

SCOTUS Opinion: Court Upholds Arizona Voting Restrictions Against Voting Rights Act Challenge

2 Jul 2021

The case of *Brnovich v. Democratic National Committee* involved two voting laws enacted in Arizona. The first mandated that if a person voted in person on election day in the wrong precinct, their vote would not be counted. The second made it illegal to engage in “ballot harvesting,” in which a third party (other than those expressly allowed by the law) collects early mail-in ballots. The laws were challenged under Section 2 of the Voting Rights Act as having an adverse and disparate effect on minority voters in the State, and were passed with “discriminatory intent” also in violation of the Fifteenth Amendment. The district court dismissed the claims, but an *en banc* Ninth Circuit reversed.

The Court, in a 6-3 opinion by Justice Alito, reversed again. The majority held that the core of Section 2’s mandate is that voting be “equally open” to all under the “totality of the circumstances,” rejecting the premise that the law invalidates any law that might have a disparate impact or was not the least restrictive means of accomplishing a State interest. The majority then held that both laws met the requirements of the Act because they fulfilled important State interests without making elections unequally open, and were not enacted with a discriminatory purpose. Justice Gorsuch, joined by Justice Thomas, filed a one-paragraph concurrence questioning the assumption that Section 2 provided a private cause of action. Justice Kagan, joined by Justices Breyer and Sotomayor, dissented, setting out the history of the Act, and arguing that the majority unfairly narrowed its broad sweep in approving the Arizona laws.

A link to the opinion is here: https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf

SCOTUS Opinion: Court Upholds Arizona Voting Restrictions Against Voting Rights Act Challenge

2 Jul 2021

The case of *Brnovich v. Democratic National Committee* involved two voting laws enacted in Arizona. The first mandated that if a person voted in person on election day in the wrong precinct, their vote would not be counted. The second made it illegal to engage in “ballot harvesting,” in which a third party (other than those expressly allowed by the law) collects early mail-in ballots. The laws were challenged under Section 2 of the Voting Rights Act as having an adverse and disparate effect on minority voters in the State, and were passed with “discriminatory intent” also in violation of the Fifteenth Amendment. The district court dismissed the claims, but an *en banc* Ninth Circuit reversed.

The Court, in a 6-3 opinion by Justice Alito, reversed again. The majority held that the core of Section 2’s mandate is that voting be “equally open” to all under the “totality of the circumstances,” rejecting the premise that the law invalidates any law that might have a disparate impact or was not the least restrictive means of accomplishing a State

(CONTINUED)

SCOTUS OPINION: COURT UPHOLDS ARIZONA VOTING RESTRICTIONS AGAINST VOTING RIGHTS ACT CHALLENGE

interest. The majority then held that both laws met the requirements of the Act because they fulfilled important State interests without making elections unequally open, and were not enacted with a discriminatory purpose. Justice Gorsuch, joined by Justice Thomas, filed a one-paragraph concurrence questioning the assumption that Section 2 provided a private cause of action. Justice Kagan, joined by Justices Breyer and Sotomayor, dissented, setting out the history of the Act, and arguing that the majority unfairly narrowed its broad sweep in approving the Arizona laws.

A link to the opinion is here: https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf

TAGGED: Voting Rights Act, Brnovich v. Democratic National Committee, ballot harvesting, discriminatory intent, Fifteenth Amendment, equally open, totality of the circumstances