

Simpson Thacher and the Southern Coalition for Social Justice Defeat a Motion to Dismiss Their Clients' Constitutional Challenge to a North Carolina Law Criminalizing Voting

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On March 28, 2022, the U.S. District Court for the Middle District of North Carolina rejected an effort by North Carolina's District Attorneys to obtain dismissal of a federal lawsuit brought by Simpson Thacher and the Southern Coalition for Social Justice. At issue is the constitutionality of a vague and racially discriminatory law that criminalizes voting by North Carolina residents who vote while they are on parole, probation or post-release supervision for a felony conviction, *even if they mistakenly believe they are eligible to vote*. High-profile prosecutions under this strict liability law have chilled countless eligible voters with criminal convictions from exercising their right to cast a ballot. This fear of prosecution has impeded voter engagement efforts by the North Carolina A. Philip Randolph Institute and Action NC, the Plaintiffs in the suit.

The District Court adopted in its entirety the Magistrate Judge's February 14, 2022 memorandum opinion and recommendation, which found that the Complaint adequately alleges that "enjoining the DA Defendants . . . from enforcement of the challenged statute would necessarily prohibit investigation and ultimate prosecutions of any violation of the statute, and substantially reduce the resources that Plaintiffs expend in their focus on eligible voters who fear prosecution" for voting.

The District Court also denied a motion for permissive intervention by Philip E. Berger, the President Pro Tempore of the North Carolina Senate, and Timothy K. Moore, the Speaker of the North Carolina House of Representatives. The District Court adopted the Magistrate Judge's finding that "permitting the intervention sought will unduly delay the adjudication of Plaintiffs' rights and unnecessarily burden judicial resources."

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