

## **The Long and Winding Road of Court Challenges to Texas Voting Rights 02/25/2016 (updated 05/13/2016)**

Texas voting rights in this decade have been at the mercy of the federal court system. There appeared to be hope that the challenges to several Texas laws adopted since 2010 would see final resolution this year. Each of these cases involve the allegation of discrimination against voters. It is a complicated interweaving of cases affected by contemporary rulings or the lack of rulings.

Whether you are new to the issue of voting rights in the state, or an old hand, you could easily be confused by the situation. Coming to our rescue is new LWV member Ann Jordan from Sherman whose curiosity won her the assignment of taking her forensic anthropology skills and untangling the whole mess for us. As a recently retired university professor, she sorted it out and I'm privileged to present the results to you for you to quickly get a grasp on the situation.

The key subjects are the Voter ID requirement and the prolonged redistricting of Texas' Congressional, State House of Representatives and State Senate boundaries based on the 2010 US Census.

The Voter ID saga began in 2011 with challenges to SB 14 requiring one of several photo IDs that each LWV member probably has memorized by now. It remains the most severe Voter ID law in the land. The court action against it was almost immediate, and it appeared early challenges to it would be successful. Then comes along the Supreme Court of the United States (SCOTUS) action invalidating the preclearance of voting laws in a case unrelated to Texas that threw in a big monkey wrench. Several cases are still in play, but SCOTUS allows it to remain in effect while cases are still active in lower courts.

In 2010, the Texas Legislature began work on redrawing Congressional, Texas Senate, and Texas House of Representative boundaries. There were court challenges to each of these. The only one settled at this point is the Senate map after some changes. Courts still are pending on multiple sets of plans. As an example, arguments have been heard on the 2011 plans, with a determination yet to come, and to be followed by a determination on the next generation 2013 plans. Can anyone say "hot mess?"

An additional related case was filed: Sue Evenwel, et al, Appellants v. Governor of Texas Greg Abbott, et al, Appellees. So while the State is defending the Voter ID issue, it was then placed in the position of defending an action that could feasibly be seen as more in line with the political leanings of those in the majority. This case argued that only eligible voters should be considered in redistricting -- not all citizens. Thus, anyone not yet 18 years old, and anyone else not eligible to vote, should not be counted. SCOTUS heard that case in the fall and on April 4, 2016, ruled unanimously in the State's favor saying that a state or locality can use total population counts for redistricting purposes. It has been noted by those who follow SCOTUS closely that the ruling did not indicate total population was the only way to redistrict, thus leaving the door open for the Evenwel approach to come up for consideration by a future Texas Legislature undertaking redistricting.

With no crystal ball to tell when a new Justice will be appointed, or if some of the cases will go forward with a potential 4-4 tie (with the lower court's ruling becoming final), who knows what will happen. But we can tell you what has happened. Here are the links to four very short summaries:

- [Litigation on Texas Voter ID Law](#)
- [Litigation on Texas Redistricting](#)
- [Understanding the Confusing Redistricting Plan Map Numbering System](#)

- [Understanding the Supreme Court's Decision in Shelby County v. Holder \(Unravelling of the Voting Rights Act\)](#)

Personally, I wish to remain optimistic that the right decision will be the final result. Each of these cases alleging discrimination of one voting group or the other has been found to have merit to some degree. In the mean time we League members should be even more inspired to go the extra mile to assist those most discriminated against. We should seek out those individuals to assist with registration and reach out to election officials to create a welcoming local voting situation whenever we can.

LWV continues to join others in filing court briefs against voter discrimination. Ironically, that even means a friendly brief on the side of the State of Texas in the Evenwel suit - where we support the State's defense of all citizens to be considered in redistricting. For more on this subject see my blog on the Evenwel case.