

Major Voting Litigation That Could Impact Voting Access

States across America are in the midst of major battles over voting rights heading into the 2016 election, when citizens in 17 states will face new restrictions for the first time in a presidential race. Before the Supreme Court gutted the protections of the Voting Rights Act, courts stepped in ahead of elections to block or ease new voting restrictions. This map details the cases we are currently watching that could impact voting access before this November's high-stakes general election. [Click here](#) for an interactive version of this page.

Alabama

[*League of Women Voters v. Newby*](#) (documentary proof of citizenship)

U.S.D.C. for the District of Columbia, 1:16-cv-00236

U.S.C.A. for the District of Columbia, 16-5196

In February 2016, the Brennan Center, Stroock & Stroock & Lavan LLP, and Kirkland & Ellis LLP filed suit on behalf of the League of Women Voters and state affiliates. The suit challenges letters sent by Election Assistance Commission Executive Director Brian Newby in January 2016 to the secretaries of state of [Alabama](#), [Georgia](#), and [Kansas](#). Without explanation, he allowed the three states to require that applicants using the federal voter registration form provide documentary proof of citizenship.

The suit asserts that Newby lacked the authority to make this decision, and that issuing the letters violated both EAC policy and federal law.

LATEST NEWS: Plaintiffs have appealed the district court's denial of a preliminary injunction. On June 29, the district court ruled that these states could implement their proof of citizenship requirements for the 2016 election.

[*Greater Birmingham Ministries v. State of Alabama*](#) (voter ID)

U.S.D.C. for the Northern District of Alabama, 2:15-cv-02193

In December 2015, Greater Birmingham Ministries and the Alabama NAACP filed suit challenging Alabama's photo voter ID law. They argue that the state's photo ID law, which allows election officials to vouch for the identity of a voter without ID, has a disproportionate impact on minority voters in violation of the Voting Rights Act and the U.S. Constitution.

LATEST NEWS: The law is scheduled to be in effect for the November 2016 election. A trial has been set for September 2017.

Arizona

[*Feldman v. Arizona*](#) (polling place reductions)
U.S.D.C. for the District of Arizona, 2:16-cv-01065

In April 2016, the Democratic Party and the presidential campaigns of Hillary Clinton and Bernie Sanders sued Arizona, alleging that an insufficient number of polling places in the March 2016 presidential primary disenfranchised minority voters, in violation of Section 2 of the Voting Rights Act and the U.S. Constitution. Voters waited in hours-long lines to vote in Maricopa County after the county cut the number of polling places by 85% since 2008.

A parallel suit – [*Huerena v. Reagan*](#), CV2016-00789 – was filed in state court in June 2016 alleging violations of the Arizona Constitution and state law.

LATEST NEWS: The court will hear oral argument on plaintiffs’ request for a preliminary injunction in September 2016.

Georgia

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Kansas

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[Fish v. Kobach](#) (documentary proof of citizenship)

U.S.D.C. for the District of Kansas, 2:16-cv-02105

U.S.C.A. for the Tenth Circuit, 16-3147

In February 2016, the ACLU brought suit on behalf of affected would-be voters alleging that Kansas violated the National Voter Registration Act by requiring Kansans who attempt to register to vote while applying for or renewing a driver's license to produce documentary proof of citizenship.

LATEST NEWS: In May 2016, the trial court ordered Kansas to register thousands of eligible voters who had been kept off the rolls because they did not provide documentary proof of citizenship at the DMV. Kansas appealed to the Tenth Circuit, which is hearing oral argument in August 2016.

North Carolina

[North Carolina NAACP v. McCrory](#) (voter id | lead case)

U.S.D.C. for the Middle District of North Carolina, 1:13-cv-00658

U.S.C.A. for the Fourth Circuit, 16-1468

In August 2013, the U.S. Department of Justice, affected voters, and voter advocate organizations filed suit alleging that North Carolina's 2013 restrictive omnibus elections law violates the U.S. Constitution and the Voting Rights Act. The omnibus law eliminated same day registration, reduced early voting opportunities, created a photo ID requirement, and imposed other restrictive changes.

In June 2015, on the eve of the trial, North Carolina amended its law to allow voters without photo ID to swear to a reasonable impediment to obtaining ID and vote using a regular ballot. A trial on the other restrictive portions of the law was held in July 2015. A second trial on the photo ID requirement was held in January 2016. In April 2016, the trial court upheld all of the challenged provisions, including the modified photo ID requirement. Plaintiffs appealed to the Fourth Circuit Court of Appeals.

There is also a state court case challenging the photo ID law on state constitutional grounds – [Currie v. North Carolina](#), 13CV001419.

LATEST NEWS: The Fourth Circuit heard oral argument on the appeal on June 21, 2016.
North Dakota

[Brakebill v. Jaeger](#) (voter id)

U.S.D.C. for the District of North Dakota, 1:16-cv-08

In January 2016, seven Native American plaintiffs represented by the Native American Rights Fund filed suit under the Voting Rights Act and the U.S. and North Dakota Constitutions challenging the state’s strict photo ID law, arguing it disproportionately denies Native American citizens the right to vote.

LATEST NEWS: Plaintiffs filed a motion for preliminary injunction to bar enforcement of the voter ID requirement on June 20, 2016.

Ohio

[Ohio Organizing Collaborative v. Husted](#) (early voting and voter registration)

U.S.D.C. for the Southern District of Ohio, 2:15-cv-01802

U.S.C.A. for the Sixth Circuit, 16-3561

In May 2015, the Ohio Organizing Collaborative and individuals engaged in voter registration drives filed a lawsuit challenging the elimination of “Golden Week” (during which voters could register and vote early in one trip), restrictions to absentee ballot access, and other restrictive provisions of state regulations and law as violating the U.S. Constitution, the Voting Rights Act, and the Civil Rights Act of 1964.

In May 2016, after an earlier trial, the trial court ruled that the elimination of Golden Week violated the Fourteenth Amendment and the Voting Rights Act, because it disproportionately impacted African-American voters. The state appealed to the Sixth Circuit Court of Appeals.

LATEST NEWS: Under the trial court’s order, Golden Week will be back in effect for the November 2016 election. Briefing on the appeal before the Sixth Circuit is underway.

Texas

[Veasey v. Abbott](#) (voter id | lead case)

U.S.D.C. for the Southern District of Texas, 2:13-cv-00193

U.S.C.A. for the Fifth Circuit, 14-41127

In September 2013, the Brennan Center, Lawyers' Committee, and co-counsel filed suit challenging Texas's strict photo voter ID law on behalf of the Texas State Conference of the NAACP and the Mexican American Legislative Caucus of the Texas House of Representatives. The suit challenged the photo ID law as discriminatory against African-American and Hispanic voters and a denial of the right to vote under the Voting Rights Act, U.S. Constitution, and Texas Constitution. It was soon consolidated with similar actions filed by the U.S. Department of Justice and affected Texas voters.

After a trial in September 2014, the trial court struck down the law as an unconstitutional burden and a violation of the Voting Rights Act. The court's ruling was stayed pending appeal, meaning that Texas's strict photo ID law has remained in effect since then.

In August 2015, a three-judge panel of the Fifth Circuit unanimously affirmed that the photo ID law violates Section 2 of the Voting Rights Act. Texas was granted a rehearing *en banc*.

LATEST NEWS: The full panel of Fifth Circuit judges heard oral argument on May 24, 2016. A decision is expected in July 2016.

Virginia

[*Lee v. Virginia State Bd. of Elections*](#) (voter id)

U.S.D.C. for the Eastern District of Virginia, 3:15-cv-357

U.S.C.A. for the Fourth Circuit, 16-1605

In June 2015, affected voters and the Democratic Party of Virginia brought suit arguing that Virginia's strict voter ID law violates the U.S. Constitution and Section 2 of the Voting Rights Act.

After a February 2016 trial, the trial court upheld the voter ID law in May 2016.

LATEST NEWS: Plaintiffs appealed to the Fourth Circuit Court of Appeals, with briefs due in August.

[*Howell v. McAuliffe*](#) (rights restoration)

Supreme Court of Virginia, 160784

On May 23, 2016, a group of Republican legislators and voters filed a lawsuit in the Virginia Supreme Court challenging Gov. McAuliffe's April and May 2016 executive actions restoring voting rights to Virginians with felony convictions who have completed the terms of their incarceration and any period of supervised release (probation or parole).

The challengers, who seek to prevent the 200,000-plus newly-enfranchised Virginians from voting, argue that Gov. McAuliffe did not have the constitutional authority to restore voting rights on a collective basis. The challengers requested that the Virginia Supreme Court hear the case on an expedited schedule.

On June 14, 2016, a group of voters filed a parallel lawsuit in the Virginia Circuit Court of Bedford County challenging Gov. McAuliffe's action.

LATEST NEWS: The Virginia Supreme Court scheduled oral argument for July 19, 2016.

Wisconsin

[*Frank v. Walker*](#) (voter id | lead case)

U.S.D.C. for the Eastern District of Wisconsin, 11-cv-1128

U.S.C.A. for the Seventh Circuit, 14-2058

U.S. Supreme Court, 14A352

In December 2011, the ACLU of Wisconsin, National ACLU, and National Law Center for Homelessness and Poverty brought suit on behalf of individual plaintiffs challenging Wisconsin's strict photo ID law as discriminatory against African-American and Hispanic voters and a denial of the vote, bringing claims under the U.S. Constitution and Section 2 of the Voting Rights Act.

In April 2014, the trial court struck down the law; the state appealed to the Seventh Circuit, which overturned the trial court's decision and upheld the law. However, after the Supreme Court stepped in, the law was not in effect for the November 2014 election. It went into effect in April 2015, after the Supreme Court declined to reconsider the Seventh Circuit's ruling upholding the law.

Plaintiffs are currently undertaking a second stage of litigation, arguing that the strict photo ID law is unconstitutional for those who cannot get ID.

LATEST NEWS: In June 2016, plaintiffs filed a motion for a preliminary injunction, asking that those voters who cannot get ID must be offered the opportunity to sign a reasonable impediment affidavit and vote a regular ballot.

[*One Wisconsin Inst., Inc. v. Nichol*](#) (voter id)

U.S.D.C. for the Western District of Wisconsin, 15-cv-324

In May 2015, One Wisconsin Institute, affected voters, and Wisconsin Citizen Action brought suit to challenge various election law policies, including the voter ID provision, under the U.S. Constitution and Section 2 of the Voting Rights Act. Those challenging the voter ID law argue that Wisconsin should accept additional IDs for voting purposes, and that the DMV is handing out "free" voter IDs in an arbitrary and racially discriminatory manner.

LATEST NEWS: A trial was held in May 2016, and a decision is forthcoming.