor of Governor Cooper, voting along party lines 4-3. While this decision does reinforce a respect for separation of powers, the one vote Supreme Court margin exposes the tenuous nature of judicial balance and the importance of every voice on the NC Supreme Court.

The importance of a strong voice on the NC Supreme Court cannot be overstated as increasingly contentious issues make their way through the court system. In an environment where voter disenfranchisement and partisan power plays are a regular part of the NCGA playbook, every member of the Supreme Court must stand not only for justice and the rule of law, but also must vigilantly guard against attack on civil liberties and abridgement of the rights of the citizens of North Carolina.

1. https://www.ncpedia.org/government/nc-constitution-history [↑](#footnote-ref-1)
2. http://judgepedia.org/Mandatory\_retirement [↑](#footnote-ref-2)
3. http://www.newsobserver.com/news/politics-government/state-politics/article140327188.html [↑](#footnote-ref-3)
4. http://blogs.lse.ac.uk/usappblog/2018/02/07/states-with-partisan-judicial-elections-and-professionalized-courts-attract-greater-campaign-contributions/ [↑](#footnote-ref-4)
5. https://www.brennancenter.org/publication/buying-justice-impact-citizens-united-judicial-elections [↑](#footnote-ref-5)
6. http://www.carolana.com/NC/Courts/nc\_supreme\_court.html [↑](#footnote-ref-6)
7. http://www.scotusblog.com/case-files/cases/dickson-v-rucho/ [↑](#footnote-ref-7)
8. https://www.brennancenter.org/legal-work/dickson-v-rucho [↑](#footnote-ref-8)
9. https://www.brennancenter.org/sites/default/files/legal-work/Cooper%20v.%20Berger%20-%20Brennan%20Center%20Amicus%20Brief%20(filed).pdf [↑](#footnote-ref-9)