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Supreme Court Hears Arguments Regarding Constitutionality of Section 5 of Voting Rights Act in Northwest Austin Municipal Utility District No. 1 v. Holder
The Lawyers' Committee and the law firm of WilmerHale represents the Texas State Conference of the NAACP and Austin Branch of the NAACP in the case

WASHINGTON, D.C., April 29, 2009 – The U.S. Supreme Court today heard oral arguments to determine if critical portions of the historic Voting Rights Act continue to pass constitutional muster. The Lawyers' Committee for Civil Rights Under Law, together with the law firm of WilmerHale represents the Texas State Conference of the NAACP and Austin Branch of the NAACP in the case *Northwest Austin Municipal Utility District No. 1 v. Holder*, Case No. 08-322. At issue is Section 5 of the Act which was included in the original bill passed by Congress in 1965. Congress reauthorized Section 5 in 1970, 1975, 1982 and most recently, with broad bipartisan support, in 2006. It requires that new voting procedures be "pre-cleared" by the federal government in certain jurisdictions with a history of discriminatory voting practices.

"As Congress found just a few years ago when it underwent a searching inquiry into the continuing need for key provisions of the VRA, Section 5 continues to be a critical element in preventing discrimination in voting across the country," said Jon Greenbaum, legal director, Lawyers' Committee for Civil Rights Under Law. "While Section 5 has done a tremendous job at empowering all eligible voters to participate in the democratic process, its work is not complete."

The continuing need for Section 5 was clearly illustrated by the work of the National Commission on the Voting Rights Act in 2005. Established by the Lawyers' Committee, the Commission held 10 regional hearings covering practically every state in the union, and built an exhaustive record of discrimination in voting for Congress. The Commission report found that, while evidence of the VRA's positive impact is clear, racial and language minorities are still vulnerable to historic tactics and new devices designed to dissuade and disfranchise. Minorities face unequal access to the ballot ranging from voting barriers to challenges electing representatives of their choice.

During the oral arguments, Justices Souter and Breyer referred to the large record at Congress' disposal, thanks to the work of the National Commission, when questioning the plaintiff's attorneys' assertion that Congress did not have sufficient evidence to draw from when they reauthorized the act. Additionally, Justice Ginsburg referred to the repeated litigation where the Lawyers' Committee [represented](#) African-American students at Prairie View A&M in Waller County, Texas on behalf of the NAACP as further evidence that Section 5 is still needed.

This case began when the utility district, located in Travis County, Texas, sought to be exempted from Section 5 coverage via the so-called "bailout" provision of the Voting Rights Act which allows jurisdictions to opt out of Section 5 coverage, or, in the alternative, to have the reauthorized Section 5 declared unconstitutional. The Texas State Conference of the NAACP and Austin Branch of the NAACP intervened in the case as defendants, along with other interested organizations. The district court dismissed the utility district's case, ruling last year that the district was ineligible to "bail out" from Section 5 coverage, and more importantly, that Section 5 remains constitutional. The utility district then appealed to the Supreme Court.

The Lawyers' Committee and its co-counsel submitted a brief to the Court in March 2009 emphasizing the continuing need for Section 5 and noting the Supreme Court's consistent holdings that the Voting Rights Act and Section 5 in particular are reasonable, necessary and proper use of Congress's constitutional mandate to protect minority voters. Our brief is available [online](#).

About the Lawyers' Committee

The Lawyers' Committee for Civil Rights Under Law (LCCRUL), a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law, particularly in the areas of fair housing and fair lending, community development, employment discrimination, voting, education and environmental justice. For more information about the LCCRUL, visit www.lawyerscommittee.org.

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