The Carolina Times
"THE TRUTH UNBRIDGED"

VOLUME 92 - NUMBER 27 | DURHAM, NORTH CAROLINA - SATURDAY, JUly 6, 2013 | TELEPHONE (919) 682-2913 | PRICE: 30

Voting Rights Advocates Face Uphill Battle

By Freddie Allen
NNPA Washington Correspondent

WASHINGTON (NNPA) - In the aftermath of the Supreme Court's 5-4 ruling in Shelby County v. Holder, striking down section 4 of the Voting Rights Act of 1965, civil rights organizations and voting rights advocates are preparing to battle against an expected the avalanche of new voting laws that threaten to wipe out the incredible gains ushered in the passage of the 1965 Voting Rights Act.

The ruling effectively ended voting rights protections under section 5, forcing Congress to update the coverage formula that required nine states and the counties and jurisdictions in six other states to preclear any changes to state and local voting laws with the Justice Department or a federal court.

Writing the majority opinion for the Supreme Court's decision, Justice Anthony Kennedy acknowledged that "voting discrimination still exists," but challenged the relevancy of the section 4 coverage formula originally crafted nearly 50 years ago. However, Congress has extended the law for times, saying it is still needed.

Hours after the Supreme Court decision, state officials in Texas and South Carolina announced that they were moving forward with new voting regulations that civil rights groups say will disproportionately disenfranchise black, Latino and poor voters.

"All the states and jurisdictions that were covered by section 5 utilizing the section 4 formula have now been released, said Hilary Shelton Washington, D.C. bureau chief of the NAACP. 'So [those states] can go ahead and make all those changes that the Justice Department has blocked over the years.'"

In a June 2013 study released a few weeks before the Shelby County v. Holder decision, a Brennan Center for Justice report stated, "In the most recent legislative session and as of April 29, 2013, 28 restrictive voting bills 65 were introduced in the states that are covered, wholly or in part, by Section 5. Two have already passed, and 17 are still pending as of June 10, 2013. The bills introduced include, for example, a strict photo identification requirement in Virginia, restrictions on early voting and same-day registration in North Carolina, and a South Carolina bill requiring documentary proof of citizenship to register to vote."

Kimberley Crenshaw, co-founder of the African American Policy Forum, a civil rights think tank that works to advance racial justice in the United States and abroad, said that the Supreme Court's decision wasn't about facts, or even about proof of ongoing voter discrimination in the once-covered states. Crenshaw said that the Supreme Court decision was about one thing - ideology.

"It's like building a dam to keep the lowlands from flooding and for 40 years the lowlands don't flood and then deciding that you don't need the dam anymore," said Crenshaw.

Civil rights and voting rights advocates want all voters to be prepared and vigilant when it comes to restrictive bills that pop up across the country, such as voter ID laws, proof of citizenship requirements, bans on Sunday voting, attempts to purge naturalized citizens from the rolls, the elimination of same-day registration and cuts to early voting periods.

"All these policies are aimed at making it harder to vote for people of color," said Judith Browne Dianis, co-director of the Advancement Project.

Voting rights advocates now will also lean heavily on section 2 of the Voting Rights Act, but most admit that many laws will go into effect and lawsuits may not come fast enough.

"In essence this decision says that `discrimination is still real and must still be challenged,' but rather than address the issue o(

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Playing the Walltown Reunion Parade was one o the activities on June 29. See photos on page 2.

Supreme Court Sends Affirmative Action Case Back to Lower Court

By George E. Curry
NNPA Editor-in-Chief

WASHINGTON (NNPA) - The United States Supreme Court sidestepped making a decision on whether a University 0pmissions plan that allows the limited consideration of race is unconstitutional by remanding the case to the U.S. Court of Appeals for the 5th Circuit for further review.

Clarence Thomas would have voted to eliminate affirmative action.

Ruth Bader Ginsburg was the lone dissenter in affirmative action case.

0pmissions plan that allows the limited consideration of race is unconstitutional by remanding the case to the U.S. Court of Appeals for the 5th Circuit for further review.

On Monday, the court voted 7-1 to send the case back to the 5th Circuit in New Orleans. Writing for the majority, Justice Anthony Kennedy said the lower court did not subject the University of Texas to the highest standard of judicial scrutiny.

"Strict scrutiny imposes on the university the ultimate burden of demonstrating, before turning to racial classifications, that available, workable, race-neutral alternatives do not suffice," Kennedy wrote. "Rather than perform this searching examination, however, the Court of Appeals held petitioner could challenge only whether [the University's] decision to reintroduce race as a factor in admissions was made in good faith."

Ruth Bader Ginsburg, who wanted to uphold the lower court's decision supporting the University of Texas, was the lone dissenter.

"The University of Texas at Austin (University) is candid about what it is endeavoring to do: It seeks to achieve student-body diversity through an admissions policy patterned after the Harvard plan referenced as exemplary in Justice Powell's opinion in Regents of Univ. of Cal. V. Bakke, she wrote. "The University has steered clear of a quota system like the one struck down in Bakke, which excluded all nonminority candidates from competition for a fixed number of seats."

She added, "And like so many educational institutions across the Nation, the University has taken care to follow the model approved by the Court in Grutter v. Bollinger."

Clarence Thomas was the only justice who went on record saying he would have voted to overturn the court's 2003 decision in Grutter, permitting the narrowly tailored use of race in college admissions.

In his concurring opinion, Thomas said, "I write separately to explain that I would overrule Grutter v. Bollinger and hold that a State's use of race in higher education admissions decisions is categorically prohibited by the Equal Protection Clause."

Justice Elena Kagan, a former Solicitor General, rescued herself, presumably because she had worked on the case earlier.

University of Texas President Bill Powers said Monday in a statement, "We're encouraged by the Supreme Court's ruling in this case. We will continue to defend the University's admission policy on remand in the lower court under the strict standards that the Court first articulated in the Bakke case, reaffirmed in the Grutter case, and laid out again today. We believe the University's policy fully satisfies those standards.

"We remain committed to assembling a student body at The University of Texas at Austin that provides the educational benefits of diversity on campus while respecting the rights of all students and acting within the constitutional framework established by the Court. Today's ruling will have no impact on admissions decisions we have already made or any immediate impact on our holistic admissions policies."

The case grew out of a decision by Abigail Fisher, a white Texas resident, to file suit against the University of Texas after she was turned down for admission for the 2008 term. Fisher, who later graduated from Louisiana State University, claimed the university had violated the equal protection clause of the 14^th Amendment and Title VI of the Civil Rights Act of 1964 because it allowed the consideration of race in evaluating applicants to the university.

Fisher joined a growing list of whites who have turned the Equal Protection Clause of the 14th Amendment on its head.

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NC redistricting judges don't need more briefs

RALEIGH (AP) - Judges considering arguments in North Carolina's redistricting litigation have refused a request by attorneys who sued over legislative and congressional district boundaries to file more briefs after the U.S. Supreme Court decisions this week.

A three-judge panel on June 28 denied a motion by Democratic voters, election watchdog and civil rights groups who have challenged the maps Republicans drew in 2011. One of the Democrats' lawyers said Supreme Court opinions on the Voting Rights Act and affirmative action confirm their claims that the lines are the result of racial gerrymandering.

The judges said they do not need more briefs but acknowledged the Supreme Court decisions.

The state judges have received thousands of documents from attorneys and held days of hearings, but have not yet ruled whether the boundaries should be redrawn.

NC Racial Justice repeal leaves questions in wake

By Chris Kardish

RALEIGH (AP) - With the repeal of North Carolina's Racial Justice Act after just four years on the books, it's uncertain how quickly the state will resume executions or what the legacy will be for the law that proponents say was intended to rid capital punishment of racial bias.

Gov. Pat McCrory's signature of approval for the repeal capped off a debate over the law's intent and effectiveness that started even before it passed the state legislature in 2009 almost entirely along party lines.

But experts and advocates say the issue of promoting racial equality in the criminal justice system will remain salient, especially in light of a growing number of states taking steps to abolish the death penalty completely - which was always the goal at the heart of the RJA, opponents say.

As approved under then-Gov. Beverly Perdue, a Democrat, the RJA allowed convicted murderers to use statewide and local statistics to argue that racial bias in court proceedings and jury selection tainted their convictions, earning them life sentences instead of lethal injection if a judge agreed.

The law aimed to address bias in jury selection and sentencing, which has been uncovered in at least 25 states, according to the nonpartisan Death Penalty Information Center. Studies have shown that juries are far more likely to seek the death penalty for black-on-white murders and that prosecutors are more likely to strike African-Americans from juries.

Republicans, who always opposed the idea of commuting individual sentences using statistics, successfully restricted the use of capital punishment statistics to the local level with a 2012 amendment that also required other forms of evidence to overturn a death-penalty ruling.

Before Republicans weakened the law, though, a Cumberland County judge granted a life sentence to death-row inmate Marcus Robinson under the act largely on the strength of a Michigan State University study of North Carolina that found black jurors were more than twice as likely to be struck from juries than their white counterparts. Judge Greg Weeks also found other evidence of bias among prosecutors, and he ruled in favor of three more inmates under the Racial Justice Act after the 2012 rollback.

Robinson's case was appealed by the state to the North Carolina Supreme Court, which agreed in April to review it. Tye Hunter, executive director of the Durham-based nonprofit Center for Death Penalty Litigation, said he expects the court will hear the case in late fall. The court hasn't yet agreed to hear the three other RJA cases.

This year Republicans with supermajorities in both chambers of the General Assembly mounted a full repeal. They've argued that the law allowed most of the 153 death-row inmates to challenge their sentences regardless of their race, creating a logjam that amounts to a de-facto moratorium on executions.

Hunter said he doesn't expect executions to begin in the near future because of existing appeals and all-but-certain challenges among inmates that their due process rights were violated with the repeal of an act they used to contest their sentences. Rep. Paul Stam, R-Wake and an attorney, said due process violations are bogus because the inmates were convicted before the law existed. He said he would give the state many months, not years, before executions resume because an appeal about the legality of lethal injections is expected to be resolved soon.

The state Supreme Court case was once considered a defining test for the Racial Justice Act with the potential for broader implications. Even with the repeal of the act, that review could send a signal that either bolsters the case RJA advocates tried to press for four years or prop up the status quo, said Bryan Stevenson, the executive director of the Equal Justice Initiative and an expert on racial inequality in the criminal justice system. (Continued On Page 7)