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Judge rules Florida's arbitrary felon voting rights restoration scheme unconstitutional; remedy not immediately ordered

"Florida's vote-restoration scheme is crushingly restrictive."

TALLAHASSEE, FL – United States District Court Judge Mark E. Walker ruled Florida's voting rights restoration scheme violates the First Amendment rights of free association and free expression, and the Fourteenth Amendment of the United States Constitution. The decision, issued today, affirmed that the First Amendment protects the right to vote – "the beating heart of our democratic government" – and concluded that the process by which Florida officials grant or deny former felons' restoration of voting rights applications is unconstitutionally arbitrary. Judge Walker ordered further briefing from the parties on the appropriate remedy. Florida's former felons still cannot register or vote.

"The question is whether the Clemency Board's limitless power over Plaintiffs' vote-restoration violates their First Amendment rights to free association and free expression. It does. This should not be a close question," Judge Walker stated in the decision.

The lawsuit was filed in March 2017 by the national voting rights organization, Fair Elections Legal Network, and the law firm, Cohen Milstein Sellers & Toll PLLC, on behalf of a proposed class of almost 1.5 million former felons who have completed their full sentences.

Citing a long line of Supreme Court cases striking down laws which give officials unrestricted power to control First Amendment rights, the Court concluded that the absence of any constraints on the Executive Clemency Board's power to restore or deny voting rights "risks—if not covertly authorizes the practice of—arbitrary and discriminatory vote-restoration."

"Today a federal court said what so many Floridians have known for so long—that the state's arbitrary restoration process, which forces former felons to beg for their right to vote, violates the oldest and most basic principles of our democracy," said Jon Sherman, Senior Counsel at Fair Elections Legal Network. "While the Court has yet to order a remedy in this case, it has held in no uncertain terms that a state cannot subject U.S. citizens' voting rights to the limitless power of government officials."

The Court's order also stated that, "In Florida, elected, partisan officials have extraordinary authority to grant or withhold the right to vote from hundreds of thousands of people without any constraints, guidelines, or standards. The question now is whether such a system passes constitutional muster. It does not."

“We are very happy with the Court’s ruling as it provides our country’s most basic rights to be restored to those who have served their time. No longer can politicians arbitrarily deny fundamental rights to citizens of the State of Florida,” said Theodore Leopold, partner with Cohen Milstein Sellers & Toll.

The decision concluded, “If any one of these citizens wishes to earn back their fundamental right to vote, they must plod through a gauntlet of constitutionally infirm hurdles. No more.”

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. About 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. Over 10,000 former felons are waiting for a hearing on their restoration applications.

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 and hinders former felons from truly reentering society.

[The text of the decision can be found here.](#)

[The original complaint, 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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