



Voting rights: Federal appeals court told state's lifetime ban violates Eighth and 14th Amendments

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Supporters of a lawsuit challenging Mississippi's felony disenfranchisement laws gather at Lafayette Square in New Orleans on Tuesday, December 3, 2019, after oral arguments at the Fifth Circuit Court of Appeals. Dennis Hopkins (right), is one of the plaintiffs in the suit.

NEW ORLEANS — After Dennis Hopkins lent his name to a lawsuit that could restore voting rights to tens of thousands of Mississippians, the Potts Camp resident hit the road, traveling to Jackson and Montgomery on behalf of the cause he now represents.

On Tuesday, Hopkins found himself in a federal courtroom in New Orleans, seated by his wife and a childhood friend. In front of him, a three-judge panel at the 5th U.S. Circuit Court of Appeals presided over oral arguments on the suit, which challenges how Mississippi disqualifies people from voting following certain felony convictions.

Hopkins is one of six plaintiffs in the class-action lawsuit. Following a grand larceny conviction from 1998, Hopkins – now a foster parent, children's sports coach and municipal employee – cannot cast a ballot in Mississippi.

“It's not about Dennis Hopkins voting,” Hopkins said. “It's about the people and the taxpayers of Mississippi voting.”

Mississippi currently bans people who are convicted of a set of disqualifying crimes from voting for the rest of their lives. Those laws, established by the state Constitution of 1890, dictate that suffrage can only be restored by having a legislator-sponsored suffrage bill, which then must be approved by two-thirds of both the House and the Senate, or by a governor's pardon. As of 2012, the attorney general's office had identified 22 disenfranchising crimes, including theft, arson, perjury, embezzlement and timber larceny.

Only two other states, Kentucky and Iowa, impose a lifetime ban for people convicted of disenfranchising crimes. One estimate now ranks Mississippi first in the nation for its rate of disenfranchised residents.

Plaintiffs, represented by the Southern Poverty Law Center and New York-based firm Simpson Thatcher, say people who have completed their sentence should have their suffrage restored automatically. Among their claims, they argue the lifetime voting ban violates the Eighth

Amendment, which bars cruel and unusual punishment, and 14th Amendment, which plaintiffs say allows states only to temporarily “abridge” someone’s voting rights following a crime.

But the U.S. Constitution’s 14th Amendment does allow permanent disenfranchisement for a felony, said Krissy Nobile, representing the state in front of a three-judge panel Tuesday. Nobile said that plaintiffs lack “present-day proof of any unconstitutional effects of the law” as well.

The appellate court agreed to hear the case on an expedited basis after both parties appealed a district court ruling, in which judge Daniel P. Jordan III threw out all but one of plaintiffs’ challenges earlier this year.

Nobile argued that Secretary of State Delbert Hosemann, the only named defendant in the suit, should not have been sued because his office does not have the authority to restore voting rights – the state Legislature does.

If the court were to hold the secretary of state responsible, “no convicted felon will receive a suffrage bill,” Nobile said. “No convicted felon will be re-enfranchised.”

Jonathan Youngwood, an attorney for the plaintiffs, cited a passage rate of individual suffrage bills that is already effectively “zero.” Youngwood noted that in the last 50 years, states have increasingly moved away from lifetime voting bans.

“The notion that losing the right to vote for the majority of your life after you’ve completed otherwise your sentence, what you owe society, can only be called punishment,” Youngwood said.

Judge Edith Jones asked Youngwood a series of questions, including whether plaintiffs were trying to re-enfranchise people convicted of rape and murder, and whether the secretary of state was the correct office sued.

Organizations including the American Probation and Parole Association, the Cato Institute and the American Civil Liberties Union of Mississippi also filed briefs in support of the plaintiffs.

Following oral arguments, Hopkins and his attorneys gathered in Lafayette Square, across the street from the courthouse, joined by other support groups from Louisiana and Mississippi to push for the restoration of voting rights not just in Mississippi, but across the Deep South.

“I am fighting, standing up for the right, for the people in Mississippi just like me that made a mistake in life,” Hopkins said. “(I) corrected my mistake, and now I’m ready to vote and restore my right as a human being, as a man. Because you have to move forward. Because what we’re doing is we’re still holding back to our old ways.”

The appellate court is also set to consider a separate challenge to Mississippi’s lifetime felony voting ban, filed by the Mississippi Center for Justice. In that suit, which also names Hosemann as the defendant, plaintiffs argue that Mississippi’s voter disenfranchisement law was designed to ensnare African Americans, whom the framers of the state Constitution believed were more prone to committing certain kinds of crimes.