

FILED: April 12, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-1721  
(1:19-cv-00272-LCB-LPA)

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MAXWELL KADEL; JASON FLECK; CONNOR THONEN-FLECK; JULIA  
MCKEOWN; MICHAEL D. BUNTING, JR.; C.B., by his next friends and  
parents; SAM SILVAINE; DANA CARAWAY

Plaintiffs - Appellees

v.

DALE FOLWELL, in his official capacity as State Treasurer of North Carolina;  
EXECUTIVE ADMINISTRATOR OF THE NORTH CAROLINA STATE  
HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES

Defendants - Appellants

and

NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE  
EMPLOYEES; STATE OF NORTH CAROLINA DEPARTMENT OF PUBLIC  
SAFETY

Defendants

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CONSTITUTIONAL LAW PROFESSORS

Amicus Supporting Appellant

NEW YORK; CALIFORNIA; COLORADO; DELAWARE; HAWAII;  
ILLINOIS; MAINE; MARYLAND; MASSACHUSETTS; MINNESOTA;  
NEVADA; NEW JERSEY; NEW MEXICO; OREGON; RHODE ISLAND;  
VERMONT; WASHINGTON; DISTRICT OF COLUMBIA

Amici Supporting Appellee

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ORDER

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Upon a sua sponte poll of the court, a majority of judges in regular active service and not disqualified voted to rehear this case en banc.

IT IS ORDERED that rehearing en banc is granted.

The parties shall file 16 additional paper copies of their briefs and appendices previously filed in this case within 10 days.

For the Court

/s/ Patricia S. Connor, Clerk