

Good morning Mr. Chairman, Ranking Member and members of the Judiciary Committee. My name is Gary Bledsoe. I am President of the NAACP in Texas and a National Board member of the NAACP. I have dedicated my professional career to safe-guarding the rights of citizens in Texas and across this country stemming from our Constitution to include in no small part the right to vote and thus participate equally to preserve free and full elections to ensure the continuing well-being of our Republican form of government. Equal Voting Rights are essential to guaranteeing stability in a democracy. Thinking back to the birth of our nation, the colonists fought for independence from Britain in order to obtain responsive democratic representation. Those colonists fought because they had taxation without representation, like so many other minorities in Texas today. Our nation requires that all citizens have access to meaningful participation and representation in order to continue to thrive. Voting is so important that the great Thurgood Marshall thought that *Smith v. Allwright* victory might be his most important win, possibly even more so than *Brown v. Board of Education*. We should not invite people to our land, pronounce them citizens and thereby expose them to our Constitution but then lock them out from participating in one of the most basic fruits of our society as Texas has attempted to do with its purge list. Once you are a citizen you should be a citizen for all purposes. This is not only morally wrong to treat them this way, it is dangerous to continue and deny full citizenship privileges to African-Americans, Latinos and others, because it undercuts the very core of our Democracy and threatens the continued existence of our Constitution and democracy.

In Texas we have a consistent and yet unbroken history that shames all decent and fair citizens of our great state. That is government sponsored and promulgated racial discrimination against its non-white citizens from the very beginning of citizenship for African-Americans. That is, although slaves had been freed by Lee's surrender to Grant at Appomattox. The slaves in Texas were not freed until June 19, 1865, 2 months and 10 days later. Notably this is also 2 ½ years after the issuance of the Emancipation Proclamation by President Lincoln.

Texas has thereafter acted against the equal rights of its black and Hispanic citizens without respite since then. At first, through what is commonly referred to as the Jim Crow form of separate and unequal treatment of racial minorities. When it came to voting, alone, Texas brutalized Blacks for even contemplating the right to vote. Texas passed law after law and engaged in practices that were designed and intended to disenfranchise Blacks and Hispanics. When women obtained the right to vote, Texas wanted to make sure that African-Americans did not get the right to vote. Texas passed a law to actually prevent Blacks from voting in the primary at that time; the significance of that act being that the primary blacks were restricted from was the only election that mattered at that time. Texas has, up to this very day throughout the period from June 19, 1865 to the present, continued to institute laws that are designed to deny African Americans and Hispanic voters the equal right to vote and elect candidates of their choice.

The Texas NAACP and many other groups are currently still involved in a lawsuit against the State of Texas for it having intentionally discriminated against its citizens in passing redistricting laws that have consistently been found to be racially discriminatory. We have a hearing this same week seeking to have Texas placed under preclearance pursuant to Section 3(c) of the Voting Rights Act. As you know, this is the only way that victims of race discrimination in voting can currently obtain preclearance relief since the Supreme Court invalidated Section 4 of

the Voting Rights Act and thus rendering Section 5 inoperable in the Shelby County case in June 2015. That is, of course, until Congress passes a law fixing Section 4 of the Voting Rights Act.

This provision may provide for required Pre-clearance similar to Section 5 which we all know is now inoperable. Because of our history and what continues to occur, it is essential that we get some protection for our vote, As the NAACP, African-American Congresspersons Eddie Bernice Johnson, Sheila Jackson Lee and Alexander Green, and others noted in our brief seeking 3(c) relief, the 3 Judge panel of two Republican and one Democratic Judge in *Perez v. Abbott* found “Texas and its political subdivisions have had over 200 Voting Rights challenges since 1982.” The panel further noted ‘in every decade since 1970 Texas has passed one or more Redistricting plans after the census that have been declared either unconstitutional or violations of the Voting Rights Act.” This is our reality.

Because of our history in Texas and what continues to occur, here, it is essential that we get some protection for equal voting rights. As the NAACP, African-American Congresspersons and others noted in our brief seeking 3(c) relief, the 3 Judge panel of two Republican-appointed and one Democratic-appointed Judge in *Perez v. Abbott* found “Texas and its political subdivisions have had over 200 Voting Rights challenges since 1982.” The panel further noted ‘in every decade since 1970 Texas has passed one or more Redistricting plan after the decennial census that have been declared either unconstitutional or violations of the Voting Rights Act.” This is our consistent/incessant reality.

In the arena of voter identification we have also seen how reason makes no difference and is in fact absent from the Texas legislature’s actions against its black and Hispanic citizens. Back in 2009 a bipartisan group lead by Republican Todd Smith and Democrat Rafael Ancia had extensive meetings to come up with a fair voter identification law that would have broad bipartisan support. Conservative and liberal nonprofits were part of this group, including the NAACP and MALDEF. The broad group agreed after many weeks to compromise legislation that had integrity and was supported by the group as a whole. However, the legislation got nowhere but it included some important features that were never considered for inclusion in the current bill. The group agreed that the requested ballot security could be realized without the need to negatively impact racial minority populations by providing for more than only a few hard to obtain verifiable identification documents (it must be mentioned that there has been no evidence of any voter fraud in Texas to justify a Voter ID law). Further, the parties recognized that there should not be a draconian application of any rule regarding expired identification. They also recognized that in fairness to the voter, many of whom were working people or elderly, the provisional ballots should be automatically counted unless it was shown prior to counting that there were issues with the individual’s identity.

Two years later, 2011, when the Legislature convened, there was no more bipartisan effort. The bill, SB14, was rammed through the Legislature and numerous discriminatory features were kept in the bill despite many people speaking out against the undeniable effects that the statute would have on African Americans and Hispanics. The election integrity justification for the bill has been shown to be a hollow claim without any reasonable evidentiary support. It was already a felony to wrongfully cast a vote under a fraudulent name or obtained voter registration card so the need for this law was non-existent.

Dr. Vernon Burton testified in the voter identification trial that the same reasons that the State of Texas used this time to try to justify its actions against black and Hispanic voters were the same ones used in previous periods such as after reconstruction when anti-Black laws and Black codes were adopted. The bill disenfranchised hundreds of thousands of voters, mostly minority and elderly. It had restrictive identification options, restrictive time periods for voters to prove who they were and it provided for the ballots tendered without the identification to go to the burial ground for ballots that is otherwise known as provisional ballots. Usually working people or the elderly are unable to go and provide other information that may be needed. It may be that they have work when the office is open or they have no way to get there or no means to do so. One-third of the counties in Texas do not have motor vehicle license facilities, where voters could get the required IDs. There are also counties with no public transportation and very long distances between residences and county administrators.

The option to provide a free election certificate was of no use or value. The requirements to get one were unreasonable, there were costs still associated with getting one, and there was an intimidation factor associated with acquiring one—the use of such a certificate for any other purpose would bring other problems. This means the free certificates cost, are not easy to get and can be used to cause harm to you if used for any other purpose. This makes the free certificates either a meaningless gesture or a dangerous trap. The 3 Judge panel in DC under Section 5 agreed and they invalidated that Texas Law, only to have it given rebirth by the tragic opinion in *Shelby County v. Holder*. We and other groups were forced to sue again, under Section 2 of the Voting Rights Act, and after years of litigation, the Fifth Circuit, sitting en banc, ruled that the law discriminated against Black and Hispanic voters. Later, a district court in Texas had passed the Voter ID law as a result of intentional discrimination.

Because of the strenuous efforts in the Section 2 litigation, we and the other groups were able to obtain relief in the form of an Interim Remedial Order that allowed Texans to vote, even if they did not have the SB14 ID, upon execution of a declaration of reasonable impediment, stating that they did not have the ID. SB5 adopted in the 2017 Legislative session of the Legislature was adopted in order to implement that Interim Remedial Order. But, as usual, the Legislature could not leave it alone, without tinkering with it to make it harder for people to vote. They made the penalty for wrongfully executing the declaration into a higher grade felony. This is an intimidating feature in the bill and everyone knows that the intent is to scare off minority voters. Coincidentally, during the 2016 election when an Affidavit alternative to the photo identification requirement was first used, an election official in Harris County and the Texas Attorney General both made public statements about prosecuting individuals who executed such declarations if any information contained within them was not true. In light of the history of wrongful prosecutions of African-Americans by prosecutors in Texas, these kinds of statements tend to have a chilling effect on the exercise of the franchise because many black and Hispanic voters have experienced the very real possibility that they could be falsely prosecuted and convicted. It is these kinds of provisions that would bear strict scrutiny if we had a reviewing body like the Civil Rights Division of the Department of Justice. Though the effectiveness of the Division has varied over time, it has generally tried to enforce civil rights matters within its jurisdiction under all Presidents except George W. Bush. Unfortunately, it is even less so under the current administration, where efforts at enforcement of the Voting Rights Act appear to have ground to a dead-halt. Some of our NAACP units refuse to educate their community about or encourage the

use of these declarations, because they believe the law can be used to prosecute people for innocent mistakes. I am aware of a prosecution in Tarrant County where a woman mistakenly voted because she thought once she was released that she could vote. She was prosecuted for this mistake.

Texas is becoming majority minority, over 50% of the adult population are African-American or Latino combined, and unfortunately, this fact has instilled fear in those in power. Instead of working cooperatively with minority populations and realizing the strength of this nation's diversity, those in power are doing all they can to place obstacles in the path of minority voters participating equally in our political process. And to make matters even worse, this fear has motivated the most anti-minority of our citizens who are turning out to vote at such an incredibly large numbers their candidates are winning and defeating many conservatives who are much less extreme. In the Redistricting litigation described above, Dr. Richard Murray of the University of Houston testified that the two principal reasons that fuel the motivation for such high voter turnout by extreme conservatives are: (1) the election of President Obama; and (2) their beliefs about illegal immigration. At the same time, the historic discrimination against minorities in Texas and the new barriers to the franchise that those in power are erecting contribute to lower minority voter registration and lower minority voter turn-out. This further demonstrates the shared need for protection by the Latino and African-American communities.

Acts of discrimination in voting continue to occur all over Texas. Our members have reported: discrimination against minority voters by polling officials; hostility to minority voters by polling officials; failure of officials to process voter registrations of minority voters; dysfunctional electronic voting equipment; disproportionately in minority voting locations; hostility to minority voters by official poll watchers; intimidation by state troopers at polling places; harassment of African-American voters by vigilante groups; late changes to voting locations at sites with large proportions of minority voters; location of voting sites inconvenient to minority voters or discouraging voting sites convenient to minority voters or discouraging voting sites convenient to minority voters; the appointment of election judges hostile to minorities and a host of other tactics. We even had one voter who was subjected to repeated use of the N-word by a voter at a polling site in Rusk County when the officials declined to stop the rants even though the African-American voter complained. Sadly it appears too many of our election officials who could help simply too partisan and/or unsympathetic themselves to correct the problems within their jurisdiction when they become aware of them. When news surfaced that electronic voting machines were showing votes for Ted Cruz when the voter believed he or she had voted for Beto O'Rourke, the Secretary of State took action that was sorely inadequate. This has become something to be expected by minorities in too many areas around our State.

When the Kobach Commission sought to obtain sensitive and confidential data from Texas in an alleged attempt to address nationwide voter fraud, the Secretary of State agreed and we had to join with the League of Women voters and sue them. Sensitive data that would include residence addresses and partial social security information for all voters, including important military officials who may be involved in too secret activities but somehow known to the opposition. Subsequently the Commission dissolved, the lawsuit was dismissed and we believe the data would not be turned over and had not been turned over. I talked with security officials for the United States military who indicated if foreign adversaries obtained this type of data it could

have national security implications. I say this because if someone does not put brakes on these types of actions there could be other consequences than voter suppression that have other very serious implications.

Most recently, the Texas Secretary of State in concert with the Attorney General engaged in a public display of a botched attempt to purge voter rolls of minority voters. To great fanfare, they announced that they had discovered nearly 100,000 non-citizens who had registered to vote and that almost 60,000 of them had actually voted. It soon became apparent that the Secretary of State was relying on completely inaccurate data — stale drivers' license records that did not reflect that naturalized citizens who had legally obtained licenses had become naturalized during the 6-years that the licenses were valid. Ultimately, after litigation, the Secretary of State had to rescind the list, but the recklessness with which the Secretary of State and the Attorney General acted is further evidence of a mind-set that toys nefariously with the voting rights of minorities.

We also note that polarized voting is still very high in Texas. As we have seen in Pasadena and Odessa, there are serious desires to simply take away minority electoral gains. A storm did this in Galveston, coupled with how the “rebuilding” has taken place. Whether it is a storm or simply hostile voters who dominate elected officials, minority voting interests are at risk. Good solid minority candidates have been defeated in both regular and general elections.

There is so much to say in a short time. It starts with a motivated critical mass of citizens who have staked their political positions on adversity to racial and ethnic minorities. Many County Commissioners Courts or local election and/or elected officials are now providing for polling sites, staffing personnel and other processes that disadvantage minority voters. The Legislature is passing laws that disadvantage minorities in a host of areas, including on driver's license renewals, voting procedures and qualifications and the redistricting of the Texas Congressional delegation, the Texas Senate and the Texas House of Representatives. We have no reasonable avenue in our State.

Our country is best when it is unified and it treats or provides for treatment of its citizens in a fair manner. We implore you to act as if the term “We the People” as still provided in our living Constitution, actually includes all people: racial ethnic and racial minorities who are equally deserving of the full protections of our citizenship impact as are any other group of citizens.