



Written by [Joe Wolverton, II, J.D.](#) on July 1, 2015

Supreme Court Refusal Protects Illegal Immigrants' "Right to Vote"

Yet another rejection of constitutional principles by the Supreme Court has been overlooked in the furor over the pro-Obamacare and same-sex marriage decisions.

This time, it's not what the justices said, but what they refused to say that is noteworthy.

Reuters reports that the high court's refusal to hear an appeal of the decision in the case of *Kobach, et al. v. Election Assistance Commission, et al*, had the effect of upholding the ruling handed down last November by the 10th Circuit Court of Appeals.



The Kansas City Star provided the following summary of the facts of the case:

The 10th Circuit Court of Appeals in Denver ruled that Kansas cannot require proof-of-citizenship documents — almost always a birth certificate or passport — from prospective voters who register using a federal voter registration form. The court also said that a federal agency doesn't have to alter the form to fit Kansas requirements.

Arizona has a similar proof-of-citizenship requirement, and Kobach argued the case on behalf of both states in conjunction with Arizona Secretary of State Ken Bennett.

In other words, individuals showing up to the polls in Arizona and Kansas can no longer be required to demonstrate proof of U.S. citizenship, opening the ballot box to illegal immigrants.

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Daily Caller reported on the president's support of the Supreme Court's refusal to hear the appeal: "Both the Obama administration and various voter-rights groups — including the League of Women Voters and the League of United Latin-American Citizens — urged the Supreme Court not to hear the case, and SCOTUS' rejection marks what Bloomberg called a landmark victory for the 'groups that battled the two states in court.'"

Roll Call similarly recorded the glee of those opposed to the higher Arizona and Kansas eligibility standards:

In a joint statement, the League of Women Voters of Arizona and Kansas and the Brennan Center for Justice praised the court for "reaffirming the important role Congress plays in preserving a fair voter registration process across the country." The LWV, represented by the Brennan Center and several law firms, was a defendant in the case with the EAC.

"This is an important win for the National Voter Registration Act and an important step forward in making sure that all that are eligible are registered to vote," President of the League of Women



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Voters of the U.S. Elisabeth MacNamara said in a statement.

The Kansas secretary of state isn't convinced that the Supreme Court can interfere with the state's imposition of voter registration requirements. Again, from Daily Caller:

"Our position in court is that we're exercising our state's right to define the qualifications of electors," Kobach told CQ Roll Call Monday afternoon. "By creating this loophole, the federal agency is interfering," he said in reference to the EAC.

Kobach emphasized the court's decision not to review the case does not reflect its opinion on the issues of the case.

"The Supreme Court decision not to review was not particularly surprising given the fact that there was no circuit split yet," he said.

Typically, Kobach continued, "the Supreme Court favors reviewing decisions where one circuit has gone one way and another circuit has gone another way. It appears that the Supreme Court is waiting for another circuit to weigh in." He expects the 11th Circuit, which he said has jurisdiction over two states with similar proof-of-citizenship laws, to eventually get involved.

Kobach is right.

The very idea that the federal government should have power over the voter rolls is anathema to the Constitution. Article I, Section 4 clearly mandates that, "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof."

The voter eligibility issue isn't Kobach's first foray into fighting the federal government.

In 2013, U.S. Attorney General Eric Holder sent a letter to Kansas Governor Sam Brownback informing him that the Obama administration would ignore a Kansas law nullifying federal gun control laws. Furthermore, Holder warned the governor that federal agents would "take all appropriate actions" to enforce federal gun control laws, calling the Kansas statute "unconstitutional."

In [an interview with Fox News](#) conducted after receiving Holder's threat, Kobach laid out his state's position.

"We are very, very confident of our position," he said. "The state of Kansas is not in any way afraid of a legal challenge."

With his stance on the proof of citizenship voting requirement, Kobach shows he's committed to keeping his word.

As for why he is willing to fight so hard to hold on to the citizenship standard for voting, Kobach said, "Every time an alien votes, it may not steal an election, but it will cancel out a vote of a U.S. citizen."

The Founders shared Kobach's dedication to maintaining the integrity of the ballot. In 1763, John Adams wrote:

We electors have an important constitutional power placed in our hands; we have a check upon two branches of the legislature ... the power I mean of electing at stated periods [each] branch.... It becomes necessary to every [citizen] then, to be in some degree a statesman, and to examine and judge for himself of the tendency of political principles and measures. Let us examine, then, with a sober, a manly ... and a Christian spirit; let us neglect all party [loyalty] and advert to facts; let us believe no man to be infallible or impeccable in government any more than in religion; take no



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man's word against evidence, nor implicitly adopt the sentiments of others who may be deceived themselves, or may be interested in deceiving us.

Sam Adams shared his cousin's opinion: "Let each citizen remember at the moment he is offering his vote that he is not making a present or a compliment to please an individual — or at least that he ought not so to do; but that he is executing one of the most solemn trusts in human society for which he is accountable to God and his country."

Alexander Hamilton declared, "A share in the sovereignty of the state, which is exercised by the citizens at large, in voting at elections is one of the most important rights of the subject, and in a republic ought to stand foremost in the estimation of the law."

Finally, Thomas Jefferson said, "The elective franchise, if guarded as the ark of our safety, will peaceably dissipate all combinations to subvert a Constitution, dictated by the wisdom, and resting on the will of the people."

The Supreme Court's refusal to consider the Kobach case could be considered part of a larger "combination to subvert" our Constitution. If those who have no legal status in the United States are allowed to share suffrage with citizens, there is a good chance that candidates promising more "bread" and free tickets to the federal "circuses" will be elected.

State authority to set the manner of elections must be protected, if not by the Supreme Court then by the supreme sovereign: the people.



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