

Shelby County v. Holder, 570 U.S. 529 (2013)

1. A brief description of the case - no more than one page.

The Voting Rights Act of 1965 was passed to prevent racial discrimination in our country's voting process due to the previous systemic disenfranchisement of black voters. Section 4(b) of the Act details the formula used to determine which jurisdictions must meet the requirements of Section 5. Section 5 stated that the jurisdictions determined by 4(b) must obtain federal clearance to make any changes to their voting procedures. The formula in Section 4(b) determined whether a jurisdiction must obtain clearance if they required certain tests as a prerequisite for voting and used a formula based on racial voter turnout data from years previous to the creation of the Voting Rights Act.

Shelby County, Alabama challenged Sections 4(b) and 5 of the Voting Rights Act of 1965. They claimed the Act was unconstitutional because it required some counties in some states to obtain federal clearance before changing voting procedures due to outdated coverage formula based on outdated data.

The district court upheld the Act and the District Court of Appeals affirmed. The case was brought to the US Supreme Court via a writ of certiorari. The Supreme Court reversed the previous courts' decision, claiming that Section 4(b) of the Voting Rights Act of 1965 was indeed unconstitutional since the burdens imposed by the Act were not justified by current needs, but rather voter turnout data from the 1960's.

2. Identify the regulatory agency and action involved in this case and the action it has taken that has triggered this lawsuit.

The United States Department of Justice is the agency responsible for oversight of the Voting Rights Act using data provided by the United States Census Bureau regarding voter turnout. Shelby County brought up this case against the Attorney General due to the regulatory action of the Department of Justice in regards to specific voting procedures. Through the Voting Rights Act, the Department of Justice had the power to veto changes to voting procedure within these jurisdictions such as prerequisite tests, voting locations, and the use of early and absentee voting.

3. Identify the key regulatory question before the court arising from this regulation.

Are Sections 4(b) and 5 of the Voting Rights Act of 1965 unconstitutional on the basis of restricting voting procedures in some jurisdictions more than others?

4. Who won the case? (Describe the winning party)

Shelby County, Alabama was the winning party of this case. As a formerly designated jurisdiction under Section 4(b) of the Voting Rights Act of 1965, they no longer need to obtain clearance from the Department of Justice before changing voting procedures in their county. The case began when Shelby County, Alabama sued the United States Attorney General, Eric Holder Jr., seeking a declaratory judgement that states section 4(b) and 5 of the Voting Rights Act are facially unconstitutional and

therefore seeking a permanent injunction against their enforcement. Judge John Bates upheld the Section 4(b) and 5 provisions of the act, stating that the evidence presented before Congress in 2006 when the Voting Rights Act was reauthorized was sufficient evidence to justify the enforcement of the coverage formula used in Sections 4(b) and 5. The case then proceeded to the United States Court of Appeals for the Washington D.C. Circuit where the

5. What was the court's reasoning behind its decision: why did the court rule against the agency or the regulation?

The Supreme Court determined that Section 4(b) was unconstitutional because it exceeded the power of Congress to enforce the Fourteenth and Fifteenth Amendment of the Constitution. The majority ruled against this voting rights regulation since the coverage formula used in Section 4(b) to determine the jurisdictions in question under Section 5 was ultimately outdated. The Court justified this using data showing improvements in racial disparities in voter turnouts in the designated jurisdictions, therefore proving that racial discrimination in the voting process may no longer be as severe of a problem in these designated jurisdictions. A similar case was brought to the Supreme Court in 2006 when Congress extended the Voting Rights Act. The majority opinion in this case implied that the constitutionality of Sections 4(b) and 5 of the Voting Rights Act was questionable, but the court did not explicitly vote on whether the Sections of the Act were unconstitutional. The majority opinion in this case of *Shelby County V. Holder* used this 2006 case as precedent, stating that Congress had the

opportunity to update the outdated coverage formula outlined in Section 4(b) when they extended the Voting Rights Act in 2006. Without these Sections, all states are held to the same standards set in the other remaining sections of the Voting Right Act of 1965.

6. What precedent was set by this case: How has the regulatory environment been changed?

The regulatory environment has been changed by this case because the Department of Justice no longer has strict oversight over voting changes in potentially problematic jurisdictions. The precedent set by this case has been linked to an increase in racial disparities to voter access. Five years after the *Shelby County V. Holder* ruling, nearly 1,000 polling locations have closed, the majority of these located in predominantly African-American counties. Research has shown time and time again that closing and relocating polling locations decreases voter turnout in those regions. A study published in 2020 by the Journal of American Politics Research, indicated that many jurisdictions previously overseen by Section 5 of the Voting Rights Act have decreased early voting and absentee voting and increased barriers to voting such as strict voter ID laws.

7. Key section of the paper: Conduct a political analysis of what the decision by the court has done in terms of the ability of the regulatory agency to regulate this issue in the future, the discretion remaining for the agency regulate in this area, and the reason why

Congress has not taken further action in this area to address the issues raised in the court case?

The decision by the Supreme Court in *Shelby County V. Holder* has decreased the regulatory power of the Department of Justice in regards to the protection of equal voting rights within jurisdictions that were previously known to have a low minority voter turnout. However, it was only Sections 4(b) and 5 of the Voting Rights Act that were affected by the *Shelby County V. Holder* decision. This means all jurisdictions within all fifty states are still subject to the requirements of the remaining sections of the Voting Rights Act, such as a ban on any voting laws that may disproportionately disenfranchise minority voters as well as prohibition of any unjust prerequisites to voting like literacy tests. The Department of Justice still holds the responsibility to oversee the reinforcement of these remaining sections of the Voting Rights Act.

The Voter Rights Act of 1965 has been reauthorized by Congress countless times over the decades since it was enacted, but with each extension of the act there were updates to the coverage formula used in Section 4(b). Congress maintains the responsibility to enforce the equal voter rights granted under the Fourteenth and Fifteenth Amendment, but the legislation must address current needs. There have been many legislative proposals introduced to amend the Voting Rights Act that include an updated coverage formula with new jurisdictions required for federal preclearance to changes in voting regulations. All of these congressional proposals have died in various stages of legislation. These proposals have continuously been an issue among

bipartisan agreement because voter regulations have been known to influence the outcome of elections in regards to which party wins. For instance, if states have the power that they do now to change voter regulations without federal preclearance, the incumbent party can change polling locations in favor of their projected voter turnout based on demographics. Irregularities among various states' voting laws have undoubtedly affected the outcomes of congressional elections. This implies that members of Congress themselves each have a strong opinion on whether their state or the federal government has control over voting regulations since changes to these regulations could cost them their career.

Works Cited

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