



Written by [Raven Clabough](#) on September 1, 2016

## U.S. Supreme Court Fails to Reinstate North Carolina's Voter ID Law

On Wednesday, the U.S. Supreme Court failed to reinstate parts of North Carolina's voter ID law that had been ruled as unconstitutional by a federal appeals court. With the Supreme Court divided 4 to 4 on the issue, the lower court's ruling remains intact.



**NORTH CAROLINA**  
State Board of Elections

North Carolina passed its voter ID law in 2013 after a 5-4 Supreme Court ruling struck down a provision of the 1965 Voting Rights Act that barred the Southern states from changing their election laws without approval from the U.S. Justice Department. The North Carolina Voter ID law requires that voters who cast ballots must show an acceptable form of identification, which includes driver's licenses, passports, or military IDs. The Associated Press reports that the law also eliminated same-day voter registration and out-of-precinct voting, while also reducing the number of early-voting days.

Defenders of the law explain that it is intended to combat voter fraud, but critics contend that the law disproportionately impacts minority and poor voters.

The U.S. Justice Department, the North Carolina chapter of the National Association of the Advancement of Colored People (NAACP), and several voters brought a case against the law, claiming it was passed in order to disenfranchise minority voters and that it violated the U.S. Voting Rights Act.

But the law found favor from U.S. District Judge Thomas Schroeder, who upheld it in an April ruling. In his 485-page [opinion](#), Schroeder wrote, "North Carolina has provided legitimate state interests for its voter ID requirement and electoral system that provides registration all year long up to twenty-five days before an election, absentee voting for up to sixty days before an election, ten days of early voting at extended hours convenient for workers that includes one Sunday and two Saturdays, and Election Day voting."

Schroeder noted that while North Carolina's history includes "significant, shameful past discrimination," there is no evidence in the state's recent history of "official discrimination."

A very different [ruling](#) was issued on July 29, however, by a three-judge panel on the U.S. Court of Appeals for the Fourth Circuit. The panel issued an 83-page decision wherein it ruled that the law intended to "target African-Americans with almost surgical precision."



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“We cannot ignore the record evidence that, because of race, the legislature enacted one of the largest restrictions of the franchise in modern North Carolina history,” they wrote.

The appeals court ruling struck down five provisions in the law, including the identification requirements, its elimination of same-day voter registration, its rollback of early voting from 17 days to 10, its elimination of preregistration of teens, and its ban on counting votes that were cast in the wrong precincts. The panel claimed that all the provisions “disproportionately affected African Americans,” specifically the identifications provision, which the panel claimed “retained only those types of photo ID disproportionately held by whites and excluded those disproportionately held by African Americans.”

North Carolina Governor Pat McCrory blasted the Court of Appeals ruling. “Photo IDs are required to purchase Sudafed, cash a check, board an airplane or enter a federal courtroom,” McCrory said. “Yet three Democratic judges are undermining the integrity of our elections while also maligning our state.”

The three-judge panel dismissed arguments that the law was intended to combat voter fraud, claiming that the restrictions found within the law simply “constitute inapt remedies for the problems assertedly justifying them and, in fact, impose cures for problems that did not exist.”

But despite the aggressive denial of voter fraud, evidence shows that it is a very real problem.

A 2013 [survey](#) by pollster John McLaughlin illustrates this very point. In McLaughlin’s survey of over 800 Hispanic registered voters, 13 percent admitted they were not citizens of the United States.

A 2014 [study](#) based on survey data from the Cooperative Congressional Election study estimated that 6.4 percent of noncitizens voted illegally in the 2008 presidential election, and 2.2 percent voted in the 2010 midterm elections.

But the Obama administration continues to deny the plausibility of voter fraud, instead targeting voter ID laws as racially discriminatory, claiming they create an unfair burden for low-income, black and Latino voters.

Seventeen days after the appeals court ruling, North Carolina officials asked the Supreme Court to weigh in, though the state challenged only the provisions of the appeals court’s ruling that they claimed would cause confusion in the November elections, those having to do with the identification requirements, the reduction of early voting days and the preregistration of teenagers so that they are enrolled when they turn 18.

The state’s request to the high court said the court of appeals decision “prohibits North Carolina from enforcing one voting measure that this Court has already held States may constitutionally enforce [voter ID], and compels North Carolina to retain other voting measures that few States have.”

“And it does so on the theory that the State’s bare decision to enact a voter-ID law, and to curtail or eliminate permissive practices that few States offer, is compelling evidence of purposeful racial discrimination,” it said.

In response, the Obama administration and civil rights groups argued that making changes to even just those three provisions would further increase confusion and ultimately would allow minorities to endure discrimination in the 2016 election. “It would be a miscarriage of justice and inconsistent with this court’s precedents to permit North Carolina’s discriminatory voting law to remain in force through the 2016 election,” they said in a brief.

According to the *New York Times*, Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor, and Elena Kagan voted against the state’s arguments on Wednesday. Justice Clarence Thomas voted to



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bring back all three of the provisions, while Justices John Roberts, Anthony Kennedy, and Samuel Alito would have revived the voter ID and early voting requirements.

State officials voiced their discontent with the disappointing ruling. “We respect the court, but are disappointed North Carolina will not be among the more than 30 other states with commonsense voter ID in place for the upcoming election,” House Speaker Tim Moore and Phil Berger, the president pro tempore of the North Carolina Senate, said in a joint statement. And Governor McCrory accused the “four liberal justices” of blocking “North Carolina protections afforded by sensible voter laws.”

Wednesday’s ruling is markedly different from a ruling issued by the Supreme Court in 2008, when it recognized the threat of voter fraud and upheld Indiana’s photo ID requirement as a legitimate, non-discriminatory means to prevent voter fraud.

Wednesday’s decision underscores once more just how much impact the upcoming presidential election will have on the future of the court. One can assume that a ninth justice selected by Democrat Hillary Clinton would side with the liberal justices on this issue, while one selected by Republican Donald Trump would likely vote in favor of maintaining the integrity of the voting system by upholding voter ID laws.



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