

## **Major Voting Litigation That Could Impact Voting Access**

States across America are in the midst of major battles over voting rights. In the lead-up to the 2012 election, courts blocked or blunted most of the worst new voting restrictions passed that year, at least temporarily. Many of those court battles continued into 2014 and 2015. Federal and state courts weighed in on major challenges to new voting laws in seven states — and to administrative policy in one more — and they are not done yet. This document describes the cases we are currently watching. Each of these cases has the potential to impact voting access for years to come. [Click here](#) for an interactive version of this page.

### **Arizona**

#### **[Kobach v. EAC](#)**

U.S.D.C. for the District of Kansas, 13-cv-4095

U.S.C.A. for the Tenth Circuit, 14-3062

Arizona voters approved a referendum in 2004 requiring documentary proof of citizenship to register to vote, and the state began applying that new restriction soon after. But in June 2013, after protracted litigation, the U.S. Supreme Court invalidated the measure as it applied to voters using the federal voter registration form, leaving it in place for voters using the state form. In response, Arizona joined Kansas, which has a similar law, [in a suit](#) seeking to force the U.S. Election Assistance Commission (EAC) to change the federal form to allow the two states to require such documents. A number of groups representing voters intervened to defend the decision. In March 2014, a federal judge ruled the EAC must change the form, but the 10th Circuit Court of Appeals overturned that decision in November 2014 and ruled the EAC does not need to change the federal form. In March 2015, Kansas and Arizona petitioned the U.S. Supreme Court to consider the case. The lawsuit is ongoing.

### **Arkansas**

#### **[Kohls v. Martin](#)**

Pulaski County Circuit Court, 60CV-14-1495

Arkansas Supreme Court, CV-14-462

Arkansas passed a strict photo ID law in 2013 and implemented it for the first time in 2014. But the Arkansas Supreme Court unanimously struck down the photo ID requirement in October 2014.

Background: In April 2014, in a lawsuit challenging a state absentee ballot provisions, a state judge ruled that the photo ID law violated the Arkansas Constitution. This decision,

in a case called [\*Pulaski County Election Commission v. Arkansas State Board of Election Commissioners\*](#), was vacated by the state Supreme Court in May 2014 on the ground that the constitutionality of the photo ID law was not properly before the trial court. The photo ID law was, however, squarely challenged in a separate case before the same state trial judge, *Kohls v. Martin*, and the court ruled it unconstitutional in May 2014. The judge immediately stayed his ruling pending state Supreme Court review. On October 15, the Arkansas Supreme Court unanimously struck down the photo ID requirement, ruling it violated the state constitution by imposing an additional “qualification” to voting.

## **Iowa**

### [\*ACLU of Iowa v. Schultz\*](#)

Iowa District Court for Polk County, 05771 CVCV009311

Iowa Supreme Court, 14-0585

In July 2012, Iowa Secretary of State Matt Schultz (R) promulgated two administrative rules that imposed new procedures to supposedly identify and remove ineligible voters from the state’s rolls. Voter advocates complained that those new procedures would unfairly purge eligible voters from the rolls. In August 2012 the ACLU filed suit, alleging that the Schultz exceeded his authority in issuing these rules. In March 2014, a state trial court struck down the purge rules, finding Schultz lacked the statutory authority to promulgate the rules and enjoining him from removing any voters pursuant to those rules. Schultz appealed the decision to the Iowa Supreme Court, but the purge plan [officially died](#) in March 2015 when new Secretary of State Paul Pate (R) voluntarily withdrew the appeal, ending the lawsuit.

## **Kansas**

### [\*Kobach v. EAC\*](#)

U.S.D.C. for the District of Kansas, 13-cv-4095

U.S.C.A. for the Tenth Circuit, 14-3062

In 2011 the Kansas legislature passed a law requiring proof of citizenship at the time of registration as part of a bill that also instituted a strict photo ID law. The proof of citizenship requirement went into effect in 2013 for voters using the state registration form. After the Supreme Court invalidated Arizona’s similar proof of citizenship requirement as it applied to the federal voter registration form in June 2013, Kansas and Arizona filed [a suit](#) to force the U.S. Election Assistance Commission (EAC) to change the federal form to allow the two states to require such documents. In March 2014, a federal judge ruled the EAC must change the form, but the 10th Circuit Court of Appeals overturned that decision in November 2014 and ruled the EAC does not need to change the federal form. In March 2015, Kansas and Arizona petitioned the U.S. Supreme Court to consider the case. The lawsuit is ongoing.

## North Carolina

### [League of Women Voters of North Carolina v. Howard](#)

U.S.D.C. for the Middle District of North Carolina, 13-cv-660

### [North Carolina NAACP v. McCrory](#)

U.S.D.C. for the Middle District of North Carolina, 13-cv-658

### [United States v. North Carolina](#)

U.S.D.C. for the Middle District of North Carolina, 13-cv-861

North Carolina passed a far-reaching restrictive omnibus elections law in the summer of 2013, after the U.S. Supreme Court’s decision gutting a key portion of the Voting Rights Act. The law instituted a strict photo ID requirement, cut back on early voting, eliminated same-day registration, ended pre-registration for 16- and 17-year olds, and made it harder for provisional ballots cast by eligible voters to be counted, among other restrictions. Multiple challenges against the law were filed by the Department of Justice and voter advocates in federal court. The cases have been consolidated, and are proceeding jointly through the district court. Trial is scheduled for July 2015.

In May 2014, the parties asked the trial court to preliminarily enjoin the portions of the law scheduled to go into effect for the November 2014 elections. (This does not include the photo ID provision, which is slated to take effect in 2016.) A federal judge denied the preliminary injunction motion in August 2014. Plaintiffs appealed, and on October 1, 2014, a panel of the Fourth Circuit Court of Appeals reversed the trial court’s ruling as it related to same-day registration and out-of-precinct balloting, but affirmed the ruling as to all other portions of the law. North Carolina filed an emergency application with the Supreme Court seeking a stay of the appellate court’s ruling, which the Supreme Court granted on October 8, 2014. The law was in effect for the November 2014 election. In December 2014, state officials petitioned the Supreme Court to hear the case. The Supreme Court denied that petition on April 6, 2015.

A challenge to the photo ID portion of the law is also pending in North Carolina county superior court. That case is [Currie v. North Carolina](#), 13-CV-001419.

## Ohio

### [Ohio State Conference of NAACP v. Husted](#)

U.S.D.C. for the Southern District of Ohio, 2:14-cv-404

U.S.C.A. for the Sixth Circuit, 14-3877 & 14-3881

In April 2015, state officials and voting rights advocates [settled an ongoing lawsuit](#) over early voting hours. The agreement restores one day of Sunday voting, and adds early voting hours on weekday evenings — but eliminates “Golden Week,” a six-day period where voters could register and vote on the same day. The settlement is in place through 2018.

Background: In 2014, Ohio severely cut back on these early voting opportunities. In September 2014, a district court issued a [preliminary injunction](#) declaring those cuts an unconstitutional violation of the 14th Amendment and Section 2 of the Voting Rights Act, and ordered Secretary of State Jon Husted to issue a revised voting schedule. After a series of legal proceedings, including an emergency application to the Supreme Court, the cuts to early voting and the elimination of Golden Week were intact for the 2014 election.

A separate suit before the same federal district court in Ohio, [Obama for America v. Husted](#), 12-cv-00636, challenged a 2012 directive in which Ohio eliminated early voting the weekend before the election for all non-military voters, but kept it intact for military voters. In June 2014, the district court declared this directive unconstitutional, and ordered Husted to restore uniform early voting for all voters during the weekend before the election. Accordingly, although the 2014 cutbacks on early voting eliminated all Sunday voting, a subsequent directive issued by Secretary of State Husted in response to the court's order restored early voting on the Sunday and Monday immediately preceding Election Day, as well as in the evenings during the week before the election.

### Texas

[Texas State Conference of NAACP Branches v. Steen](#) (consolidated with *Veasey v. Perry*, 13-cv-193)

U.S.D.C. for the Southern District of Texas, 13-cv-291

In 2011, Texas adopted a strict photo ID law. However, in 2012, a three-judge federal court blocked the law because it found that Texas, which was subject to preclearance under the Voting Rights Act at the time, could not prove that the law would not discriminate against minority voters. After the Supreme Court gutted the preclearance portion of the Voting Rights Act, Texas immediately instituted its strict photo ID law. The Department of Justice and multiple private parties sued again in federal court arguing that the law unconstitutionally burdens the right to vote and discriminates against minorities in violation of another provision of the Voting Rights Act. [A trial was held](#) in September 2014, and on October 9, 2014, the district court struck down the law holding that Texas's photo ID law was enacted with a discriminatory purpose, and violates the Constitution and the Voting Rights Act. On October 14, the Fifth Circuit Court of Appeals stayed the district court's injunction pending appeal. Plaintiffs filed an emergency appeal to the U.S. Supreme Court, which the Court denied on October 18. The ID requirement was in effect for the November 2014 election. Texas filed an appeal of the district court's decision, which was heard before the Fifth Circuit on April 28, 2015.

### Wisconsin

[Frank v. Walker](#)

U.S.D.C. for the Eastern District of Wisconsin, 11-cv-1128

U.S.C.A. for the Seventh Circuit, 14-2058

[LULAC v. Deininger](#)

U.S.D.C. for the Eastern District of Wisconsin, 12-cv-185

U.S.C.A. for the Seventh Circuit, 14-2059

[\*League of Women Voters of Wisconsin v. Walker\*](#)

Dane County Circuit Court, 11-cv-4669

Court of Appeals (District IV), 2012AP584

Wisconsin Supreme Court, 2012AP584

[\*Milwaukee Branch of the NAACP v. Walker\*](#)

Dane County Circuit Court, 11-cv-5492

Court of Appeals (District II), 2012AP1652

Wisconsin Supreme Court, 2012AP1652

Wisconsin passed a strict photo ID law in 2011. After a series of court challenges, the law will go into effect after the April 2015 election.

Background: In April 2014, a federal trial court struck down Wisconsin's photo ID law as unconstitutionally burdening the right to vote and a violation of Section 2 of the Voting Rights Act, because it disproportionately burdened the voting rights of minorities. The Seventh Circuit Court of Appeals vacated that decision in October 2014, finding that the law did not violate the Constitution or the Voting Rights Act. On October 9, 2014, the Supreme Court ordered that Wisconsin's strict photo ID law would not be in effect at the polls in November 2014. However, in March 2015 the Supreme Court declined to hear the case, and the Seventh Circuit's opinion letting the law go into effect will stand.

The photo ID law was also challenged in state court. In July 2014, the Wisconsin Supreme Court upheld the law against a state constitutional challenge by interpreting it so that voters cannot be forced to pay for underlying documents, such as a birth certificate, needed to get a free ID. The court reversed two separate state trial court judges' rulings that the law was inconsistent with state constitutional protections.