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## **Supreme Court Undercuts Strength of Voting Rights Act in Ruling on Remaining Anti-Discrimination Protections**

Today, the United States Supreme Court issued its decision in *Brnovich v. Democratic National Committee*, holding that the Voting Rights Act (VRA) does not prohibit Arizona voting laws and procedures that prohibit third parties from returning completed absentee ballots and that do not count in-person ballots cast out of precinct, notwithstanding evidence that those provisions had a discriminatory result for voters of color and notwithstanding the lack of any evidence that the provisions were necessary to serve any legitimate state interest.

The NAACP Legal Defense and Education Fund, Inc. (LDF) filed an amicus brief in the case highlighting how the text, history, and Congress's purpose in enacting Section 2 of the VRA—which prohibits all voting laws that deny or abridge minority voters' right to vote—requires consideration of all circumstances that burden Black voters and voters of color, including when evaluating present-day discriminatory voting rules. In today's opinion, however, a sharply divided Court substantially narrowed the scope of Section 2 by creating a new test that imposes new burdens on voters seeking to vindicate their rights under Section 2, and which has no support in the statute's text or history.

"The Voting Rights Act of 1965 was once our country's most effective federal civil rights legislation, won on the backs of civil rights leaders and allies determined to gain unfettered access to the ballot box for Black Americans. Today's decision dealt a substantial blow to what was left of the Act following the Court's *Shelby County* decision, which effectively invalidated the other core part of the statute" said Janai Nelson, LDF's Associate Director-Counsel. "The Court's decision creates new and additional burdens to challenges of discriminatory voting laws. In doing so, it resists the storied and tragic history of sacrifice by Black Americans that led to the passage of the Act, and the democratic ideals the Act was passed to protect. The decision is antithetical to the core goals of democracy and is a major setback to past and future efforts to end discrimination in voting."

"More than a dozen states across the country have passed laws that make it harder for Black voters and other voters of color to access the ballot box. This legislative push represents a clear backlash to the record turnout by Black voters and other voters of color in recent elections and is aimed at suppressing their future participation in the political process," said Mahogane Reed, the John Payton Appellate and Supreme Court Advocacy Fellow at LDF. "Today's decision undercuts the utility of a key provision of the what's left of the VRA. We will continue to use the tools available to protect the right to vote, including Section 2, but today underscores the significant and urgent need for Congress to pass robust and comprehensive federal voting rights legislation to protect the right to vote through uniform voting laws and updated provisions like those found in the For the People Act and the John Lewis Voting Rights Advancement Act."

While the Supreme Court's 2013 *Shelby County v. Holder* decision invalidated Section 5 of the VRA, which required states and localities with a persistent history of voting discrimination to obtain federal preclearance before implementing changes to their voting policies and practices, the Court also emphasized at the time that Section 2 would remain as an essential anti-discrimination provision in the Act.

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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. LDF 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. Follow LDF on [Twitter](#), [Instagram](#) and [Facebook](#).*