

Wiley Files Amicus Brief for American Legislative Exchange Council in Pending SCOTUS Decision Over Who Decides Election Rules

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Wiley filed an *amicus brief* in the Supreme Court on behalf of the American Legislative Exchange Council, an association of state legislators, on the pending Supreme Court decision of *Moore v. Harper*, a case that will decide if states courts can usurp the prerogatives of state legislatures in setting election rules and electoral maps. The brief argues that the U.S. Constitution assigns primary responsibility for regulating elections to state legislatures, subject to check by the U.S. Constitution and by Congress. Accordingly, a decision in favor of the North Carolina legislature in this case would not mean that state legislatures have unchecked power; both state and federal courts would continue to enforce federal constitutional and federal statutory restrictions on state legislatures.

The brief argues that the North Carolina Supreme Court erred because it held that an ambiguous state constitutional provision could contradict the clearly expressed will of the state legislature. "That erroneous decision must be reversed because a state constitutional provision cannot withdraw or limit the Federal Constitution's express grant of authority to state legislatures," says the brief. "This Court should reaffirm the authority of state legislatures to set the time, place, and manner of federal elections. Under the Federal Constitution, redistricting decisions are to be made by state legislatures, subject only to restraints imposed by acts of Congress and the Constitution itself."

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"There will still be a role for state courts in checking abuses by a state legislature," said Wiley Election Law & Government Ethics partner Lee Goodman who authored the brief alongside Wiley partner Jeremy Broggi and associate Christopher White. "State courts enforce federal constitutional and statutory standards on a regular basis. If the decision is not reversed, there is a significant risk that more state courts could usurp the legislative role and effectively redistrict their elections in a partisan manner."