

CIVIL RIGHTS ADVOCATES ARGUE THAT CALIFORNIANS SENTENCED UNDER REALIGNMENT HAVE THE RIGHT TO VOTE IN *AOUON v. Bowen*

Three organizations concerned with protecting voting rights filed a lawsuit in the First District Court of Appeal on March 7, 2012 to clarify that people who have been sentenced for low-level, non-violent offenses under the state's historic reform of criminal justice known as Realignment are entitled to vote in the 2012 elections and beyond.

Background of the Case

- ❖ Since 1974, the California Constitution permits otherwise qualified individuals to vote except for individuals who are "imprisoned in state prison or...on parole as a result of the conviction of a felony." *League of Women Voters of California v. McPherson*, 145 Cal. App. 4th 1469, 1486 (2006).
- ❖ In 2011, the California Legislature enacted the Realignment statutes. Realignment significantly changed the landscape of the criminal justice system, but did not change who is eligible to vote.
- ❖ In December 2011, Secretary of State Debra Bowen issued a memorandum stating that none of the individuals sentenced pursuant to California's transformative Realignment statutes are eligible to vote.

Who is involved in *AOUON v. Bowen*?

- ❖ Petitioners – the people who are asking the government to remedy this injustice – are All of Us or None, Legal Services for Prisoners with Children, and the League of Women Voters of California, and a woman confined in San Francisco jail for a narcotics conviction who wishes to vote. These are the same organizations that came together and won an important victory in *McPherson*.
- ❖ Secretary of State Debra Bowen and San Francisco Director of Elections John Arntz are named as respondents – the individuals who are being called upon to defend the position that Californians sentenced under Realignment are not eligible to vote.

What is *AOUON v. Bowen* about?

- ❖ This case is about protecting the right to vote. California's courts have a proud tradition of protecting that right.
- ❖ Californians, including our Legislature and voters, have long limited disenfranchisement (or denying someone the right to vote) based on a felony conviction to the period of time an individual is in prison or on parole.
- ❖ This lawsuit asks the Court of Appeal to clarify the voting rights of over 85,000 Californians affected by Realignment and who are no longer in prison or on parole for a conviction of a felony.

What is Realignment and what did it do?

- ❖ Realignment is a series of bills passed by the Legislature and signed by the Governor that fundamentally transformed California's correctional system, shifting from the state to counties certain responsibilities for most people convicted of low-level, non-violent offenses.
- ❖ The California legislature's critical goal of Realignment is to improve the results of the penal system by retaining people who had committed low level offenses in their communities and providing them with services that would help them change their lives.
- ❖ Realignment makes two key changes to California's criminal justice administration:
 - 1) Most individuals newly convicted of low-level, non-serious offenses will stay at the

county level – in jail or under supervision – rather than being sent to state prison.

- 2) Counties will assume greater post-release supervision responsibilities. Those released from prison whose convictions were for non-serious, non-violent felonies and who are not deemed high risk sex offenders will be placed on a new form of local monitoring called “postrelease Community Supervision”.

What is the main argument of this case?

- ❖ Excluding Californians sentenced under Realignment from voting is at odds with the California Constitution.
- ❖ Contrary to the Secretary of State’s opinion, under elections laws, individuals sentenced under Realignment retain the right to vote because they are neither in prison nor on parole for the conviction of a felony.
- ❖ Preventing these individuals from voting contradicts a central purpose of Realignment, which is to stop the state’s expensive revolving door of incarceration by rehabilitating and reintegrating individuals back into society.

What is the request of the Petitioners?

- ❖ Petitioners are asking the court to instruct the Secretary of State to notify local elections officials and registrars that individuals sentenced under the realignment legislation may vote and also asking the court to order everyone to accept registrations from people who are otherwise eligible to vote. Petitioners have asked the court to take action prior to the October 22 voter registration deadline.

Who does this case affect?

- ❖ This case will affect the fundamental voting rights of men and women sentenced under Realignment and whose offenses are neither violent nor serious. As a result of Realignment, these individuals will now be in their communities attempting to reintegrate into society.

What are the racial justice implications of this case?

- ❖ While racially neutral on their face, felony disenfranchisement laws have a racially disparate impact. In California, the current rate of disenfranchisement reflects greater disparities than national statistics.
- ❖ According to the California Department of Corrections and Rehabilitation, 29 percent of the state prison population is black, despite the fact that African Americans make up only 6.2 percent of California’s total population. Similarly, 63.7 percent of individuals on parole in California are black and/or Hispanic.
- ❖ The racially disproportionate impact of laws disenfranchising individuals with felony convictions underscores the urgency of ensuring that California citizens living in their communities under county supervision or in county facilities for non-serious crimes have an opportunity to participate in the political process.

What are the next steps?

- ❖ The Court of Appeal will consider the issue and decide whether or not individuals sentenced under Realignment retain the right to vote.

Petitioners are represented by the ACLU of Northern California, Social Justice Law Project, Lawyers’ Committee for Civil Rights, A New Way of Life Reentry Project, Legal Services for Prisoners with Children, and the Law Office of Robert Rubin.