

Voting Rights: When the Punishment Doesn't Match the Crime or the Law

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By Sam Brooke and Kimble Forrister

Annette McWashington Pruitt watched her 18-year-old son graduate from high school this May. She proudly tells people that he is going into the Navy, following in the footsteps of his older brother who is serving in Iraq, and his grandfather who was in the Air Force. Ms. McWashington Pruitt wants to support and honor her boys by voting this fall, to partake in the freedoms that they are overseas protecting. She has voted many times before, but she was convicted for her first and only time in 2003 for receiving stolen property. When she went to register a few weeks ago, she was told that she isn't eligible.

Ms. McWashington Pruitt is not alone; a few hundred thousand Alabamians have been warned by the state that they have cannot vote. Problem is, according to Alabama law, neither Ms. McWashington Pruitt nor most of the others who have been disfranchised should have lost the right to vote in the first place. As argued in a lawsuit filed last week by the American Civil Liberties Union, these disfranchisement practices are illegal and must stop.

How could such widespread mistakes occur? The short answer is that confusion over Alabama voting laws has long vexed citizens and state officials alike. We have a shameful history of voter disfranchisement, and conflicting statements from the Attorney General and the Legislature haven't helped. Our constitution was amended in 1996 after prior voting laws were struck down by the U.S. Supreme Court as being racially discriminatory. Now, termination of voting rights occurs only for felonies involving "moral turpitude," an antiquated term that is not defined in the constitution. As an Alabama court explained, this term fails to "mak[e] clear to all citizens which crimes are those that would subject the guilty to the additional penalty of loss of voting rights." Such arbitrariness has no place in our law, especially in regard to the fundamental right to vote.

The constitution also says that the Legislature—and only the Legislature—is to specify qualifications for voters. The Legislature has adopted a short list of 15 disfranchising felonies. These include murder, impeachment, treason, and various sex crimes. Yet in 2005, Attorney General Troy King came up with his own, broader list of disfranchising felonies, as well as a short list of those which are not. The opinion includes many new felonies that are disqualifying (including passing a bad check), and six that are definitely not disqualifying (including possession of controlled substances and DUI-related offenses). Many other felonies were simply not addressed.

Even though the constitution clearly says that only the Legislature can specify voter qualifications, registrars across the state have adopted a contrary approach. When they see a conviction that the Attorney General says is not disfranchising (like simple possession or felony DUI's), they correctly register the voter. But any other felony conviction—whether it is on the Legislature's list, the broader Attorney General's list, or no list at all—is treated as disqualifying. This practice cannot continue. Only the Legislature's list is legitimate under the constitution.

As dysfunctional as this system sounds, we would be remiss not to note that Alabama has made progress over the past five years. Nearly all individuals with a past felony conviction can get their voting

rights restored by applying to the Board of Pardons and Paroles after they have completed their sentence, finished supervised release, and paid off all fines and restitution awards, and applications must be processed within 50 days. (To find out how, visit www.aclualabama.org/vote.) This system is vastly inferior to processes in place in 41 other states, where the right to vote is restored automatically without burdening the Board or the voter with this application process. But more fundamentally, it is absurd to require citizens who have never been deemed by the Legislature to be disfranchised in the first place to go through this process to exercise a right they never legally lost.

Voting is the cornerstone of our democratic government, a right every American should exercise. Encouraging people with past felony convictions to vote and take ownership in their community is in everyone's interest. In fact, studies show that incorporating voter participation into rehabilitation plans makes recidivism less likely. We hope this lawsuit will dramatically reform the illegal practices occurring in Alabama, and allow Ms. McWashington Pruitt and others to have their voices heard this fall. We also hope that all eligible former felons will seek to have their rights restored on their own from the Board of Pardons and Paroles. It's not fair that they have to do this, but for now it's the only way to regain a right unjustly denied.

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