

Nos. 19-1257 & 19-1258

IN THE  
**Supreme Court of the United States**

,

, et al.,  
Petitioners,

v.

, et al.,  
Respondents.



## TABLE OF AUTHORITIES

### CASES

	( )
Allen . State Board of Elections, 3 3 . . 544 (1 ).....	2
Baker . Carr, 3 . . 1 (1 2).....	20
Bartlett . Strickland, 55 . . 1 (200 ).....	3
Brown . Board of Education, 34 . . 4 3 (1 54).....	1
Chisom . Roemer, 501 . . 3 0 (1 1).....	2, 3
Colegrove . Green, 32 . . 54 (1 4 ).....	20
Dougherty County Board of Education . White, 43 . . 32 (1 ).....	4
Fish . Schwab, 5 . 3 1105 (10 . 2020)....	11, 24, 25
Frank . Walker, . 3 44 ( . 2014).....	2
Frank . Walker, 1 . . 3 3 ( . . . 2014) .....	2 , 2
Gomillion . Lightfoot, 3 4 . . 33 (1 0).....	1 , 20
Hunter . Underwood, 4 1 . . 222 (1 5).....	21
League of United Latin American Citizens . Perry, 54 . . 3 (200 ).....	23
Luft . Evers, 3 . 3 5 ( . 2020).....	11
Nixon . Condon, 2 . . 3 (1 32).....	1
Nixon . Herndon , 2 3 . . 53 (1 2 ).....	1
North Carolina State Conference of NAACP . McCrary , 31 . 3 204 (4 . 201 ).....	23, 24

TABLE OF AUTHORITIES,,Continued

	( )
Ohio State Conference of NAACP . Husted, 3 524 ( .2014) .....	14
One Wisconsin Institute, Inc. . Thomsen, 1 . .3 ( . . .201 ).....	11
Reno . Bossier Parrish School Board, 52 . .320 (2000) .....	4
Shelby County . Holder, 5 0 . .52 (2013).....	24
Smith . Allwright , 321 . . 4 (1 44).....	1 , 1
South Carolina . Katzenbach , 3 3 . . 301 (1 ).....	21
Terry . Adams, 345 . .4 1 (1 53) .....	1
Thornburg . Gingles, 4 . .30 (1 ) .....	2
Veasey . Abbott, 30 .3 21 (5 . 201 ) .....	11, 25, 2 , 2 , 2
Veasey . Perry, 1 . .3 2 ( . . . 2014) .....	11

TABLE OF AUTHORITIES,,Continued

( )  
 . . . 10 -24 , 120 . 5 (200 ).....22  
 2011 . 23.....2

LEGISLATIVE MATERIALS

Hearing on Protecting the Right to Vote: Best  
 and Worst Practices Before the Subcom-  
 mittee on Civil Rights & Civil Liberties of  
 the House Committee on Oversight & Re-  
 form, 11 . 10 ( mm. 201 )  
 ( m ), available at  
 // . /2 .....12

OTHER AUTHORITIES

, , , The Im-  
 pact of Voter-ID Requirements on the Elec-  
 torate,,New Evidence from Indiana ,  
 42 & . 111 (200 ).....1  
 m , , Republicans Are Trying to Kick  
 Thousands of Voters Off the Rolls During  
 the Pandemic ( . 14,  
 2020); rges: A Growryin // . /2 ..... , 13 ( . 14, 0. 5 0 .

TABLE OF AUTHORITIES,,Continued

( )

, & m , The Supreme Court’s Alabama Ruling Could Disenfranchise Thousands of High Risk Voters, m ( . 23, 2020), // . / 3 3 .....

, The Racial Wealth Gap: Asian Americans and Pacific Islanders ( . 2014), // . / 2 m.....10

, , , The Times Called Officials in Every State: No Evidence of Voter Fraud, . . m ( . 1 , 2020), // .m /3 .....

, & m , The Racial Wealth Gap and Today’s American Dream, ( . 1 , 201 ), // . /3 .....10

, , After Democrats Flip State, Georgia Moves to Shut Down Early Voting Locations Ahead of Senate Runoff, ( . , 2020), // . /3 m2 .....15

, , GOP Vows to Probe Georgia Election •CatastropheŽ in Minority Areas, Dems Say it Was •No Accident,Ž ( . 10, 2020), // . /350 2 .....14

Election 2012: Voting Laws Roundup

TABLE OF AUTHORITIES,,Continued

( )

m , m ., Malapportionment and  
Judicial Power , 2 . . 4(1 2).....20

, , The Entirely Preventable Battles  
Raging Over Voting Rights,  
( . 14, 201 ), // . /2 .....2

, , The Problem of Voter Purg-  
ing,,and Where We Go from Here,  
& m  
( . 30, 2020), // . /  
35 .....

- , & m ,  
Iowa Counties Can't Set Up Drop Box Sys-  
tems for Absentee Ballots, Secretary of  
State Says, ( . 2 ,  
2020), // . /3 .....

m , , ., The Health of State  
Democracies, m -  
( 2015),  
// . /3 .....13

, . . & . , Worth  
a Thousand Words?: An Analysis of Geor-  
gia's Voter Identification Statutes ,  
3 m. . 555 (200 ) .....1

, , ., Voter Identification Laws  
and the Suppression of Minority Votes ,  
. 3 3 (201 ) .....1

, ., Was Brandeis an Activist? The  
Search for Intermediate Premises,  
0 . . . (1 ) .....20

TABLE OF AUTHORITIES,,Continued

( )

, U.S. Commission on Civil Rights Meeting, Part 2, - ( . 1 , 201 ), // . /3 4 .....22, 23

, , Texas Governor Limits Election Drop Boxes to One Per County in Sprawling State, ( . 5, 2020), // . /3 .....

, , Waiting to Vote, ( 3, 2020), // . /3 3 ..... , 15

, Together, You Can Redeem the Soul of our Nation, . . m ( 30, 2020), // .m /2 1 .....25

, & m - , Mail Voting Litigation in 2020, Part IV: Verifying Mail Ballots , ( . 2 , 2020), // . /3 3 .....

, Claims of •Voter Fraud• Have a Long History in America. And They Are False, ( . 4, 2020), // . /34 .....

, Tennessee Official: Fear of Virus Not Reason to Vote by Mail, ( 12, 2020), // . / 3 .....

, Press Release: Voter ID Study Shows Turnout Effects in 2016 Wisconsin Presidential Election ( . 25, 201 ), // . /3 5 .....2



TABLE OF AUTHORITIES,,Continued

( )

, , Hispanics, Democrats Biggest  
Groups in Florida’s List of Potential  
Noncitizen Voters, Analysis Shows, m  
m ( 12, 2012), // . /  
2 .....14

, , Mail Voting Litigation in 2020,  
Part I: Application and Eligibility to Vote  
By Mail, ( . 2 , 2020),  
// . /3500 54.....

New Voting Restrictions in America ,  
( . 1 , 201 ),  
// . /3 3 0 .....5

, , Strict Absentee Voting Limits  
Proposed After Record Georgia Turnout,  
( . , 2021),  
// . /3 .....1

, , Constructing the State Action  
Doctrine, 1940-1990 35 & .  
2 3 (2010).....1

, , The Racial Gap in Wait  
Times: Why Minority Precincts Are Un-  
derserved by Local Election Officials, 132  
52 ( . 201 ),  
available at // . /3 .....15

m , & . m ,  
Language Diversity and English Profi-  
ciency, m  
( 2 , 2014), // m . /3 .....13

TABLE OF AUTHORITIES,,Continued

( )

m , m, The Attack on Voting, . . .  
( . 30, 2020),  
// .m /3 5 .....

, m, ., Trump's Fraud Claims  
Died in Court, but the Myth of Stolen Elec-  
tions Lives On

TABLE OF AUTHORITIES,Continued

, Reported Voting ( )

TABLE OF AUTHORITIES,,Continued

( )

Voting Laws Roundup 2020,  
 ( . , 2020),  
 // . /3 1 .....5,

, , ., The 2018 Voting  
 Experience: Polling Place Lines,  
 ( . 4, 201 ),  
 // . /35 .....15

, , Florida's Voter Purge Ex-  
 plained, . ( 1 , 2012),  
 // . /2 .....14

, , Wisconsin Strict ID Law Dis-  
 couraged Voters, Study Finds, . . m  
 ( . 25, 201 ), // .m /3 .....2

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. Bossier Par. Sch. Bd., 52 . . 320, 3 (2000) ( -  
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ARGUMENT

- I. SECTION 2 HAS A VITAL CONTINUING ROLE IN PROTECTING MINORITY VOTERS• EQUAL ACCESS TO THE



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We Go from Here,  
& m ( . 30, 2020), // . /35 .  
- m m  
to Vote 12, . , Waiting  
// . /3 3 ( 3, 2020),  
see also -  
, Democracy Diverted 10-1 ,  
( . 201 ),  
// . /3 0.  
, m , Waiting to Vote, supra.  
m ,  
Id.  
, m 2020 m ,  
m , m , m  
m m  
- . See

cation and Eligibility to Vote By Mail, ( . 2 , 2020), // . /3500 54 - & m , Iowa Counties Can't Set Up Drop Box Systems for Absentee Ballots, Secretary of State Says, ( . 2 , 2020), // . /3 -m -

m - m m m m . See, e.g. & m - , Mail Voting Litigation in 2020, Part IV: Verifying Mail Ballots , ( . 2 , 2020), // . /3 3 .

3. , m , - m ( m ) , m m .

See , Claims of •Voter Fraud• Have a Long History in America. And They Are False , ( . 4, 2020), // . /34 . ( )

The Attack on Voting , . . m ( . 30, 2020), // .m /3 5 . , m

. Id.

, m

2020 -

. See, e.g., mm,Trump's False Fraud

m ,

· ,

- . See & m , The Racial Wealth Gap and Today's American Dream, ( . 1 , 201 ) ( 2014, 31 m 5 ), // . /3 . Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances, - m ( . 2 , 2020) ( 201 , m m m ), // . /3 , The Racial Wealth Gap:

m m  
m m m  
m , - - m . ,  
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. Fish . Schwab, 5 .3 1105, 112 (10 m .  
2020).  
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. One Wisconsin Insti-  
tute, Inc. . Thomsen, ,  
, , m  
m m .  
1 . .3 , 15 ( . . . 201 ), aff'd in part,  
rev'd in part sub nom. Luft . Evers, 3 .3 5 ( .  
. 2020). m , Veasey . Perry,  
, ,  
\$321 m m ,  
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\$42.00  
m m ,  
. . .  
. 1 . .3 2 , 5 ( . . . 2014), aff'd in  
part, rev'd in part sub nom. Veasey . Abbott, 30 .3  
21 (5 . 201 ) ( ).  
- - m ,  
m m m  
m , 2011 m , 4 -  
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m , \$50 m .  
 Hearing on Protecting the Right to Vote: Best and  
 Worst Practices Before the Subcomm. on Civil Rights  
 & Civil Liberties of the H. Comm. on Oversight & Re-  
 form, 11 . 10 ( mm. 201 ) ( m  
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Voting Rights Access in the United States: 2018 Statutory Report 144-15 ( . 201 ), // . /3 .

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2012 2, 00 -  
500 . , Florida's Voter Purge  
Explained , ( 1 , 2012),  
// . /2 . 2, 00 ,  
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. Id. m ,  
13% m . ,

Hispanics, Democrats Biggest Groups in Florida's List of Potential Noncitizen Voters, Analysis Shows, m  
m ( 12, 2012), // . /2 .

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State Conference of NAACP . Husted, .3 524,  
533 ( . 2014),

2020), // . /350 2 . m -

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. , After Democrats Flip State,  
 Georgia Moves to Shut Down Early Voting Locations  
 Ahead of Senate Runoff, ( . , 2020),  
 // . /3 m2 .

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, The Racial Gap in Wait Times: Why Minority  
 Precincts Are Underserved by Local Election Officials,  
 132 . 52 , 52 ( . 201 ), avail-  
 able at // . /3 . ,

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- , m . ., The  
 2018 Voting Experience: Polling Place Lines 21, -

, ( . 4, 201 ),

// . /35 . m

m -

supra .5. . See

m m -  
m , m m  
m

See, e.g. , Voter ID: Who Has Them? Who Shows Them? . . . 21, 3 -43 (2013) -

., The Disproportionate Impact of Voter-ID Requirements on the Electorate,,New Evidence from Indiana, 42 & . 111 (200 ) &

, Worth a Thousand Words?: An Analysis of Georgia's Voter Identification Statutes , 3 m. . - 555 (200 ) ., Voter Identification

Laws and the Suppression of Minority Votes , . . 3 3 (201 ). , m

m , m . , 2012 Survey of the Performance of American Elections , ( . 25, 2013).

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II. THIS COURT SHOULD CONTINUE TO INTERPRET SECTION 2 TO EMPOWER COURTS TO PROTECT AGAINST THE PERSISTENT AND ADAPTIVE PROBLEM OF DISCRIMINATION IN VOTING

A. For Generations, This Court Has Protected Democracy By Striking Down Barriers To Participation

Brown v. Board of Education, 347 U.S. 483 (1954).  
 See, e.g., Nixon v. Herndon, 233 U.S. 53 (1912).  
 See, e.g., the State Action Doctrine, 1940-1990 35 & 23, 2 (2010).  
 See, e.g., Id. 541.



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Malapportionment and Judicial Power , 2 . . 4

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. , Was Brandeis an Activist? The Search for Intermediate Premises , 0 . . . , 1 (1 ).





2) 1 0, 1 5, 1 2, 1 2, 200 . See  
 . . . 1-2 5, 4 .314 (1 0) . . . 4-  
 3, .402 (1 5) . . . -205, .131

m. , Commission on Civil Rights Meeting, supra.

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’ m ’ Id. 440. LU-  
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m , m 2’  
m , m . Id. 442.  
m , m -

’ , North Carolina State Conference  
of NAACP . McCrory ,

’  
201 ). . 31 .3 204, 214 (4 .  
,  
,

2013. Id. ,  
 m Shel-  
 by County . Holder, 5 0 . . 52 (2013),  
 m -  
 m ' . 31 .3 214. -  
 , , m  
 . Id. m m -  
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 . Id. 22 . m , -  
 m -  
 m m . Id. 215. -  
 , , Fish . Schwab -  
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1. Texas Voter ID Law . Shelby  
County, ,

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ment by Texas Attorney General Greg Abbott ( 25,  
2013), // . /34 3 m see also ,The Entire-  
ly Preventable Battles Raging Over Voting Rights ,  
( . 14, 201 ), // . /2 .  
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, id. 24-25. -  
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2. Wisconsin Voter ID Law . 2011,  
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. 2011 . 23.

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. Frank . Walker, 1 . .3 3 , 3,  
( . . . 2014). ,  
300,000 ,  
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54, <sup>m</sup> 0- 2. . Id.

er, .3 44, 55 ( . 2014). ' 2. Frank . Walk-

, m . Id. 53. , m m , -



, Wisconsin Strict ID Law Discouraged Voters, Study Finds, m ( . 25, 201 ), // .m /3 . .3%

, m 2 .5% , Press Release: Voter ID Study Shows Turnout Effects in 2016 Wisconsin Presidential Election ( . 25, 201 ), // . /3 5 . m

m . Id. , Wis-consin Strict ID , supra. m m m 201 , 2020 25,000 .

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CONCLUSION

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# APPENDIX

**APPENDIX: LIST OF AMICI**

ACCESS

Advancement Project National Office

American Federation of Labor and Congress of  
Industrial Organizations

Andrew Goodman Foundation

Anti-Defamation League (ADL)

Asian & Pacific Islander American Health Forum

Asian Americans Advancing Justice

Black Alliance for Just Immigration

Central Conference of American Rabbis

Clean Elections Texas

Common Cause

Communications Workers of America

Demos

End Citizens United / Let America Vote Action Fund

Fair Count Inc

Generation Vote

Government Accountability Project

Hispanic Federation

Justice for Migrant Women

Lambda Legal

League of Women Voters United States

Matthew Shepard Foundation

Men of Reform Judaism

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Mid-Ohio Valley Climate Action

NARAL Pro-Choice America

National Alliance for Partnerships in Equity (NAPE)

3a

Union for Reform Judaism

Union of Concerned Scientists

Women Lawyers on Guard Inc.

Women of Reform Judaism

Youth Progressive Action Catalyst