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LDF Files Supreme Court Amicus Brief Opposing Voter Purges

The NAACP Legal Defense and Educational Fund, Inc. (LDF) has filed an amicus brief opposing Ohio's process of purging citizens from the state's voter registration rolls. In *Husted v. A. Philip Randolph Institute*, the Supreme Court will determine whether Ohio can remove voters from the rolls solely because they do not or cannot vote over two election cycles.

LDF's brief supports the contention that federal laws such as the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA) prohibit states from removing voters solely for inactivity.

"To suggest that voting is somehow now a 'use it or lose it' proposition, disrespects voters and undermines the entire purpose of the National Voter Registration Act," said Sherrilyn Ifill, LDF President and Director-Counsel. "That law was explicitly designed to expand the voting rolls. The Department of Justice (DOJ) has always understood that to be the law's primary purpose. Until now. Under the leadership of Attorney General Sessions, the DOJ has once again reversed course to support a state law that will result in the disenfranchisement of eligible voters."

Under Ohio's "Supplemental Process," the names of inactive voters are removed from voter registration rolls if an individual does not vote within a two-year period. Unless affirmative steps are taken to confirm their voter status within a four-year period, the voter is removed from the state's voter rolls.

In 2015, more than 40,000 voters were purged from Ohio's voter rolls in Cuyahoga County alone. The Sixth Circuit Court of Appeals blocked Ohio's Supplemental Process ahead of the November 2016 elections, allowing 7,515 voters who had been purged ballot access.

LDF's amicus brief also calls attention to the U.S. Department of Justice's (DOJ) recent decision to abandon its longstanding position that the NVRA and HAVA prohibit techniques like Ohio's voter purge.

"Ohio's method of purging the voter rolls must be viewed in the broader context of state and local efforts to make it increasingly difficult for minority voters to register to vote," said Samuel Spital, LDF's

Director of Litigation. “Under federal law, Ohio’s supplemental process is unlawful. LDF is not alone in this interpretation. The Justice Department has supported this view for two decades, and it has offered no principled explanation for reversing course here.”

Indeed, prior to this case, the DOJ had long supported the view that the NVRA and HAVA prohibit practices, such as the purging of voter rolls based solely on the fact that a person has not voted.

“For two decades, under both Republican and Democratic administrations, the Department of Justice has maintained that states cannot expunge voters merely for inactivity,” said Leah Aden, LDF Senior Counsel. “The Department made the same argument in this very case in the lower courts and yet made a startling U-turn just weeks after the swearing in of Attorney General Sessions. The Court should be highly skeptical of its new statutory arguments.”

LDF filed the brief together with the Leadership Conference on Civil & Human Rights and the law firm, Orrick, Herrington & Sutcliffe, LLP.

Oral arguments in *Husted v. A. Philip Randolph Institute* will be heard on November 8.

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization and has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.