



Written by [Raven Clabough](#) on September 30, 2013

Justice Department to Sue North Carolina Over Voting Law

The Justice Department [announced](#) today it is suing the state of North Carolina over its new voting rules, alleging that they are racially discriminatory. The DOJ plans to ask a federal judge to place four provisions in North Carolina's voting law under federal scrutiny for an indefinite period of time. The law in question shortens the period for early voting and imposes stricter voter identification requirements.



When signing the current bill last month, North Carolina's Republican Governor Pat McCrory declared that the law would help align the Tar Heel State with rules found in many other states: He [declared](#),

North Carolinians overwhelmingly support a common-sense law that requires voters to present photo identification in order to cast a ballot. I am proud to sign this legislation into law. Common practices like boarding an airplane and purchasing Sudafed require photo ID, and we should expect nothing less for the protection of our right to vote.

But the Department of Justice asserts that the law violates the Voting Rights Act. Fox News reports,

A person briefed on the department's plans told Fox News that the suit would claim that the North Carolina statute violated Section 2 of the Voting Rights Act and would seek to have the state subject to federal pre-clearance before making "future voting-related changes."

In the suit against North Carolina, the DOJ is targeting the law's elimination of the first seven days of early voting and its prohibition of same-day voter registration during the early voting period. The Justice Department is also taking issue with the provision that eliminates the counting of certain provisional ballots by voters who cast ballots in their home counties but not at the correct precincts.

Additionally, the DOJ suit also takes aim at the law's requirement that voters present government-issued identification at the polls in order to vote. The North Carolina state board of elections recently found that hundreds of thousands of registered voters — mostly the young, poor, elderly, or minorities — do not have a state-issued ID.

The Justice Department will be relying on a provision of the Voting Rights Act to argue its case, but as noted by [Fox News](#), it may be an uphill battle:

A handful of jurisdictions have been subjected to pre-clearance, or advance approval, of election changes through the Civil Rights Act provision it is relying on, but a court first must find that a state or local government engaged in intentional discrimination under the Constitution's 14th or 15th amendments, or the jurisdiction has to admit to discrimination. Unlike other parts of the voting law, the discriminatory effect of an action is not enough to trigger court review.

This is the latest effort by the Obama administration to combat voting laws in states across the nation that target potential voter fraud. The DOJ has already filed suit against the state of Texas over its voter ID law and is also attempting to intervene in a lawsuit over the Lone Star State's redistricting laws that minority groups have labeled discriminatory.



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North Carolina is one of at least five states in the South to adopt stricter voting laws following a significant Supreme Court ruling.

In June, five Supreme Court justices ruled in *Shelby County v. Holder* to eliminate a provision in the Voting Rights Act that required states such as North Carolina that are said to have “histories of discrimination” to obtain permission from the DOJ or a federal court to change their election procedures. Since then, many states have passed new voting laws to fight voter fraud.

Attorney General Eric Holder referenced that ruling when he addressed the Congressional Black Caucus on September 20, asserting that he will not permit states to view the Supreme Court’s ruling as “open season” to pass measures that restrict voting rights.

But as observed by Richard H. Pildes, a law professor at the New York University, the Justice Department will have a difficult time targeting North Carolina “particularly when some of these changes, such as reducing early voting, involve measures that make voting more inconvenient but don’t restrict direct access to the ballot box.”

Similarly, Richard Hasen of the University of California stated that the department would “have a hard time proving constitutional or Voting Rights Act violations against North Carolina,” and that regardless of the fact that many of the minority voters are Democrats, “discrimination against Democrats cannot be the basis for these voting claims.”

Attorney General Holder has said that the administration “will not hesitate to take appropriately aggressive action against any jurisdiction that attempts to hinder access to the franchise.”

Analysts wonder, however, why the administration did not take such “appropriately aggressive action” five years ago against efforts to hinder voting at Philadelphia polls by members of the [New Black Panthers](#).

On November 4, 2008, members of the New Black Panthers stood outside a Philadelphia polling facility bearing nightsticks and employing an intimidating stance. When questioned about their presence and their possession of weapons, the Panther members claimed that they were concerned citizens and “that’s why we’re here.”

It was not until a YouTube video of voters’ encounters with the Panthers circulated that the incident gained notoriety, prompting the Bush Justice Department to sue the men involved for violating the 1965 Voting Rights Act through the Panthers’ use of racial slurs, military-style uniforms, and possession of weaponry.

Following the lead of the Bush administration, the Obama administration launched an investigation, and the DOJ won a default judgment against several of the New Black Panther members when they failed to appear at their hearing in April 2009.

Since then, however, the Obama administration elected to dismiss the charges after compromising with the New Black Panther members, who agreed not to carry “a deadly weapon” within the vicinity of a polling place.

Former Department of Justice official Christian Adams later testified before the Civil Rights commission “pursuant to a subpoena investigating the New Black Panther Party voter intimidation dismissal.” During his testimony, Adams claimed that the Obama administration has generally failed to prosecute “non-whites” in voter intimidation cases.

Later, allegations that the Justice Department failed to cooperate with the Civil Rights Commission



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Investigation were [brought](#) by Christopher Coates, the former voting chief for the Civil Rights Division of the Department of Justice. On September 24, Coates gave testimony before the same commission indicating that the DOJ had a different attitude toward civil rights violations against black Americans than it did toward violations against white Americans.

According to Coates, the Justice Department bowed to pressure to dismiss the voter intimidation case from the National Association for the Advancement of Colored People (NAACP) as well as from individuals within the Justice Department.

And while the new Black Panthers continue to go unpunished for intimidating voters at the polls, Attorney General Holder has [targeted](#) the June Supreme Court ruling that attempts to free specific states from selective scrutiny as “deeply flawed.”

Though he acknowledges that the ruling has a “significant impact on the Justice Department’s enforcement abilities,” Holder vows to forge ahead with the suit against North Carolina’s law.



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