

Is the tide turning against voter ID laws? - AvvoStories

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The [right to vote](#) is fundamental to American democracy—as is the integrity of each vote. Which is why the debate over whether voter ID laws prevent fraud or encourage disenfranchisement has been raging for years.

Election law experts have long held that the biggest voter registration fraud was the push for laws that [make it harder](#) for African-Americans and the poor to vote. Even so, 17 states have passed more restrictive voter registration laws since the 2012 presidential election. Civil rights groups have filed lawsuits challenging voter registration restrictions in [Arizona](#), [Georgia](#), [Texas](#), and [Ohio](#). Now it appears the tide is turning with rulings in North Carolina and Wisconsin overturning restrictions.

North Carolina

The federal [Voting Rights Act](#) was passed in 1965 to put a stop to state-level disenfranchisement of minority voters through restrictive voter registration laws. In addition to establishing nationwide provisions that largely mirrored the 15th Amendment, the Act contained special enforcement provisions targeting areas of the country, mostly in the South, where voter discrimination was most prevalent.

Citing data on racial differences in voting behaviors among North Carolina voters, the state specifically identified its concern that too many African Americans, who had overwhelmingly voted for Democrats, were voting.

The formula for determining which areas would be subject to these special provisions was spelled out in Section 4 of the Act, while the provisions themselves were delineated in Section 5 of the law, which stated that these jurisdictions could not implement any change to voter policies without the approval of the US attorney general or the United States District Court for the District of Columbia.

In 2013, in [Shelby County v. Holder](#), the U.S. Supreme Court struck down Section 4 of the Voting Rights Act, eliminating the formula for determining which areas of the country were subject to preclearance. Freed of the need for preclearance, North Carolina's legislature wasted no time, eliminating same-day voter registration, cutting off the first week of early voting, and putting an end to out-of-precinct voting in an omnibus bill passed shortly after the *Shelby* decision. The Justice Department and civil rights groups responded equally promptly with a lawsuit charging that the state had selectively eliminated voting provisions disproportionately utilized by African Americans.

On July 29, the U.S. Court of Appeals for the 4th Circuit [ruled](#) that North Carolina's Republican-led legislature had enacted new voting restrictions in 2013 to intentionally blunt the growing clout of Democratic-leaning African American voters. Judge Diana Gribbon Motz wrote "The new provisions target African Americans with almost surgical precision" and "impose[s] cures for problems that did not exist."

A critical factor in the decision was the so-called "[smoking gun](#)" – the state's own defense of the elimination of Sunday voting hinged explicitly on race. Citing data on racial differences in voting behaviors among North Carolina voters, the state specifically identified its concern that too many African Americans, who had overwhelmingly voted for Democrats, were voting.

Wisconsin

Parts of Wisconsin's voter ID requirements had already been struck down by a federal judge when (on the same day as the North Carolina decision) U.S. District Judge James D. Peterson [chipped](#) further away at Wisconsin's voter law, eliminating elements of Wisconsin's voter ID requirements, limits on early voting, and restrictions on early voting.

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Peterson [wrote](#) that despite a Supreme Court ruling in favor of properly written voter-ID laws to guard against voter fraud, “The evidence in this case casts doubt on the notion that voter ID laws foster integrity and confidence. The Wisconsin experience demonstrates that a preoccupation with mostly phantom election fraud leads to real incidents of disenfranchisement, which undermine rather than enhance confidence in elections, particularly in minority communities. To put it bluntly, Wisconsin's strict version of voter ID law is a cure worse than the disease.”

Upcoming Elections

It's no surprise that the twin fears of voter fraud and voter disenfranchisement are receiving heightened attention now, with a presidential election only months away. In light of [data](#) indicating that voter fraud of the sort voter ID laws are meant to prevent is largely an imagined phenomenon, the federal judiciary's stand against discriminatory voter laws almost certainly improves access to the polls for millions of Americans.

Now it's up to the citizens to improve on the nation's [low voter turnout](#) rates.

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