

# Shelby County v. Holder 2013

United States Supreme Court

## In Sixty Seconds

**Before.** Section 5 of the Voting Rights Act of 1965 required specified jurisdictions with documented histories of voter suppression to submit every voting-rule change to the Department of Justice or to a federal court in Washington for preclearance before it could take effect. The coverage formula sat in Section 4(b). Between 1965 and 2013, preclearance had blocked or deterred thousands of discriminatory voting-law changes, ranging from photo ID requirements to polling-place closures to redrawn district maps.

**What happened.** Shelby County, Alabama, sued the federal government arguing that Section 4(b) was unconstitutional because it relied on decades-old data and no longer reflected current conditions. On June 25, 2013, the Supreme Court ruled 5-4 that Section 4(b) was unconstitutional. The majority acknowledged Section 5 itself remained constitutional in the abstract but held that without a valid coverage formula, preclearance could not be enforced on any jurisdiction.

**Who did it.** Chief Justice John Roberts wrote the majority opinion. Justice Ruth Bader Ginsburg wrote the dissent, joined by Justices Breyer, Sotomayor, and Kagan. Her dissent observed that the majority was citing preclearance's success as evidence it was no longer needed. Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes, she wrote, is like throwing away your umbrella in a rainstorm because you are not getting wet.

**After.** Texas implemented a strict voter ID law within twenty-four hours of the ruling. A federal court had previously blocked that law under preclearance. North Carolina passed an omnibus voting-restriction statute within weeks. By 2018, approximately 1,688 polling places had been closed in previously covered counties. The Leadership Conference on Civil and Human Rights documented that Black voters in the affected jurisdictions now had to travel substantially farther on average than white voters to reach a polling place.

## The Named

### Chief Justice John Roberts

Author of the 5-4 majority opinion. His opinion rested on the doctrine of the equal sovereignty of the states and on the finding that the coverage formula reflected conditions from decades earlier. Section 5 remained on the books but had no valid trigger after the decision.

### Attorney General Eric Holder

Defended the Voting Rights Act as respondent. First Black Attorney General of the United States. His argument relied on the 2006 congressional record and on the continuing pattern of objections the Justice Department had issued in covered jurisdictions through 2012.

### Justice Ruth Bader Ginsburg

age 80. Author of the dissent, joined by Justices Breyer, Sotomayor, and Kagan. Her umbrella-in-a-rainstorm metaphor became the most-cited dissent line of the decade. Her dissent is now routinely taught alongside Harlan's 1883 dissent.

### Frank Ellis Jr.

Shelby County, Alabama, attorney who initiated the challenge. Longtime local counsel to the county government. Filed the initial complaint that, with assistance from the Project on Fair Representation, reached the Supreme Court.

## For Discussion

- Justice Ginsburg wrote that throwing out preclearance when it has worked is like throwing away your umbrella in a rainstorm because you are not getting wet. What other public-health or safety mechanisms have been weakened using the same logic, and when does it slide into we no longer need it?
- The Voting Rights Act coverage formula was updated in 1970, 1975, and 1982, and then never again. Was the Court correct that the formula had become too old? What would a defensible updated formula have to look like today?
- Texas implemented a strict voter ID law within twenty-four hours of the Shelby County ruling. What does the speed of that response tell you about the relationship between legal rulings and pre-positioned policy, and how does the pattern compare to other post-ruling implementations in recent American history?
- By 2018, approximately 1,688 polling places had been closed in previously covered counties. When a closure decision is made at the county level but its effects aggregate into a national pattern, whose accountability is it, and what mechanisms can counter the aggregation?
- The John R. Lewis Voting Rights Advancement Act has passed the House three times and stalled in the Senate. What legislative paths remain for restoring some version of preclearance, and what non-legislative actions have civil-rights organizations pursued in parallel with the legislative push?

## Primary Sources

- Shelby County v. Holder, 570 U.S. 529 (2013). Majority opinion by Chief Justice Roberts and dissent by Justice Ginsburg.
- Berman, Ari. Give Us the Ballot: The Modern Struggle for Voting Rights in America. Farrar, Straus and Giroux, 2015.
- Leadership Conference on Civil and Human Rights. Democracy Diverted: Polling Place Closures and the Right to Vote. Washington, DC: Democracy Diverted, 2018.
- John R. Lewis Voting Rights Advancement Act. Legislative record, U.S. House of Representatives, 2019, 2021, 2022 sessions.



5. Oral argument transcript, Shelby County v. Holder, Supreme Court of the United States, February 27, 2013.

