No. 425A21-2 District 10

SUPREME COURT OF NORTH CAROLINA

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HOKE COUNTY BOARD OF EDUCATION, *et al.*, Plaintiffs-Appellants, Cross-Appellees, and CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, Plaintiff-Intervenor-Appellant, Cross-Appellee, and RAFAEL PENN; *et al.* Plaintiff-Intervenors-Appellants, Cross-Appellees, v. STATE OF NORTH CAROLINA, Defendant-Appellant, Cross-Appellee, and STATE BOARD OF EDUCATION, Defendant-Appellee, and CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, Realigned Defendant-Appellant, Cross-Appellee, and PHILIP E. BERGER, in his official Capacity as President *Pro Tempore* of the North Carolina	)	From Wake County

Senate, and TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives,
Intervenor Defendants-Appellants,
Cross-Appellees.

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REPLY BRIEF OF DEFENDANT-APPELLANT STATE OF NORTH CAROLINA

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SUPREME COURT OF NORTH CAROLINA

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REPLY BRIEF OF DEFENDANT-APPELLANT STATE OF NORTH CAROLINA

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INTRODUCTION

North Carolina's Constitution makes a unique commitment to education. It expressly requires the State to guard and maintain the right to the privilege of education. Our Constitution also includes an entire education section, which further requires the General Assembly to raise revenue to pay for a uniform public school system and to devote additional state funds from court fees and civil penalties to public schools. This Court has held that those provisions require the State, at a minimum, to provide *all North Carolinians* the opportunity to obtain a sound basic education.

Legislative Intervenors and the Controller do not disagree that this is what the Constitution requires. Instead, they offer myriad reasons why this Court cannot make the State comply with the Constitution. None are persuasive.

Legislative Intervenors say that *Leandro II* limited this case to Hoke County. But both the record, and opinion in *Leandro II*, strongly refute that argument.

Next, Legislative Intervenors and the Controller say that the Separation of Powers and Appropriations Clauses of our Constitution shield

the State from constitutional accountability. Not so. Legislative Intervenors' and the Controller's arguments about the Appropriations Clause ignore that clause's plain text. Their Separation of Powers Clause arguments, meanwhile, mischaracterize the trial court's orders. Specifically, they claim that the trial court dictated an ideal system of education and ordered the General Assembly to appropriate funds to pay a money judgment against the State. Neither assertion is true. The trial court's order merely directs the State to provide a system of education that is minimally adequate to satisfy its constitutional obligations. That order neither deprives the political branches of their ability to set education policy, nor requires the State to pay damages for a past constitutional violation.

Finally, the Controller argues that the trial court erred by ordering him to transfer state funds in its 10 November 2021 Order. First, the Controller says that complying with the 10 November 2021 Order will require him to risk criminal penalties associated with violating the State Budget Act. But the only provisions of the Budget Act the Controller fears violating are those codifying the Appropriations Clause. Because the trial court's orders do not violate the Appropriations Clause, they likewise do not violate the Budget

Act. Next, the Controller argues that, even though he is a state actor and state actors are bound by injunctions ordered against the State, the trial court order improperly "named" him. To the contrary, this Court has already held that a court may order specific state actors who are not named defendants to take the actions necessary to remedy a constitutional violation.

At bottom, Legislative Intervenors and the Controller argue that, even though the Constitution commands the State to guard and maintain the right to education, our State's courts have no role in ensuring that the State abides by that command. But this Court long ago rejected that faulty premise, explaining that, "when the State fails to live up to its constitutional duties . . . a court is empowered to provide relief by imposing a specific remedy and instructing the recalcitrant state actors to implement it." *Hoke Cnty. Bd. of Educ. v. State (Leandro II)*, 358 N.C. 605, 642 (2004). Eighteen years after that declaration, it is time for this Court to give force to those words by affirming the trial court's 26 April 2022 Order and restoring the 10 November 2021 Order's instruction to transfer funds necessary to implement years two and three of the Comprehensive Remedial Plan.

ARGUMENT

I. *Leandro II* Did Not Limit this Litigation to Hoke County.

Legislative Intervenors again argue that Hoke County is the only county where a court has found a constitutional violation. Legislative Intervenors' Appellee Br. at 12-15. Repeating that assertion does not make it true. The record reveals that this litigation, at every phase, has involved statewide considerations. Legislative Intervenors try to circumvent the record through a law-of-the-case argument, but that argument runs headlong into this Court's contrary pronouncements in *Leandro II*.

Since *Leandro II*, the trial court has made repeated findings that the State is failing to satisfy its constitutional obligation statewide. (R pp 1257, 1304, 1646) Legislative Intervenors urge this Court to ignore those findings, but as the State has explained, Legislative Intervenors' arguments on that score are untimely and incorrect. *See* State's Resp. Br. at 15-28.

In any event, the trial court found a statewide violation *before Leandro II*, and this Court has left those findings undisturbed. On remand from this Court's decision in *Leandro v. State (Leandro I)*, 346 N.C. 336 (1997), the trial court found that "the *clear and convincing evidence* also shows that there are

thousands of children *scattered throughout the State* in low-wealth counties, such as Hoke, Northampton, and Halifax, and '[high-]wealth' counties, such as Guilford, Charlotte-Mecklenburg, and Forsyth, who are not being provided with the minimum educational resources necessary for them to have the equal opportunity to receive a sound basic education." (R p 673 (emphasis added)) Similarly, the trial court found that "[t]he clear, convincing and credible evidence presented in this case also demonstrates that there are many children at-risk of academic failure who are not being provided with the equal opportunity to obtain a sound basic education as mandated by the Constitution of this state. These children are located in Hoke County, *as well as throughout the State*." (R p 675 (emphasis added)) In light of these findings, the trial court ordered the State to "remedy the Constitutional deficiency for these children who are not being provided the basic educational services [required by *Leandro I*], whether they are in Hoke County, *or another county within the State*." (R p 680) Nothing in *Leandro II* disturbed these findings. Accordingly, Legislative Intervenors are wrong that the trial court never made a finding of a statewide constitutional violation.

Legislative Intervenors seek to sidestep the actual record by using a

law-of-the-case argument. They argue that *Leandro II* established as law of the case that this litigation is limited to Hoke County. This argument plainly misreads *Leandro II*.

Legislative Intervenors first argue that the trial court decision on appeal in *Leandro II* was "limited to the issues relating solely to Hoke County." Legislative Intervenors' Appellee Br. at 22. But as this Court explained, the trial court's decision focused on Hoke County only because Hoke County was the "the *representative* plaintiff district." *Leandro II*, 358 N.C. at 613 (emphasis added). This Court stated in *Leandro II* that it was permissible to find a statewide violation based on conditions in Hoke County because "state courts cannot risk further and continued [educational] damage because the perfect civil action has proved elusive." *Id.* at 616. Additionally, Legislative Intervenors ignore the fact that, in advance of *Leandro II*, the trial court had considered extensive documentary evidence from across the State, (R pp 236-681), and heard from witnesses from several counties. (R p 593) Considering this statewide evidence was consistent with *Leandro I*, in which this Court directed the trial court to consider whether the State is "administering a system that provides the children of the *various*

school districts of the state a sound basic education" and, if not, whether the State could "prove that the existing *system of education* is necessary to promote a compelling governmental interest." 346 N.C. at 357 (emphasis added). Indeed, following *Leandro I*, the State and the State Board of Education immediately recognized "that this case was about whether the State was fulfilling its constitutional obligation to provide a 'general and uniform system of free public schools' in which *every student* has the opportunity to obtain a sound basic education." (R p 800 (emphasis added))

Second, Legislative Intervenors argue that the trial court in *Leandro II* found, and this Court affirmed, that the State's "overall funding and resource provision scheme was adequate." Legislative Intervenors' Appellee Br. at 22 (quoting *Leandro II*, 358 N.C. at 637). However, Legislative Intervenors omit the very next paragraph in the decision, which explicitly endorsed the trial court's view that *Leandro I* requires the State to provide "all students, *irrespective of their* [*school district*], with at a minimum, the opportunity to obtain a sound basic education," and that the State was not then meeting that requirement. *Leandro II*, 358 N.C. at 634-35 (emphasis added).

Finally, Legislative Intervenors assert that *Leandro II* held that courts

should refrain from ordering specific remedies. Legislative Intervenors' Appellee Br. at 22. But they omit this Court's statement that "when the State fails to live up to its constitutional duties, a court is empowered to order the deficiency remedied." *Leandro II*, 358 N.C. at 642. The Court went on to emphasize that "if the offending branch of government or its agents either fail to do so or have consistently shown an inability to do so, a court is empowered to provide relief *by imposing a specific remedy and instructing the recalcitrant state actors to implement it*." *Id.* (emphasis added). Thus, by imposing and enforcing a specific remedy here, the trial court was merely exercising the authority that this Court explicitly recognized in *Leandro II*.

II. Neither the Separation of Powers nor the Appropriations Clause Shield Legislative Intervenors or the Controller from Their Constitutional Obligations.

Both Legislative Intervenors and the Controller argue that the Separation of Powers and Appropriations Clauses prevent this Court from requiring the State to satisfy its constitutional obligation to provide a sound basic education to all the State's children. But their Appropriations Clause arguments are foreclosed by the plain text of the Clause and their Separation of Powers Clause arguments mischaracterize the trial court's orders.

A. The Appropriations Clause does not absolve the State of its obligation to provide a *Leandro*-compliant education.

Both Legislative Intervenors and the Controller argue that the trial court misread the Appropriations Clause when it found that the clause permits state actors to spend state funds as directed by the Constitution itself. They argue that the Appropriations Clause's dictates that "money cannot be distributed from the State Treasury without an appropriation by the General Assembly." Legislative Intervenors' Appellee Br. at 26-31; Controller's Br. at 22.

That is not what the Constitution says. The words "General Assembly" appear nowhere in the Appropriations Clause. As explained in the State's earlier briefs, the Appropriations Clause requires only an appropriation made by law, and no one disputes that the Constitution is law. That the plain meaning of the Appropriations Clause forecloses Legislative Intervenors' position is reason enough to reject it. *See State ex rel. Martin v. Preston*, 325 N.C. 438, 449 (1989).

Legislative Intervenors attempt to look beyond plain meaning for support, but those attempts fare no better. First, they argue that this Court should read "by law" in the Appropriations Clause to mean laws adopted by

the General Assembly. But Legislative Intervenors cannot show that the framers used the phrase "by law" to *exclude* constitutional law. It is not enough to show that "by law" generally meant laws adopted by the General Assembly. The Constitution created the General Assembly to supply laws for the State *not already* provided for by the Constitution, so it is no surprise that the framers expected the General Assembly to make additional laws. Instead, Legislative Intervenors must show that when the framers used "by law," they meant to *exclude* the Constitution.

None of the examples Legislative Intervenors highlight establish this principle. For instance, Legislative Intervenors point to Article III, § 9, which provides that Council of State members shall "receive the compensation and allowances prescribed by law." N.C. Const. art. III, § 9. But Legislative Intervenors ignore that the Constitution is *also* a law that prescribes the compensation of Council of State members: it prohibits their compensation from being diminished during their term of office. *Id.*

When the Constitution intends to refer to the General Assembly, it does so expressly. For example, Legislative Intervenors point to Article III, § 11, which states that administrative departments and agencies shall have the

"functions, powers, and duties . . . allocated by law." *Id.* art. III, § 11. But Article III provides earlier that "[t]he *General Assembly* shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State." *Id.* art. III, § 8(10) (emphasis added). As this Court has previously explained, when the Constitution includes a specific requirement in one provision (*i.e.*, that the General Assembly may prescribe the relevant law), but omits that requirement from other provisions, the latter provision should be read to be free of the specific requirement. *See, e.g.*, *Cooper v. Berger*, 371 N.C. 799, 812 (2018); *In re Spivey*, 345 N.C. 404, 410-12 (1997).

There are plenty of other examples of the framers making explicit mention of the General Assembly. *See* N.C. Const. art. I, § 8; *id.* art II, § 23; *id.* art. III, § 7; *id.* art. V, § 2(2). These provisions demonstrate that the framers knew how to refer specifically to the General Assembly when they wanted to do so. *See Town of Warrenton v. Warren County*, 215 N.C. 342, 364 (1939).

Finally, Legislative Intervenors turn to the framers' purpose in adopting the Appropriations Clause. But if, as Legislative Intervenors

suggest, the purpose of the Appropriations Clause is to maintain the people's control over the State's finances, then it makes little sense to ignore the will of the people as expressed through the Constitution. *See State ex rel. Att'y Gen. v. Knight*, 169 N.C. 333, 352 (1915). Indeed, as the State's earlier briefing recounts, the framers intended to *limit* the General Assembly's ability to underfund education—they did not intend to give the General Assembly unchecked power to ignore the Constitution. *See* State's Opening Br. at 28-37.

B. Legislative Intervenors' and the Controller's attempts to read Separation of Powers Clause violations into the trial court's orders are meritless.

Legislative Intervenors and the Controller also argue that the trial court's orders violate the Separation of Powers Clause. Their arguments mischaracterize the trial court's orders in two key ways.

First, Legislative Intervenors hyperbolically assert that the trial court's order violates separation of powers by "wrest[ing] control of the State's education system" from the General Assembly. That is not true. The trial court order merely directs the State to take action to implement a plan that secures the *minimally adequate* education required by the Constitution.

(*See, e.g.*, R pp 1689 ("All Parties agree that the actions outlined in the Plan are *necessary* and appropriate actions that *must* be implemented to address the continuing constitutional violations . . . ."), 1831 (same, 10 November 2021 Order))

Interpreting and enforcing the Constitution's requirements is the job of the courts. *See, e.g.*, *Corum v. Univ. of N.C.*, 330 N.C. 761, 783 (1992); *Bayard v. Singleton*, 1 N.C. (Mart.) 5 (1787). It is this Court's duty to define and enforce the "minimum constitutionally permissible" uniform system of public education. *Leandro I*, 346 N.C. at 354. Our Constitution "also incorporates a system of checks and balances that gives each branch some control over the others." *State v. Berger*, 368 N.C. 633, 636 (2016). For example, courts may take action to ensure that the State complies with its constitutional obligations, including, in rare circumstances and subject to multiple limitations discussed in the State's earlier briefing, reaching toward the public purse. *See In re Alamance Cnty. Ct. Facilities*, 329 N.C. 84, 93-94, 99 (1991); State's Opening Br. at 37-49.

Legislative Intervenors acknowledge that this Court held in *Alamance County* that separation of powers does not categorically prohibit courts from

reaching toward the public purse. But they claim that this principle does not apply here because *Alamance County* involved "orders directed against a county," not the legislature. Legislative Intervenors' Appellee Br. at 50. At the outset, this litigation does not involve an order directed against the legislature either. More importantly, however, nothing in *Alamance County* suggests that this Court thought the separation of powers questions implicated by a court order directing government officials to spend state funds were easier there because the officials were county officials. Instead, the decision held that such an order might be appropriate "when inaction by those *exercising legislative authority* threatens fiscally to undermine the integrity of the judiciary." *Alamance Cnty.*, 329 N.C. at 99 (emphasis added). Moreover, the decision considered the Appropriations Clause, the same clause that Legislative Intervenors say gives the General Assembly exclusive control over state funds, yet nevertheless concluded that courts may sometimes reach toward the public purse. *See id.* at 99.

Legislative Intervenors' conflation of education policy generally with the Constitution's minimum requirements also leads them to make an erroneous surplusage argument. They argue that, if the trial court is correct

that several education-related provisions in our Constitution can be read to require the State to fund a sound basic education, then the constitutional provisions directing the General Assembly to appropriate funds for education are surplusage. Not so. Again, the Constitution only sets the *minimally* adequate system of education; the General Assembly remains free to shape education policy in a variety of ways, including by, among other things, appropriating funds beyond the bare amount necessary to supply a sound basic education; set and amend curriculum; and enact legislation governing the policies, procedures, and duties of the State Board of Education and Superintendent of Public Instruction, *see North Carolina State Board of Education v. State*, 371 N.C. 170, 180-90 (2018).

Relatedly, Legislative Intervenors argue that "[t]his case might be different if the General Assembly had wholly failed to provide for the public school system or sought to eliminate it entirely." Legislative Intervenors' Appellee Br. at 42-43. That assertion cannot be squared with *Leandro I*, which rejected the argument that the Constitution embraces no "qualitative" standard and instead held that the Constitution "guarantee[s] every child of this state an opportunity to receive a sound basic education in our public

schools." 346 N.C. at 347. If, as Legislative Intervenors argue, the State could meet the constitutional standard simply by offering a public school system of some kind, almost no part of this twenty-eight year litigation would have been necessary.

Legislative Intervenors' and the Controller's Separation of Powers Clause arguments are flawed for another reason: they mischaracterize the trial court's 10 November 2021 Order directing state actors to transfer funds necessary to implement the Comprehensive Remedial Plan. They say the order is improper because it ignores this Court's prior rulings in *Smith v. State*, 289 N.C. 303 (1976) and other cases that suggest the Courts cannot make the State pay a money judgment. *See* Legislative Intervenors' Appellee Br. 30; Controller's Br. at 41.

But these cases are inapposite here because the trial court did not order the State to pay a money judgment.[1] Rather, the trial court ordered

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[1] Similarly, Legislative Intervenors are mistaken that a money judgment is an adequate remedy for Plaintiffs' claims. *See* Legislative Intervenors'

the State to implement a plan that would comply with the Constitution's minimum requirements for a system of education *prospectively*. It is true that, in many instances, it is inappropriate for a court to order the State to pay money damages for a constitutional violation. *See Richmond Cnty. Bd. of Educ. v. Cowell*, 254 N.C. App. 422, 424 (2017). But there can be no question that courts may order the State to prospectively comply with its obligations, even when such an order may require the expenditure of state funds. *See Lake v. State Health Plan for Tchrs. & State Emps.*, 2022-NCSC-22, ¶ 66.

III. The 10 November 2021 Order Correctly Instructed the Controller to Transfer State Funds.

The Controller offers two additional reasons why this Court should not restore the trial court's 10 November 2021 Order directing him and other state actors to transfer the funds necessary to implement years two and three of the Plan. First, he says that he cannot comply with the Order because doing so would require him to violate the State Budget Act. But this

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Appellee Br. at 46. Plaintiffs are not seeking damages for the State's past non-compliance with its constitutional obligations; they are seeking to end an ongoing constitutional violation by the State. A money judgment is therefore not appropriate, or even requested, relief.

argument proves to be nothing more than a retread of the Controller's flawed Appropriations Clause argument. Second, the Controller makes the curious argument that he is not bound by the 10 November 2021 Order because the order "named" him and "directed" a "specific command" to him, even though he is not a named defendant. Controller's Br. at 21-22. It is unclear why the Controller believes the trial court could not name state actors in the 10 November 2021 Order. In any event, this Court has already held that courts may order specific state actors to take specific actions necessary to remedy an ongoing failure to supply a sound basic education.

A. The 10 November 2021 Order does not require any state actor to violate the State Budget Act.

The Controller argues that the trial court's order would require him to violate the State Budget Act. That is not so. The Controller correctly notes that knowing or willful violations of the Budget Act constitute a misdemeanor and can serve as the basis for impeachment. Controller's Br. at 13 (citing N.C. Gen. Stat. §§ 143C-10-1(a)(1), (4); 143C-10-3). But the only provisions of the Act that the Controller believes that the 10 November 2021 Order requires him to violate are provisions that, as the Controller concedes, merely codify the Appropriations Clause. Controller's Br. at 22. As explained

above, the 10 November 2021 Order does not violate the Appropriations Clause. Accordingly, the Controller would not violate the State Budget Act by complying with the 10 November 2021 Order.

Although the Controller cites several other provisions of the State Budget Act, he doesn't explain how the 10 November 2021 Order compels him to violate those provisions. For example, the Controller cites N.C. Gen. Stat. § 143C-6-4, which governs budget adjustments in light of, among other circumstances, court orders. Controller's Br. at 23; *see* N.C. Gen. Stat. § 143C-6-4(b)(2)(a) (permitting a state agency to, with the Budget Director's consent, overexpend its certified budget if required by "a court or Industrial Commission order"). But not only does the 10 November 2021 Order not require the Controller to violate § 143C-6-4, the Order expressly commanded the Controller to *comply* with that provision. (R p 1841 ("OSBM, the Controller, and the Treasurer, are directed to treat the foregoing funds as an appropriation from the General Fund as Contemplated within N.C. Gen. Stat. § 143C-6-4(b)(2)(a) . . . .")) Certainly, the Controller need not fear criminal liability for complying with a trial court order affirmed by this Court. The Controller also cites N.C. Gen. Stat. §§ 143C-4-2(b)(3), 143C-6-4(b)(3), 143C-

6-4(b2), and 143C-6-5, *see* Controller's Br. at 23-24, but fails to provide even the barest of explanations for how the 10 November 2021 Order requires him to violate those statutes.

B. The Controller is bound by orders entered against the State.

The Controller next argues that the 10 November 2021 Order was improper because it "named" him and "directed" a "specific command" to him. Controller's Br. at 21-22. It is not clear why the Controller thinks this was an error, but in any event the order was proper.

Rule 65 provides that injunctions are binding on parties and "their officers, agents, servants, employees, attorneys, and upon those persons in active concert or participation with them." N.C. Gen. Stat. § 1A-1, Rule 65(d). The Controller does not appear to contest that he is an agent and employee of the State. By the plain text of the rule, then, the Controller is properly bound by the Order. Moreover, this Court has already explained *in this case* that "when the State fails to live up to its constitutional duties . . . a court is empowered to provide relief by imposing a specific remedy and instructing the recalcitrant state actors to implement it." *Leandro II*, 358 N.C. at 642.

The Controller says that Rule 65 is inapplicable here because the 10

November 2021 Order named the Controller. Controller's Br. at 22. The Controller appears to believe Rule 65 only applies to *unnamed* state actors who are necessary to carry out an injunction. There are several problems with this interpretation. First and foremost, it cannot be squared with what this Court said in *Leandro II*: that specific state actors could be ordered to take specific action to remedy the ongoing constitutional violation, even though they were not named defendants. Second, the Controller offers no authority for his strange interpretation of Rule 65. Surely, court orders that give notice to a state official by naming the official are less intrusive than those that do not. In any event, the Controller's argument contradicts the text of Rule 65(d), which requires that injunctions be "specific in terms" and "describe in reasonable detail . . . the acts enjoined or restrained."

Relatedly, the Controller argues that the 10 November 2021 Order was procedurally deficient because the trial court did not give the Controller the opportunity to appear before the trial court. Controller's Br. at 14. For support, the Controller turns to *Alamance County*, which he reads as holding that an order directing the Alamance County Commissioners to transfer funds was procedurally deficient because the Commissioners did not receive

the opportunity to be heard by the trial court. Controller's Br. at 14-15. The Controller misreads *Alamance County*. The trial court order there was procedurally deficient not because the County Commissioners were not named defendants, but because there were *no defendants at all*; the trial court's order was *ex parte*. *Alamance Cnty.*, 329 N.C. at 106 ("The *ex parte* nature of the order overreached the minimal encroachment onto the powers of the legislative branch that must mark a court's judicious use of its inherent power"). The 10 November 2021 Order, meanwhile, was not *ex parte*. The State itself was a defendant, one who appeared before, and was heard by, the trial court. As the Controller concedes, *see* Controller's Br. at 40, an order against the Controller in his official capacity *is* an order against the State.

Finally, the Controller suggests that, even if this Court were to affirm the 10 November 2021 Order, no court could require him to comply with the order. In support of his apparent threat to defy this Court's authority, the Controller cites *North Carolina Department of Transportation v. Davenport*, 334 N.C. 428 (1993). *Davenport*'s relevance is unclear. That case involved an individual's attempt to initiate contempt proceedings against a state agency

for the agency's failure to comply with a ruling from an administrative law judge. *Davenport*, 334 N.C. at 429-30. No contempt proceedings are at issue in this appeal, so *Davenport* is inapposite.

More fundamentally, the Controller's argument ignores one of our State's—and nation's—founding civic values: the notion of checks and balances. *See State v. Berger*, 368 N.C. at 635. It has long been recognized that the best way to preserve our tripartite system of government is to have the branches of government be "so far connected and blended as to give to each a constitutional control over the others." *The Federalist* No. 48, at 308 (J. Madison) (Arlington House ed. 1966). This Court should lend no credence to the Controller's assertion that he is exempt from our Constitution's cherished system of checks and balances.

CONCLUSION

For the reasons stated above and in the State's Opening and Response Briefs, this Court should affirm the trial court's 26 April 2022 Order and restore the 10 November 2021 Order's instruction to state actors to transfer funds necessary to implement years two and three of the Comprehensive Remedial Plan.

Electronically submitted this the 12st day of August, 2022.

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