

## **Work Group 7: Voting Rights and Minority Rights**

### **Submitting Organizations**

- The ACLU of Florida
- FSU Center for the Advancement of Human Rights
- The Lawyers' Committee for Civil Rights Under Law
- The Leadership Conference on Civil and Human Rights
- The Navajo Nation
- The National Association for the Advancement of Colored People (NAACP)

### **Impact of Voter ID laws on U.S. Voters**

In the US, 30 states have adopted in the last decade some form of voter identification laws to vote in federal, state and local elections. All of these laws place the burden for acquiring the specified identification on the citizen. Ten states, seven with large African American, Latino, Asian and/or Indigenous populations, have enacted "strict photo identification" laws which restrict the forms of acceptable identification to either an exclusive or few narrow option(s) mostly centered around the mandatory acquisition of a governmental photo identification from a state motor vehicle administration office. In three other states, all with large African American and/or Latino populations, there are "strict non-photo identification" requirements. The failure to meet these specific identification requirements will result in your vote not being counted.

Often voter ID laws create an unreasonable restriction on the right to vote, in violation of Article 25 of the ICCPR, because of the costs and barriers associated with obtaining acceptable government issued photo identification. Even if the photo IDs are offered for free, the birth certificates, passports, or other documents required to obtain a government-issued ID cost money, and many eligible voters simply cannot afford to pay for them. Many voter ID laws also violate Article 26 because the burdens to obtaining ID fall disproportionately on women, African American voters, language minority voters or naturalized U.S. citizens, U.S. citizens without the financial means to obtain ID, or older voters.

- In total, more than 21 million Americans of voting age lack documentation that would satisfy photo ID laws,<sup>1</sup> and a disproportionate number of these Americans are low-income, racial and ethnic minorities, and elderly.
- As many as 25% of African Americans of voting age lack government-issued photo ID, compared to only 8% of their white counterparts.<sup>2</sup>
- Eighteen percent of Americans over the age of 65 do not have government-issued photo ID.<sup>3</sup>

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<sup>1</sup> Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification* (Nov. 2006), available at [http://www.brennancenter.org/page/-/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/page/-/d/download_file_39242.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

- As expected, women who have changed their names due to marriage or divorce often experience difficulties with identity documentation, as did Andrea Tangredi, who recently moved from Massachusetts to South Carolina and who, in the span of a month, spent more than 17 hours online and in person trying without success to get a South Carolina driver's license.<sup>4</sup>

Civil and Human Rights advocates are working across the country to defend the rights of people who will be disfranchised by the wave of new voting restrictions. In Missouri, Pennsylvania, and Wisconsin, the others states, civil rights organizations represented eligible voters who would be disfranchised by attempts in those states to impose a voter ID requirement. Below are examples of clients disenfranchised because of Voter ID laws:

### **Wisconsin** (*Frank v Walker*)

Ruthelle Frank is an 86-year-old resident of Brokaw, Wisconsin, where she has served on the Village Board since 1996. She is an eligible voter registered to vote in Wisconsin. She has no accepted form of photo ID under the photo ID law and lacks a certified copy of her birth certificate, which she needs to prove citizenship to the Wisconsin DMV. Ms. Frank was born at her home in Brokaw in 1927. Though she has never had a birth certificate in her possession, the state Register of Deeds has a record of her birth and can produce a certified copy of her birth certificate, but at a cost. The record on file, however, has an incorrect spelling of her maiden name: Wedepohl, and is consequently an unacceptable form of identification. The process to correct the birth certificate is lengthy and costly, with some reports suggesting it might require \$200 or more. She has voted in every election since 1948 and intends to vote in Wisconsin again next year.

Eddie Lee Holloway Jr.'s birth certificate says Eddie Junior Holloway and as a result he is no longer able to vote in the state of Wisconsin. DMV employees tell him that his birth certificate is an unacceptable form of ID because the name on it reads "Eddie Junior Holloway," due to a decades-old clerical error. It doesn't matter to the DMV that his father's name — "Eddie Lee Holloway" — is printed on his birth certificate, and that Eddie has a Social Security Card and an expired Illinois photo ID both bearing the name "Eddie L Holloway Jr". Eddie says, "I never miss voting" and has rarely missed a chance to cast a ballot since he was 18. He worked in Illinois for years as a cook at the airport and Claire's Family Restaurant, and he cooked in nursing homes too. Years of heavy lifting and hard work left him severely disabled, unemployed, and homeless — in that order. He now lives with his mother in Milwaukee but cannot secure the disability benefits and medical attention he so badly needs due to a lack of photo ID

### **Pennsylvania**

*Applewhite v. Commonwealth of Pennsylvania*: The Pennsylvania Supreme Court recently held that "disfranchising voters 'through [no] fault of the voter himself' is plainly unconstitutional," The judge found that the voter ID law did not promote any valid governmental objective while

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<sup>4</sup> Schuyler Kropf, *Voter ID Battle: Some Rally Against S.C. Law They Think Is 'Trying To Change Electorate'*, The Post and Courier (August 9, 2011), available at <http://www.postandcourier.com/news/2011/aug/09/voter-id-battle/>.

disenfranchising hundreds of thousands of eligible voters. The court found that alternate IDs did not alter the number of disenfranchised voters and these voters were subjected to the burdens in obtaining the needed ID because of the limited locations, limited times locations were open and inconsistent state databases. The court determined that the law had the effect of disenfranchising voters through no fault of their own. “Inescapably, the voter ID law infringes upon qualified electors right to vote.”

Wilola Shinholster Lee, Gloria Cuttino, and Dorothy Barksdale, all African-American women born in the Jim Crow South who, like so many of their generation, were never issued a birth certificate they now need to get an ID in order to vote under the law;

Grover Freeland, a Philadelphia-area retired veteran, whose veteran's ID card will not be acceptable to allow him to cast a ballot. Wyoming' bill requires an ID with an expiration date, which a Department of Veterans Affairs (VA) ID does not have

Ricky T. Lewis, who subsided off of veteran checks of less than \$1,000 a month, was unable to obtain a Wisconsin Department of Transportation (WisDOT) identification card because he lacked a Social Security card. Mr. Lewis was also unable to obtain a Social Security card, because he lacked a birth certificate. Upon paying the requisite \$20 fee to obtain a birth certificate, the Wisconsin Department of Health Services informed him that the name on his birth certificate was actually Tyrone (his middle name) and that he would therefore have to undertake civil litigation to have his name changed and ultimately register to vote.

Ms. Decoursey, 79, has voted in every election since Harry S. Truman ran for president, served as an election judge. However, she was born by midwife in North Carolina and has no birth certificate so she could not get a photo ID in Pennsylvania.

### **South Carolina**

59-year-old Delores Freelan of South Carolina lives on disability payments, and cannot afford to petition her home state of California to change her name and fix an error on her birth certificate. Without a valid birth certificate, she cannot get a photo ID to vote.

### **Texas**

In *Texas v. Holder* (2012) the Court agreed that preclearance was not appropriate and found that the “uncontested record evidence conclusively shows that the implicit costs of obtaining SB 14-qualifying ID will fall most heavily on the poor and that a disproportionately high percentage of African Americans and Hispanics in Texas live in poverty.” As such, the court concluded that “that SB 14 is likely to lead to ‘retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise’” and denied preclearance pursuant to Section 5 of the Voting Rights Act. After the Supreme Court has struck down Section 4 of the federal Voting Rights Act, which subjected Texas to the federal preclearance of state changes in voting, Texas began implementing its Voter ID law despite the court’s finding. New lawsuits have been filed by civil rights groups to challenge Texas’ reimposition of the voter identification law.

## **Arizona**

Proof of some form of identification card is required to cast a ballot in Arizona. Navajo Nation demonstrated in federal court that a traditional form of identification for the Navajo people is the clan system – k'e. However, the federal court disregarding the k'e system requires a Navajo poll officials, who know their relatives casting ballots at the polling places, are required to have their relatives cast a provisional ballot because the relatives do not have in their possession an ID card. This is a direct disregard of an identification system that has been practiced by the Navajo people since time immemorial and human rights violation.

*Navajo Nation v. Brewer*—

Ms. Agnes Laughter was born at home in a Hogan and only speaks Navajo. She had voted in every election since Arizona's English language requirements as a criterion for voting were invalidated in 1970. Since she was born at home, she did not have an Arizona birth certificate. She does not have a car and has a limited income. She obtained a delayed birth certificate from Navajo Nation and attempted to obtain a state identification card several times from the Arizona Department of Motor Vehicles after Arizona passed its restrictive voter ID law in 2004. She attempted to vote in the first election following the law's implementation and was denied even a provisional ballot. She was so embarrassed that she did not even try to vote in the next election. Finally in 2008, someone picked her up and drove her over 12 hours in one day from her home to three locations to finally obtain an Arizona voter identification card. An attorney also traveled separately for 12 hours to meet her at the locations to obtain and present the necessary documents so that she could acquire Arizona identification card. It was clear that without the attorney's presence, the Arizona Department of Motor Vehicles would not have issued the identification card.