The Real Voter Fraud Is Texas’ ID Law

By THE EDITORIAL BOARD  AUG. 7, 2015

For years, voter identification laws have been sold as a sensible antidote to fraud at the polls. Many people, including Supreme Court justices, have bought that fallacious line, even though in-person fraud is essentially nonexistent.

Now, slowly but surely, such laws are being revealed for the racially discriminatory, anti-voter schemes that they are.

On Wednesday, a federal appeals court panel unanimously agreed that Texas’ voter ID law had a discriminatory effect on black and Latino voters, and therefore violates the 1965 Voting Rights Act. It was the first time a federal appeals court had ruled against such a law. It was also a sign that the Voting Rights Act
remains functional, despite the 2013 Supreme Court decision that cut out a key provision requiring federal oversight of jurisdictions, like Texas, with histories of racial discrimination.

The Texas law, passed in 2011 by a Republican-dominated Legislature, is one of the strictest in the nation. It requires voters to take a government-issued photo ID to the polling place. But not all IDs will do. Student IDs and even voter registration cards are not acceptable, while a permit to carry a concealed weapon is.

Last year, after a lengthy trial, a federal judge in Corpus Christi struck down the law, finding that more than 600,000 Texans — disproportionately poor, black and Latino — lacked the necessary ID and could be barred from voting. Compare that number with instances of voter fraud: Out of 20 million votes cast during the 10 years before the law was passed, there were two convictions for voter impersonation fraud.

Judge Nelva Gonzales Ramos of Federal District Court ruled that the law violated several provisions of the Constitution, including the ban on poll taxes, because it forced registered voters to track down or pay for the necessary documents. She also ruled that it was passed with the intent to discriminate against black and Latino voters, who tend to vote Democratic. This was particularly important because only a finding of intentional discrimination opens the door to the reinstatement of federal supervision over Texas’ voting laws.

For decades, that supervision had been essential in blocking thousands of discriminatory measures — as it did Texas’ voter ID law — before they could harm voters. But the Supreme Court threw out the formula in 2013 that determined which states and localities needed permission to change their laws, saying it was outdated.

Within hours of that ruling, Texas resurrected its voter ID law.
Unfortunately, the appeals court ruling on Wednesday rejected Judge Ramos’s finding that the law was enacted with the intent to discriminate. It said the evidence she relied on — Texas’ “uncontroverted and shameful history” of racial discrimination in voting, as well as comments by lawmakers who were opposed to the law — was not enough. It ordered her to reconsider her finding of intentional discrimination using different evidence.

The voter ID issue will almost certainly be decided by the Supreme Court. The justices last considered such a law in 2008, upholding Indiana’s statute despite a total lack of evidence of fraud. Justice John Paul Stevens, now retired, who wrote the 2008 decision, has since admitted misgivings about voter ID laws. So has Richard Posner, a federal appeals judge in Illinois who had previously upheld the Indiana law, but later said that these laws are “a means of voter suppression rather than of fraud prevention.”

How much more do the justices need to see before they reach the same conclusion?

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