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Judge Walker orders Florida Executive Clemency Board to establish new voting rights restoration process

"Defendants' proposed remedy to abandon the whole vote-restoration scheme does not pass constitutional muster."

TALLAHASSEE, FL – U.S. District Court Judge Mark Walker issued a permanent injunction today that requires Florida's Executive Clemency Board to establish a new voting rights restoration process for former felons by April 26. While the Court did not order the automatic restoration of voting rights for any former felons, he instructed the Clemency Board to establish "specific and neutral criteria to direct vote-restoration decisions," and "meaningful, specific, and expeditious time constraints" for the voting rights restoration process. The opinion suggested under any new system no one should have to wait more than an election cycle for a decision on their application. The Court stated this relief "is appropriate to ensure that Florida's vote-restoration scheme is no longer based on unfettered discretion."

Fair Elections Legal Network and the law firm Cohen Milstein Sellers & Toll PLLC, counsel for the plaintiffs in *Hand v. Scott*, filed the lawsuit in March 2017. In February 2018, Judge Walker ruled Florida's arbitrary voting rights restoration process for persons with felony convictions violates the 1st and 14th Amendments to the United States Constitution. Florida is still permitted to deny the right to vote to persons with felony convictions, and felons still cannot register or vote until that right is restored.

"[T]he Board cannot rely on whims, passing emotions, or perceptions. Establishing safeguards against viewpoint discrimination should be the Board's paramount goal following this Order," Judge Walker wrote in his order. "In the future, concrete criteria . . . must direct the Board. And its rules must spell these criteria out with precision." Judge Walker also emphasized the changes to the restoration scheme must be "robust and meaningful."

"Today the Court has ordered Defendants to make meaningful changes to Florida's voting rights restoration scheme that will eliminate the risk of arbitrary and discriminatory decision-making and not merely serve as smoke screens," said Jon Sherman, Senior Counsel at the Fair Elections Legal Network. "This is a victory for the principle that the right to vote cannot be subjected to officials' gut instincts and whims. We are also heartened that the Court prevented Florida from following through on its threat to become the only state in the nation with an irrevocable lifetime ban on voting for all former felons—what the Court called 'the ultimate arbitrary act.'"

“We are extremely pleased with Judge Walker’s ruling. This ruling continues to shed sunlight on what we as citizens hold so precious in our democracy, the right of all citizens to exercise their right to vote,” stated Ted Leopold a Partner with Cohen Milstein, and Chair of the firm’s Catastrophic Injury & Wrongful Death, Managed Care Abuse, and Unsafe & Defective Products practices and Co-Chair of the Consumer Protection practice.

Background

Judge Walker’s February 1st decision affirmed that the 1st Amendment protects the right to vote and concluded that the process by which Florida officials grant or deny former felons’ restoration of voting rights applications is unconstitutionally arbitrary. The decision did not immediately order a remedy for the unconstitutional system.

Florida is one of four states that denies the right to vote to all former felons until they petition for rights restoration, and this process is the target of the lawsuit. Almost 1.5 million Floridians are currently disenfranchised even after completing their sentences, including men and women of all different political parties, races, ethnicities, ages, from cities and rural areas, as well as veterans, small business owners and others.

The lawsuit cited the lack of any rules governing the Executive Clemency Board’s decisions to grant or deny applications and contended that the arbitrary rights restoration process violates the U.S. Constitution.

[The text of today’s order can be found here.](#)

[The Judgement can be found here.](#)

[The original complaint, the U.S. District Court’s decision from February 1, procedural documents and other information on Hand v. Scott can be found here.](#)

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[The Fair Elections Legal Network \(FELN\)](#) is a national, nonpartisan voting rights and legal support organization. Our mission is to eliminate barriers to voting and improve election administration across the United States. Working alongside other national and state groups, FELN works to make the processes of voter registration, voting, and election administration as accessible as possible for every American.

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