

Overview of the *Jones v. DeSantis* May 24, 2020 District Court Post-Trial Decision

On May 24, 2020, the federal district court issued a 125-page [decision](#) following an eight-day trial in the consolidated case *Jones, et al. v. DeSantis, et al.* *Jones* is a lawsuit challenging provisions within Senate Bill 7066 of 2019 (“SB7066”) that require people with felony convictions to pay “fines,” “fees,” “costs,” and/or “restitution” to vote. In the decision, the Court ruled that aspects of this “pay-to-vote system” are unconstitutional under the Fourteenth and Twenty-Fourth Amendments and violates the National Voter Registration Act (“NVRA”). Among its key findings, the Court held that:

- The requirement to pay court “fees” or “costs” (though not “restitution” and “fines”) arising from felony convictions as a condition of registering to vote and voting is unconstitutional under the Twenty-Fourth Amendment, which bans poll taxes. ECF No. 420 at 72-80, 118.
- The requirement to pay “restitution” and “fines” arising from felony convictions as a condition of registering to vote and voting is an unconstitutional form of wealth-based discrimination when it is applied to individuals who are genuinely unable to pay these monetary obligations. *Id.* at 35-42, 118.
- The Voter Registration Application (effective July 2019), required by SB7066, violates the NVRA. *Id.* at 101-07, 123.

The Court also recognized that determining how much money people with felony convictions must pay to be eligible to vote is “sometimes hard” and “sometimes impossible.” The Court ordered that it is unconstitutional to condition voting on a requirement to pay amounts that are unknown and cannot be determined with diligence. *Id.* at 96-99, 118.

The decision means that many Floridians with felony convictions are eligible to register to vote and vote even if they still owe money from their conviction(s). For more information about registering and voting with a felony conviction based on this decision, please review our non-partisan public education voter guide entitled “Can I Vote If I Have a Past Felony Conviction,” which is shared as a separate document.

The ACLU, ACLU of Florida, the NAACP Legal Defense and Educational Fund (“LDF”), and Brennan Center for Justice represent the *Gruver* Plaintiffs in this case, who are: Jeff Gruver, Marquis “Marq” Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Curtis D. Bryant, Jr., LaToya Moreland, the Florida State Conference of the NAACP (“Florida NAACP”), Orange County Branch of the NAACP (“Orange County NAACP Branch”), and the League of Women Voters of Florida (“League”).



Gruver Plaintiffs raised other claims in this case that the Court either did not decide on the merits or did not find in Plaintiffs’ favor.

Discriminatory purpose. Although the Court described Plaintiffs’ racial discrimination intent claim under the Fourteenth and Fifteenth Amendments as a close call that “could reasonably be decided either way,” it ruled that SB7066’s legal financial obligation (“LFOs”) requirements were not motivated in part by a racially discriminatory purpose.

Dis-uniformity. Plaintiffs raised dis-uniformity claims under the Fourteenth Amendment and NVRA because of the State’s failure to provide guidance to Supervisors of Elections. This lack of guidance will cause different eligibility standards to be applied in different counties. The Court indicated that these claims are “substantial,” *id.* at 106-07, but that it need not decide them based on the remedies it ordered for other claims and Defendants’ anticipated compliance with those remedies. *Id.*

Burden on Core Political Speech and Associational Rights. Plaintiffs claimed that SB7066’s LFO requirements unduly burden their political speech and associational rights under the First Amendment. Because of the constitutional violations, the Court ruled that the Florida NAACP, Orange County NAACP Branch, and the League suffered injuries, which harmed their voter registration activities and interfered with their associational rights. *Id.* at 99-101. The Court, however, determined that the remedy it provided for Plaintiffs’ other claims is “sufficient to redress” the First Amendment claims. *Id.* at 101.

Burden on the Right to Vote. Plaintiffs claimed that SB7066’s LFO requirements impose severe and undue burdens on Plaintiffs’ right to vote under the First and Fourteenth Amendments. The Court did not rule on this claim.

Severability. Defendants made the remarkable—and shameful—assertion that the Court must strike down all of Amendment 4 if the State “cannot prevent people who are unable to pay LFOs from voting.” *Id.* at 108. The Court rejected this argument, explaining that it is a “breathtaking attack on the will of Florida voters who adopted Amendment 4.” *Id.* at 108. The Court further explained that “[s]triking the entirety of Amendment 4 would be a dramatic departure from what the voters intended and from what they would have done had they know of the federal constitutional limits on the amendment’s application.” *Id.* at 113.

The ACLU, ACLU of Florida, LDF, and Brennan Center will be closely monitoring compliance with the Court’s decision, judgment, and all remedies. We encourage you to let us know if there are any concerns, issues, or problems that arise during voter registration activities, contact with and guidance from Supervisors of Elections or Clerks of Court, or other issues relating to voters’ eligibility and status, including, but limited to, advisory opinion determinations, challenges to voter eligibility, and voter removal proceedings.

ACLU, ACLU of Florida, LDF, and Brennan Center represent multiple clients in a challenge to SB7066’s LFO requirements. This information does not represent an endorsement of those requirements or waiver of any legal claims. This card is a resource, not legal advice. It is provided for informational purposes only and not as a substitute for or supplement to the legal advice necessary to address the specific concerns of any individual.