No. 109PA22 TENTH judicial District

SUPREME COURT OF NORTH CAROLINA

DUSTIN MICHAEL MCKINNEY, GEORGE JERMEY MCKINNEY, *and* JAMES ROBERT TATE, Plaintiffs-Appellees, STATE OF NORTH CAROLINA, Intervenor-Appellee, v. THE GASTON COUNTY BOARD OF EDUCATION, Defendant-Appellant.	From Wake County No. COA 22-261 No. 21 CVS 7438

BRIEF OF *AMICUS CURIAE* CHILD USA IN SUPPORT OF PLAINTIFFS-APPELLEES

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SUBJECT INDEX

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

STATEMENT OF INTEREST[1]

As an organization dedicated to protecting children's rights and ensuring access to justice for those sexually abused as children, CHILD USA has a strong interest in the outcome of this case. Child sexual abuse ("CSA") is a national public health crisis affecting *one in five girls and one in thirteen boys* in the United States.[2] Historically, a wall of ignorance has been constructed around CSA, which has been reinforced by short statutes of limitation ("SOLs") that kept victims out of court. By passing the SAFE Child Act ("the Act"), the General Assembly has taken a proactive stance to address access to justice for victims who—through no fault of their own—were unable to come forward with their claims until long after the limitations period had expired.

Because it is unconstitutional to revive a criminal SOL, Stogner v. California, 539 U.S. 607, 610 (2003), filing civil claims under the Act's revival provision is the sole avenue of justice available to many victims and the *only* means of fulfilling important public policy interests. Thus, this case presents an opportunity for the

[1] No person or entity other than the amicus curiae and their counsel contributed to this brief or contributed money for its preparation.

[2] G. Moody, et. al., Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender, 18(1164) BMC PUBLIC HEALTH (2018); M. Stoltenborgh, et. al., A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World, 16(2) CHILD MALTREATMENT 79 (2011); N. Pereda, et. al., The prevalence of child sexual abuse in community and student samples: A meta-analysis, 29 CLINICAL PSYCH. REV. 328, 334 (2009).

Court to correct the injustice of the prior too-short SOL by upholding the constitutionality of the Act's revival window thereby putting perpetrators and enabling institutions on notice that the state of North Carolina stands with the victims of these heinous crimes.

ISSUES ADDRESSED

1) The constitutionality of the Act's revival window under Article I, §19 of the North Carolina State Constitution.

2) Defendant-Appellant's ("Defendant") misguided claim to a "vested right" in a limitations defense.

3) The important public policy interests undergirding civil revival laws for CSA.

4) The national trend of reviving time-barred civil claims which supports the constitutionality of the Act's revival window.

ARGUMENT

I. THE NORTH CAROLINA STATE CONSTITUTION DOES NOT LIMIT THE GENERAL ASSEMBLY'S AUTHROTIY TO REVIVE THE LIMITATIONS PERIOD FOR CSA CLAIMS

Defendant argues that the Act's window provision violates the North Carolina State Constitution's "Law of the Land" clause in Article I, §19. This argument is without merit. SOLs are procedural devices and thus not immune from legislative change in any way that would give Defendant a "vested right" in a limitations

defense. Moreover, the Act's revival window easily passes constitutional muster under modern substantive due process analysis.

A. Perpetrators of CSA and Their Enabling Institutions Do Not Have a "Vested Right" in a Limitations Defense

That there is no vested right in a limitations defense under the Federal Constitution is undisputed. See Campbell v. Holt, 115 U.S. 620, 629 (1885). SOLs represent "a public policy [enacted by a legislature] about the privilege to litigate" and their protection is not a "fundamental" right. Chase Securities Corp. v. Donaldson, 325 U.S. 304, 314 (1945). Federal law is settled, "where lapse of time has not vested a party with title to real or personal property," a legislature may "lift[ ] the bar of a statute of limitation so as to restore a remedy lost" without running afoul of due process. Id at 316.

North Carolina courts have traditionally followed the reasoning of the U.S. Supreme Court on substantive due process issues because Article I, §19 has consistently been interpreted as being synonymous with 'due process of law' as used in the Fourteenth Amendment of the federal constitution. Rhyne v. K-Mart Corp., 358 N.C. 160, 170 (2004). Thus, the fact that the Act's revival provision easily survives scrutiny under the federal constitution *should*, consistent with Rhyne and its progeny, defeat Defendant's facial challenge under a "vested rights" analysis.

Despite settled federal law establishing that there is no "vested right" in a limitations defense, Defendant asks this Court to create such a right under Article I, §19. Defendant's argument relies on the near exclusive analysis of this Court's decision in Wilkes County v. Forester, 204 N.C. 163 (1933); however, a closer reading of *Wilkes* reveals an error in the Court's application of the federal rule articulated by the U.S. Supreme Court in *Campbell*, which theorized that the lifting of a limitations bar so as to recover property whose title had vest in another citizen may violate due process. 204 N.C. at 168-70. Importantly, the *Campbell* decision draws a clear distinction between an unconstitutional law that acts to strip a person of their tangible property, and a constitutional change which merely extends the time within which a plaintiff can file a claim. Id. Unfortunately, the *Wilkes* decision fails to recognize this critical distinction. That single error has been compounded over the years and has led to a problematic situation in which North Carolina courts have found a violation of the federal constitution where the federal courts themselves have not. Notably, neither *Wilkes* itself nor its progeny cite the Law of the Land Clause or any other state constitutional provision to support the conclusion that a defendant has a vested right in a limitations defense. Absent a North Carolina case finding that such a right is created by *a state constitutional provision*, no such right exists. See State v. ----, 2 N.C. 28, 39 (1794) ("Does any part of our Constitution prohibit the passing of a retrospective law? It certainly does not."); see also State v. Bell, 61 N.C.

76, 83 (1867) (per curiam) (noting that the "omission" of a general bar on retroactive legislation "is a strong argument to show that retrospective laws, merely as such, were not intended to be forbidden.").

By contrast, a proper interpretation of *Campbell* is consistent with North Carolina caselaw holding that retroactive procedural laws that impact remedies do not implicate Article I, §19. See, e.g., Alpha Mills v. Watertown Steam-Engine Co., 116 N.C. 797, 804 (1895) (explaining that an SOL "does not act on the rights of the parties, but only affects the remedy. It is created by the Legislature and can be removed by the Legislature."); Speck v. Speck, 5 N.C. App. 296, 301 (1969) ("There is no vested right in procedure, and therefore statutes affecting procedural matters solely may be given retroactive effect when the statutes express the legislative intent to make them retroactive."). As this Court has held for over a century, the General Assembly has the "unquestionable" power to revive expired limitations provisions, as it affects only a remedy and not a property right. Hinton v. Hinton, 61 N.C. 410, 414-15 (1868).

The Act's revival provision does not divest Defendant of any property right and Defendant is not entitled to immunity from liability merely because the policy change is disadvantageous. See, Chase, 325 U.S. at 316. While Defendant may have had the protection of the prior limitations "policy" while it existed, the revival provision is not rendered unconstitutional merely because it operates on facts which

were in existence prior to its enactment. See Perry v. Perry, 80 N.C. App. 169, 175-76 (1986) (citations omitted) ("[T]he Constitution does not forbid the creation of new rights, or the abolition of old ones recognized by the common law, to attain a permissible legislative object [. . .] the great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to the changes of time and circumstances."). Defendant's mere expectancy in a limitations defense to claims arising from CSA falls short of what the U.S. Supreme Court has held to be a fundamental or "vested right" in need of constitutional protection.

B. North Carolina Courts Have Moved Away from a Vested Rights Approach and Instead Undertake a Substantive Due Process Analysis to Determine the Constitutionality of Revival Laws

Courts throughout the nineteenth century, including those in North Carolina, relied heavily on a "vested rights" analysis in determining the validity of legislative retroactivity. Many of these "vested rights" cases were decided before or shortly after the Fourteenth Amendment was ratified, at a time when courts did not defer to legislatures on matters of public policy. See James Kainen, "The Historical Framework for Reviving Constitutional Protection for Property and Contract Rights," 79 Cornell L. Rev. 87 (1993). Over time the vested rights inquiry has proved difficult in the absence of a clear and consistent definition of "vested rights" in relation to legislative retroactivity. The result has been considerable inaccuracy

and inconsistency in the analysis of retroactive application of the law, a reality exemplified by *Wilkes*. Thus, modern jurists have rejected the categorical vested rights inquiry in favor of a substantive due process approach. Under a federal substantive due process analysis, a law is unconstitutional only if it serves no rational government purpose. If the law impacts a fundamental right, then it is subject to strict scrutiny and will be deemed constitutional if it is narrowly tailored to serve a compelling government interest. North Carolina has fully adopted the same two-tiered analytical approach for substantive due process challenges under Article I, § 19. See Toomer v. Garrett, 155 N.C. App. 462 (2002).

Now, when retroactive legislation is challenged as a violation of North Carolina's due process protections the pertinent question is thus not the effect of the retroactivity on a "vested right," but rather whether the legislative change is reasonable "in relation to the public good likely to result from it." In re Hospital, 282 N.C. 542, 550 (1973). Even retroactive laws imposing new burdens based on past acts "come to the Court with a presumption of constitutionality, and [] the burden is on one complaining of a due process violation to establish that the legislature has acted in an arbitrary and irrational way." Pension Benefit Guar. Corp. v. R.A. Gray & Co., 467 U.S. 717, 729 (1984). A facial challenge is therefore the most difficult constitutional challenge to mount successfully under the presumption of constitutionality, and a court may not strike a statute down if it can be upheld on any

reasonable ground. See State v. Bryant, 359 N.C. 554 (2005). As the U.S. Supreme Court set forth in Landgraf v. USI Film Prods., 511 U.S. 244 (1994), "the constitutional impediments to retroactive civil legislation are now modest . . . Requiring clear intent[of retroactive application] assures that [the legislature] itself has affirmatively considered the potential unfairness of retroactive application and determined that it is an acceptable price to pay for the countervailing benefits." 511 U.S. 272–73.

C. The Act's Revival Provision Easily Survives Scrutiny Under Rational-Basis Review

Because SOLs are procedural devices that impact a remedy rather than a substantive "fundamental" right, the Act's revival provision is subject to rational-basis review, under which it unequivocally passes constitutional muster. Reviving expired claims serves the public policy interests in: (1) identifying hidden child predators and the institutions that endanger children; (2) shifting the cost of abuse from victims and taxpayers to those who caused or enabled the abuse; and (3) educating the public about the prevalence, signs, and impact of CSA so that it can be prevented in the future. By enacting the revival window, the General Assembly achieves these purposes, taking reasonable steps to revive expired claims of CSA where it recognized an opportunity to right a long-standing injustice that kept the truth hidden and victims out of court.

First, the revival window facilitates the identification of child predators and the institutions that shield them, who would otherwise be hidden.[3] It is a medical fact that the trauma of CSA makes it difficult or impossible for victims to process and cope with the abuse, or to self-report it.[4] Many victims suffer in silence for decades before they talk to anyone about their traumatic experiences. Indeed, 44.9% of male victims and 25.4% of female victims delay disclosure *by more than 20 years.*[5] Remarkably, it is estimated that 70–95% of child sex abuse victims never report their abuse to the police.[6] The decades before disclosure give perpetrators and their enablers the freedom to move about society with unfettered access to children and the latitude to inflict additional harm. For example, one study found that 7% of offenders sampled committed offenses against forty-one to 450 children, and the longest time between offense and conviction was thirty-six years.[7] By permitting previously time-barred claims to proceed, the State empowers victims to identify

[3] Michelle Elliott et al., Child Sexual Abuse Prevention: What Offenders Tell Us, 19 CHILD ABUSE NEGL. 579 (1995).
[4] Ramona Alaggia et al., Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000-2016), 20 TRAUMA VIOLENCE ABUSE 260, 279 (2019).
[5] Patrick J. O'Leary & James Barber, Gender Differences in Silencing following Childhood Sexual Abuse, 17 J. CHILD SEX. ABUSE 133 (2008).
[6] D. Finkelhor et al., Sexually Assaulted Children: National Estimates and Characteristics, US Dept. of Justice, Office of Justice Programs (2008), https://www.ojp.gov/pdffiles1/ojjdp/214383.pdf.
[7] Id.

hidden child predators and institutions that endanger children to the public so they can be held accountable and further abuse prevented in the long-term.[8]

Second, the cost of CSA to victims is enormous, and staggering to the community as the negative effects over a victim's lifetime generate many costs that impact the nation's health care, education, criminal justice, and welfare systems.[9] In fact, the estimated average lifetime cost per victim of abuse includes: $32,648 in childhood health care costs, $10,530 in adult medical costs, $144,360 in productivity losses, $7,728 in child welfare costs, $6,747 in criminal justice costs, and $7,999 in special education costs.[10] That places the economic burden of abuse at an estimated $2 trillion annually.[11] Window cases that result in awards and settlements will not only equitably shift some of the cost of abuse away from victims, they will also save the state money by reducing expenditures on important public services.

Finally, revival laws help educate the public about matters of public safety, including CSA. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, the Boy Scouts of America, and the Catholic Church, the public learns about the insidious ways child molesters sexually assault children

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[8] See generally, Making the Case: Why Prevention Matters, PREVENTCHILDABUSE.ORG (last visited February 22, 2022), https://preventchildabuse.org/resource/why-prevention-matters/.

[9] Fang, et. al., The Economic Burden of Child Maltreatment in the United States & Implications for Prevention, 36 CHILD ABUSE & NEGLECT 156-165 (2012).

[10] Id.

[11] See CHILD USA, Fiscal Impact of SOL Reform, (2018) available at https://www.childusa.org/fiscalimpact.

and the institutional failures that enabled their abuse. This knowledge helps generate more social awareness around the signs of grooming and abusive behavior, while also encouraging institutions to implement accountability and safety practices and the legal system to develop policies to protect victims more effectively and prevent further abuse.

Retroactive revival of CSA claims is not only a rational means of remedying the longstanding injustice of short SOLs, but also the *only* means. These revival laws do not yield a high number of cases,[12] but provide long-overdue justice to victims. Even if this Court were to find that Defendant has a fundamental right in a limitations defense, the revival provision also satisfies strict scrutiny. It is hard to imagine a more compelling interest than protecting North Carolina's children now and into the future. See State v. Bishop, 368 N.C. 869, 877 (2016) (noting that the General Assembly has a compelling interest in protecting children from physical and psychological harm) ; Cinema I Video, Inc. v. Thornburg, 83 N.C.App. 544, 551-52 (1986) (explaining the state's interest of "surpassing importance" in protecting minors from the "physiological and psychological" harms of sexual exploitation and abuse).

[12] See The Relative Success of Civil SOL Window and Revival Statutes State-by-State, CHILDUSA.ORG (last visited Apr. 5, 2022), available at www.childusa.org/law.

II. NORTH CAROLINA'S LAW IS IN ACCORD WITH THE NATIONAL TREND PERMITTING REVIVAL OF TIME-BARRED CIVIL CLAIMS

Over the past twenty years, revival legislation has grown in popularity as legislatures have recognized that CSA victims need more time to come forward and that SOLs have historically blocked their claims.[13] Today, North Carolina stands alongside at least *thirty states and territories* that have enacted civil revival laws for CSA claims. Nearly all courts that have considered the constitutionality of these revival laws upheld them, even where they adopted a stricter standard of constitutionality than the federal standard. The following table shows this trend:

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Arizona	1.5-Year Window & Age 30 Limit (2019)	ARIZ. REV. STAT. ANN. § 12-514	Constitutional[14]
Arkansas	2-Year Window Extension (2023)	ARK. CODE ANN. § 16-118-118	Not challenged
	2-Year Window (2021)	ARK. CODE ANN. § 16-118-118	Challenge Pending[15]
California	1-Year Window (2020)	CAL. CIV. PROC. CODE § 340.16 (2021)	Not challenged

[13] CHILD USA, Revival Laws for Child Sex Abuse Since 2002 (Jan. 1, 2022), available at https://childusa.org/windowsrevival-laws-for-csa-since-2002/.

[14] See e.g., John I M Doe v. Big Brothers Big Sisters of Am., No. CV2020-017354 (Ariz. Super. Ct. Sept. 28, 2021).

[15] H.C. et al. v. Nesmith, No. CV-23-328 (Ark. Ct. App. 2023).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
	1-Year Window (2019)	CAL. CIV. PROC. CODE § 340.16 (2020)	Not challenged
	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020)	Constitutional[16]
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002)	Constitutional[17]
Connecticut	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577D	Constitutional [18]
Delaware	2-Year Window (2010)	DEL. CODE tit. 18, § 6856	Not challenged[19]
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145	Constitutional[20]
Georgia	2-Year Window (2015)	GA. CODE § 9-3-33.1	Constitutional[21]
Guam	Permanent Window (2016)	7 GUAM CODE ANN. §§ 11306 & 11301.1(b)	Constitutional[22]
	2-Year Window (2011)	7 GUAM CODE ANN. § 11306(2) (2011)	Not challenged
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8	Not challenged

[16] *See e.g.*, Coats v. New Haven Unified Sch. Dist., 259 Cal.Rptr.3d 784, 792 (Cal. Ct. App. 2020); Huth v. Cosby, No. BC565560, 2022 WL 17583301, at *4 (Cal. Super. Ct. Sep. 27, 2022).
[17] Roman Catholic Bishop of Oakland v. Superior Court, 28 Cal.Rptr.3d 355, 359 (Cal. Ct. App. 2005).
[18] Doe v. Hartford Roman Catholic Diocesan Corp., 317 Conn. 357, 406 (2015).
[19] Sheehan v. Oblates of St. Francis de Sales, 15 A.3d 1247, 1258-60 (Del. 2011).
[20] Whitwell v. Archmere Acad., Inc., No. CIV.A.07C08006RBY, 2008 WL 1735370, at *2 (Del. Super. Ct. Apr. 16, 2008).
[21] Harvey v. Merchan, 860 S.E.2d 561, 566 (Ga. 2021).
[22] Rupley v. Balajadia, No. 20-00030 (D. Guam June 3, 2021).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8	Not challenged
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8	Constitutional[23]
Kansas	Age 31 Limit (2023)	KAN. STAT. ANN. § 60-523	Not challenged
Kentucky	Limited Window (2021)	KY. REV. STAT. ANN. § 413.249	Challenge pending[24]
Louisiana	3-Year Window (2021)	LA. STAT. ANN. § 9:2800.9	Constitutional[25]
Maine	Permanent Window (2021)	ME. REV. STAT. ANN. tit. 14, § 752-C	Challenge pending[26]
Maryland	Permanent Window (2023)	2023 Md. Laws Ch. 6 (H.B. 1); 2023 Md. Laws Ch. 5 (S.B. 686).	Challenge pending
Massachusetts	Age 53 Limit (2014)	MASS. GEN. LAWS Ch. 260, § 4C	Constitutional[27]
Michigan	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b	Not challenged
Minnesota	3-Year Window (2013)	MINN. STAT. § 541.073	Not challenged

[23] Roe v. Ram, No. CIV. 14-00027, 2014 WL 4276647, at *9 (D. Haw. Aug. 29, 2014).
[24] Killary v. Thompson, No. 2020-CA-0194, 2022 WL 2279865 (Ky. Ct. App. June 24, 2022), rev. granted (Ky. Dec. 7, 2022).
[25] Doe v. Soc'y of the Roman Cath. Church of the Diocese of Lafayette, 347 So.3d 148 (Mem) (La. 2022).
[26] Dupuis, et. al., v. Roman Catholic Bishop of Portland, BCD-23-122, 2023 WL 2117841 (Me. Bus. & Consumer Ct. Feb. 13, 2023) on appeal No.23-122 (Me. Supreme Crt.).
[27] Sliney v. Previte, 41 N.E.3d 732, 737 (Mass. 2015).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Montana	1-Year Window & Age 27 Limit (2019)	MONT. CODE § 27-2-216	Not challenged
Nevada	Permanent Window & Age 38 Limit (2021)	NEV. REV. STAT. ANN. §§ 11.215 & 41.1396	Not challenged
New Jersey	2-Year Window & Age 55 Limit (2019)	N.J. STAT. ANN. §§ 2A:14-2A and 2A:14-2B	Constitutional[28]
New York	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022)	Not challenged
	1-Year Window (2020)	N.Y. C.P.L.R. § 214-g	Constitutional[29]
	1-Year Window (2019)	N.Y. C.P.L.R. 214-g	Constitutional[30]
North Carolina	2-Year Window (2019)	N.C. GEN. STAT. § 1-17	Challenge pending[31]
Northern Mariana Islands	Permanent Window (2021)	2021 N. Mar. I. Pub. L. No. 22-12 (HB 22-2, SDI)	Not challenged
Oregon	Age 40 Limit (2010)	OR. REV. STAT. § 12.117	Not challenged

[28] *See e.g*, T.M. v. Order of St. Benedict of New Jersey, Inc., MRS-L-399-17 (Law Division, Morris County); Bernard v. Cosby, No. 1:21-cv-18566, 2023 WL 22486, at *8 (D.N.J. Jan. 3, 2023).

[29] *See e.g*, ARK269 v. Archdiocese of New York, No. 950301/2020, 2022 WL 2954144, at *1 (N.Y. Sup. Ct. July 19, 2022); Giuffre v. Prince Andrew, Case No. 1:21-cv-06702-LAK (S.D.N.Y. 2021).

[30] *See, e.g.*, PB-36 Doe v. Niagara Falls City Sch. Dist., 182 N.Y.S.3d 850, 852 (N.Y. App. Div. 2023), aff'g 152 N.Y.S.3d 242 (N.Y. Sup. Ct. 2021).

[31] Mckinney v. Goins, No. 21 CVS 7438, (N.C. Wake Cnty. Super. Ct. Dec. 20, 2021).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Rhode Island	Age 53 Limit (2019)	R.I. GEN. LAWS § 9-1-51	Challenge pending[32]
Utah	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308	Unconstitutional [33]
Vermont	Permanent Window (2019)	VT. STAT. ANN. tit. 12, § 522	Constitutional[34]
West Virginia	Age 36 Limit (2020)	W.V. CODE §55-2-15	Not challenged
Washington D.C.	2-Year Window (2019)	D.C. CODE § 12-301	Constitutional[35]

Indeed, not a single state that permits revival of time-barred claims—like North Carolina—has refused to uphold such a law for CSA victims.[36] North Carolina's modern approach to due process is flexible, and judicial review of the Act's revival provision involves substantially similar considerations of rationality as courts in other states.

[32] Edwardo v. Gelineau, No. PC-2019-10530, 2020 WL 6260865, at *1 (R.I. Super. Ct. Oct. 16, 2020), consol. appeal filed, Nos. 2021-0032-A, 2021-0033-A, & 2021-0041-A (R.I. 2021).
[33] Mitchell v. Roberts, 469 P.3d 901, 903 (Utah 2020).
[34] A.B. v. S.U., No. 22-AP-200, 2023 WL 3910756, at *5 (Vt. June 9, 2023).
[35] Bell-Kerr v. Baltimore-Washington Conference of the United Methodist Church, No. 2021 CA 0013531B (D.C. Super. Ct.).
[36] In Rhode Island, cases that predate the 1986 adoption of a civil due process clause have upheld revival, but subsequent to that constitutional amendment the Court did not permit revival in Kelly v. Marcantonio, 678 A.2d 873, 873 (R.I. 1996).

CONCLUSION

For the foregoing reasons, *Amicus Curiae* respectfully requests that the Court uphold the judgement of the Court of Appeals and find the Act's revival window constitutional under Article I, §19 of the North Carolina Constitution.

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CERTIFICATE OF COMPLIANCE

This brief complies with the word limit of Rule 28.1(b)(3)(d) of the North Carolina Rules of Appellate Procedure because, excluding the parts of the brief exempted by Rule 28(j)(1), this document contains 3,744 words.

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