

FOR IMMEDIATE RELEASE
April 2, 2014

CONTACT:

Cynthia Gordy, Advancement Project, cgordy@advancementproject.org, 202-341-0555
Kristen Muthig, Fair Elections Legal Network, kmuthig@fairelectionsnetwork.com, 202-331-0114
John Garcia, LatinoJustice PRLDEF, jgarcia@latinojustice.org, 212-739-7513
Michael McDunnah, mmcdunnah@projectvote.org, 202-905-1397

Florida Purge Program Was Illegal, Rules Federal Court

Eleventh Circuit Rules that Florida's 2012 Purge Violated National Voter Registration Act

MIAMI – Marking a major victory for Florida voters, the United States Court of Appeals for the 11th Circuit ruled on Tuesday that Florida’s 2012 voter purge program violated federal law. The court, in a 2-1 decision, found that Gov. Rick Scott’s voter purge of suspected non-citizens in 2012 violated the National Voter Registration Act (NVRA), because systematic removal programs are barred within 90 days of a federal election.

The appellants included Karla Arcia and Melande Antoine, two Miami citizens wrongly targeted as non-citizens under Florida’s voter purge, and the following organizational plaintiffs: Florida Immigrant Coalition, National Congress for Puerto Rican Rights, and 1199 SEIU United Healthcare Workers East-Florida. Led by Lorelie Masters, now at Perkins Coie LLP, and Marc Goldman, of Jenner & Block LLP, the legal team included a coalition of civil rights groups – Advancement Project, Fair Elections Legal Network, LatinoJustice PRLDEF and Project Vote -- as well as SEIU and the Law Offices of Chavez & De Leon, P.A.

In the majority opinion, Circuit Court Judge Beverly B. Martin concluded that the NVRA bars Florida from systematically removing voters from the rolls using the Department of Homeland Security’s federal immigration database known as Systematic Alien Verification for Entitlements (SAVE), within 90 days of any federal election. “Eligible voters removed days or weeks before Election Day will likely not be able to correct the State’s errors in time to vote,” Judge Martin wrote. “This is why the 90 Day Provision strikes a careful balance: It permits systematic removal programs at any time except for the 90 days before an election because that is when the risk of disfranchising eligible voters is the greatest.”

The victory is the second win for the litigation team, which in 2012 settled a separate discrimination claim in the same case. The initial purge, which flagged nearly 2,700 registered Florida voters as alleged non-citizens, disproportionately affected voters of color. More than 82% of the voters who received notice letters were people of color, and many turned out to be eligible citizens.

“The Court’s decision is a victory not only for the thousands of voters who were wrongly targeted by Florida’s 2012 purge list; it’s a win for naturalized citizens and for democracy,” said Katherine Culliton-González, Advancement Project Director of Voter Protection. “Importantly, the Court again recognized the standing of advocacy groups acting on behalf of its affected members. With another election ahead of us this year, we remain vigilant to ensure that politicians do not again restrict the fundamental right to vote.”

“The Court recognized, as Congress did in passing the NVRA, that systematic removal of voters from the rolls is complicated and should not be attempted just prior to an election. False positives during voter purges put legitimate voters at risk, and conducting a large scale voter purge within 90 days of an election only heightens the risk that these mistakes will occur,” said Courtney Mills, Staff Attorney for the Fair Elections Legal Network. “We applaud the Court for correctly finding that Secretary Detzner violated federal law with this purge and for protecting voters across the state from future risk of these problematic efforts leading up to Election Day.”

"Election integrity means making sure that legitimate voters aren't wrongfully removed from the rolls," said Michael Slater, Executive Director of Project Vote. "This decision vindicates the important role the National Voter Registration Act provides in protecting eligible voters from these kinds of last-minute purges."

“The National Voter Registration Act clearly prohibits purge activities within 90 days of a federal election because of the potential for error and voter intimidation,” said Jose Perez, Deputy General Counsel of LatinoJustice PRLDEF. “Florida’s belated 2012 voter purge seeking to remove naturalized citizens from the election rolls was clearly targeted towards Latino voters, and a blatant attempt to disenfranchise Latinos from participating in the electoral process.”

“This is the first court decision making clear that Congress meant what it said in the NVRA: Florida and other states should now stop making massive, error-prone efforts to remove voters in the critical period just before elections,” said Marc Goldman, a partner at Jenner & Block who argued the case for the plaintiffs.

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