

United States: Supreme Court Refuses to Hear a Challenge to Mississippi Jim Crow Law Against Black Voting Rights

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So much for the “color blind” society proclaimed by the Supreme Court in its ruling June 30 to outlaw affirmative action policies at public universities. The same day, but under the radar of the mainstream news media and public, the unelected body with lifetime terms made its full objective crystal clear.

Contents

- [Justice Jackson hits majority'](#)
- [What 14th Amendment says](#)
- [Nearly impossible to regain](#)

The court upheld a century old Mississippi amendment to its state constitution that was used to deny Black people in the state the right to vote and fully participate as equals in the state.

By a six to three vote, the Supreme Court rejected even hearing (four Justices had to vote in favor of hearing the case) a challenge to the constitutional amendment adopted by the state of Mississippi that opened the racist Jim Crow era.

At the 1890 constitutional convention which adopted the amendment the president of the meeting said, “We came here to exclude the Negro,” which they did.

The state argued the provision adopted 130 years ago is no longer tainted by the racist intentions of its original authors. Why then leave it in the constitution?

Justice Jackson hits majority's hypocrisy

The court's decision not to hear the case brought by those seeking to overturn that clause prompted a sharp dissenting opinion from the first Black woman Justice, Ketanji Brown Jackson, joined by fellow liberal Justice Sonia Sotomayor, the first Latina on the court.

Jackson exposed the Court's hypocrisy, and contrasted the decision with the Supreme Court's majority's ban of affirmative action which said race could no longer be a factor in college admissions.

If the court viewed affirmative action as race discrimination, she said, then the Mississippi measure must be seen similarly.

“So, at the same time that the court undertakes to slay other giants, Mississippians can only hope they will not have to wait another century for another judicial knight-errant,” she wrote.

“Constitutional wrongs do not right themselves.”

The measure was first enacted in at a time when whites in the Deep South were fighting back against post-Civil War efforts to ensure formerly enslaved Black people had equal rights.

What 14th Amendment says

The 14th Amendment bars states from limiting the right to vote because of race. To get around that, the Southern states adopted various laws and practices which became de facto outlawing of the Black right to vote.

The specific wording of the amendment to the Mississippi state Constitution was to prevent Black people from voting by removing voting rights from felons convicted of what were thought to be “Black crimes” and declining to do the same for “white crimes.”

Other Jim Crow states adopted other laws with the same effect.

Innocent Black people were convicted under the “Black Codes” to keep former freed people as second class to whites—the total segregation of Black people in the southern states, for nearly a century until the mass civil rights movement won.

The so called “separate but equal” laws were passed. Black people lived separately including in where they could get medical care and education.

Today, those convicted of any one of 23 specific felonies in Mississippi permanently lose the right to vote.

It continues to have a staggering effect in Mississippi. Sixteen per cent of the Black voting-age population remains blocked from casting a ballot, as well as 10 percent of the overall voting age population, according to an estimate by The Sentencing Project, a criminal justice non-profit. The state is about 38 percent Black, but Black people make up more than half of Mississippi’s disenfranchised population.

Nearly impossible to regain vote

Once a person loses their right to vote in the state, it is essentially impossible to get it back. To do so, a disenfranchised person must get the legislature to approve an individualized bill on their behalf by a supermajority in both chambers and then have the governor approve the bill. There are no online instructions or applications, and lawmakers can reject or deny an application for any reason.

It is rare that anyone successfully makes it through the process. Between 1997 and 2022, an average of seven people successfully made it through the process each year, according to Blake Feldman, a criminal justice researcher in Mississippi.

Both a federal district judge and the US court of appeals for the Fifth Circuit upheld Mississippi’s policy. Modifications to the policy in 1950 and 1968, the Fifth Circuit court claimed, got rid of any discrimination in the original policy. It then went to the Supreme Court.

In 1974 the Supreme Court upheld that states could bar voting rights to those convicted of felonies. Since no Justice wrote a reason for not hearing the Mississippi appeal, it is assumed they saw it

fitting alongside its earlier stance.

The Supreme Court majority did not say why it rejected the case. Justices Ketanji Brown Jackson and Sonia Sotomayor were the only two justices who declared their dissent from the denial. Jackson wrote an opinion saying the Fifth Circuit had committed “two egregious analytical errors that ought to be corrected.”

Once again, the court’s six far-right majority refusal to take the Mississippi case shows their decision was political and not based on the Constitution.

Once again, basic democratic rights of Black people are denied.

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