

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p>			

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					<p>irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants</p>			

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					because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.			
Romeu v. Cohen	United States District Court for the Southern District of New York	121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842	September 7, 2000	Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal,	Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the	No	N/A	No

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				<p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p>	<p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p>			

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					<p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p>			

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					court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.			
Romeu v. Cohen	United States Court of Appeals for the Second Circuit	265 F.3d 118; 2001 U.S. App. LEXIS 19876	September 6, 2001	Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of	The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents	No	N/A	No

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				<p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p>	<p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p>			

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					<p>residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated</p>			

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					identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.			
Igartua de la Rosa v. United States	United States District Court for the District of Puerto Rico	107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146	July 19, 2000	Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in	The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became	No	N/A	No

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				<p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p>	<p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p>			

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					<p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p>			

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					<p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p>			

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					Presidential elections.			

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Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

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					<p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p>			

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					local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political	Plaintiff alleged that defendants	No	N/A	No

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St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

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				tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot			

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					<p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p>			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS	December 9, 2005	The circuit court	The voters and the incumbent all	No	N/A	No

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		214		<p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p>	<p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p>			

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				resolution of the appeal.	their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to			

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					count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially	The candidates argued that the Board violated a federal court order regarding the election. The appellate court	No	N/A	No

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		10360		<p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p>	<p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p>			

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					<p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p>			

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					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

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				<p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p>	<p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p>			

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					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

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					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

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		LEXIS 518		defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

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					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

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					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

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				<p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p>	<p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p>			

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					<p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p>			

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					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

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					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

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					<p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p>			

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In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

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				candidates and voters.	that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery			

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					<p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p>			
In re Canvass of	Commonwealth Court of	839 A.2d 451; 2003	December 22, 2003	The Allegheny County	On appeal, the issue was whether	No	N/A	No

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Absentee Ballots of November 4, 2003	Pennsylvania	Pa. Commw. LEXIS 963		Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

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					<p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p>			

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					Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

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				<p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

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				late in the election year.	right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had			

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					adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York,	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

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				<p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p>	<p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p>			

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					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

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					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

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					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

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				<p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p>	<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

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					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

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					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

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				voluntary agreement and submitted it to the court for approval.	ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against			

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					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

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					election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot			

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					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner	Both petitioner	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

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					<p>registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p>			

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					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary			

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					<p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p>			

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					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots violated Florida law.	not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

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					<p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p><b>OVERVIEW:</b> The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p>			

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					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declared petitioner mayor.	violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

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				<p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p>	<p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

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					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

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				<p>ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.</p>	<p>regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p>			

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					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p>	<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

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					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Preliminary injunction denied.			

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.</p>	<p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p>			

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					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

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				<p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

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					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

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					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

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				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

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					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

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					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

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					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

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					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

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					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

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					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

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					authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued	The individuals argued that the	No	N/A	No

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Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

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					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

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					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No