



***PROTECTING VOTERS OF COLOR IN THE WAKE OF THE SUPREME COURT'S RULING
IN SHELBY COUNTY, ALABAMA V. HOLDER***

KEY POINTS

JULY 2013

- **In *Shelby County, Alabama v. Holder*, one of the greatest pieces of civil rights legislation ever enacted fell.** In that case, the Supreme Court, in a radical act of judicial activism and overreach, struck down as unconstitutional a key provision of the Voting Rights Act, Section 4 (b).
 - o Section 4(b) identified the 15 places that were subject to Section 5 of the Voting Rights Act because of the longstanding and ongoing nature of racial discrimination in voting in those areas. Section 5 required those places to demonstrate to the U.S. Department of Justice or a federal court in Washington, D.C. that proposed changes to their voting laws would not be harmful to voters of color before implementing them.
- **By striking down Section 4(b), the Supreme Court eliminated the best defense our country has against voter suppression.** While Section 5 of the Voting Rights Act still remains in force, the Supreme Court's new decision effectively immobilizes it by eliminating the only means of deciding to whom it applies.
- **As Justice Ruth Bader Ginsburg said in her dissent, the Supreme Court's decision is like throwing away your umbrella in a rainstorm because you are not getting wet.** Put another way, it's like having a car and someone takes your keys away. Section 5 can't protect voters without applying anywhere.
- **For nearly 50 years, the Voting Rights Act stood as our democracy's discrimination checkpoint.** Passed at the height of the Civil Rights Movement, Section 5 of the Voting Rights Act has protected the rights of millions of voters of color in those places of our country where discrimination has been the most persistent and adaptive, and difficult in time and expense to dislodge through case-by-case litigation. In the past 25 years, Section 5 blocked over 1,000 discriminatory voting changes. With the stroke of a pen, a five member majority of the Court removed this vital protection. Section 5 has protected voters in the following ways:
 - o In 2008 in Calera, Alabama, located in the very county that brought down this key voter protection, Section 5 reinstated the city's only African American city council member after he lost his seat when his district was changed from 79% to just 29% Black registered voters.
 - o In 2001 in Kilmichael, Mississippi, Section 5 stopped a city council election from being cancelled after voters of color had become a majority of the city and candidates of color were poised to win for the first time in the city's history.



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- In 2008 in Alaska, Section 5 rejected plans to eliminate precincts in several Native American villages, which would have required voters to travel by air or sea to cast a ballot.
- In 2012 in Texas, Section 5 stopped a discriminatory photo ID measure that would have permitted concealed gun licenses but not student photo IDs to be accepted to vote.
- Beginning in 2013, because of Section 5, South Carolina voters still can vote if they have a “reasonable impediment” to lacking a photo ID.
- **The Supreme Court’s decision renders, at this very moment, millions of voters of color vulnerable to discriminatory measures.** The Supreme Court’s decision also is an affront to the work of a bipartisan Congress in 2006, which just 7 years ago, voted overwhelmingly to re-authorize the Voting Rights Act. After hearing from more than 90 witnesses with a diverse range of views, over the course of 20 hearings, and amassing a 15,000 page record, 98 Senators and 390 members of the House re-authorized relevant portions of the Voting Rights Act.
 - The Supreme Court’s ruling disrespects Congress’ considered judgment and fails to recognize that the 14th and 15th Amendments to the Constitution give Congress – not the Court – the authority to determine how best to enforce these Civil War Amendments’ ban on racial discrimination in voting.
- **The Supreme Court’s ruling comes in the midst of a historic assault on the voting rights of people of color.** As political participation among voters of color has grown to historic numbers in recent elections, Section 5-covered jurisdictions have attempted to limit these communities’ equal access to the ballot box.
 - In the 2012 elections alone, we experienced an intense, coordinated effort to erect barriers to voting through various channels—from substantially reducing early voting opportunities, to crafting discriminatory photo identification laws and redistricting plans. Section 5 blocked several problematic changes from taking effect in 2012, including Florida’s effort to cut early voting hours in half and Texas’ plan to accept a concealed gun license as a valid ID for voting, but not a state-issued student ID.



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- **The long and difficult fight continues. Our parents and our forebears fought harder and against considerably greater obstacles. We will prevail.** The NAACP Legal Defense & Educational Fund, Inc. (LDF), founded by Thurgood Marshall, has successfully challenged racial discrimination in voting for more than 70 years.
- **Our charge today is attainable. The Supreme Court did not strike down the Voting Rights Act in its entirety.** Several other vital provisions of the Voting Rights Act remain intact, which we will use to protect the voting rights of people of color.
 - o LDF's legal team and its partners will aggressively use all available legal tools to challenge discriminatory measures that are arising in the wake of the Court's decision. We will continue to pursue our mission to protect the rights of voters of color to participate fully in the political process.
- **But we need your help in three critical ways.**
 - o ***First, without the key provision of the Voting Rights Act that required certain states to report all voting changes, you now become our eyes and ears on the ground.*** Within hours of the Court's decision, for example, the Attorney General of Texas, where in 2012 alone Section 5 of the Voting Rights Act blocked the state's discriminatory photo ID law and intentionally discriminatory redistricting plans, announced his intention to implement those measures immediately. Officials in other formerly-covered states also quickly announced their plans to revert back to laws that the Voting Rights Act had previously blocked.
 - **Let them talk. But tell us about it at vote@naacpldf.org. We encourage you to let us know of any voting changes that are planned in your area, which you believe may have a negative impact on your community.** These might include: moving polling places to locations that are difficult for your community to access; switching to at-large voting or appointing officials who were formerly elected; redrawing district lines in a manner that reduces the number of majority-Black or Latino (or other majority-minority) districts; reducing the early voting period; curtailing opportunities to register to vote; *or* implementing new voter ID requirements. We need you to collect your stories about such voting changes in your community and tell us about them at vote@naacpldf.org. You also can contact our partners at the Election Protection hotline, which is maintained by a coalition of civil rights groups, at **1-866-OUR-VOTE**. We are all in this fight together.



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- ***Second***, help us harness our collective energy, and point it towards Congress, which can and must aggressively respond to the Supreme Court's ruling.
 - Now is the time for you to reach out to your Senators and Representatives in the U.S. Congress, and urge them to make responding to the Supreme Court's ruling a top priority. The Voting Rights Act has been reauthorized four times, and always with bipartisan support—even in times of great national division. We have done this before. Now, we can and must do it again.
- ***Third***, join LDF, the Reverend Al Sharpton, and Martin Luther King III, on August 24th for a great gathering in Washington, D.C. commemorating the 50th Anniversary of the March on Washington. We will march to demonstrate to America that we intend to stand and fight for our rights. Please contact the National Action Network for further information about the march.

Since its founding in 1940, the NAACP Legal Defense Fund has been a pioneer in the struggle to secure and protect the voting rights of Black people. LDF has been involved in nearly all of the precedent-setting litigation relating to securing voting rights for people of color. LDF defended the Voting Rights Act before the Supreme Court in *Shelby County, Alabama v. Holder*. LDF uses legal, legislative, public education, and advocacy strategies to promote the full, equal, and active participation of Black people in America's democracy. LDF has been a separate entity from the NAACP since 1957.