

**An Analysis of how the Supreme Court has narrowed the impact of the Voting Rights Act  
of 1965**

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## Introduction

This paper will explore how the Supreme Court has narrowed the impact of the Voting Rights Act of 1965 (V.R.A). However, before delving into said topic it is important to provide some context surrounding the atmosphere of the United States leading up to the act's ratification, as well as the act's composition and overall level of success following its passage. Beginning with the atmosphere of the nation, a pervading sentiment leading up to the enactment of the V.R.A. was one of change. Many were calling for change towards the treatment of the non-white population of the country, due to the violence peaceful protestors were being subjected to simply for advocating for civil rights ("Voting Rights Act" [1965]).

There was a particular demonstration that appalled nearly the entire nation and consequently served as the stimulus toward the passage of the V.R.A. said event occurred in Selma, Alabama in 1965 (Klein). It would be remembered as "Bloody Sunday in Selma" given the violent outburst that occurred against a peaceful group of civil rights advocates. The impetus for this demonstration stemmed from the fact that in parts of Alabama African Americans were still being deprived of their voting rights despite the passage of the Civil Rights Act of 1964 (Klein). Such circumstances prompted the aforementioned demonstration that began in Selma and sought to end in Montgomery the place where George Wallace, Alabama's governor at the time, resided (Klein).

Key figures of the protest were John Lewis and Hosea Williams, and it is reported that more than 600 individuals took part in the protest (Klein). While the demonstration began peacefully, law enforcement cornered the demonstrators as soon as they approached the Edmund Pettus Bridge (Klein). John Cloud, Selma's mayor at the time, demanded that the protestors disperse for what he deemed to be an illegal gathering (Klein). However as one can assume such

demands were denied and as a result, the horrific event ensued. Tear gas, clubs, and physical force, among other means, were used against a defenseless group of protestors whose only crime was standing up for their rights (Klein).

Yet despite this dreadful incident the violence these civil rights advocates endured was not unconventional. Peaceful demonstrations were routinely met with brute force; the violence displayed during “Bloody Sunday in Selma” was simply another occurrence added to a long list of injustices towards those seeking equality in a predominantly white country. Before this protest, Martin Luther King Jr. was one of many advocates arrested in Selma in January of the same year for peacefully protesting for voting rights (Klein). A month later in Marion Alabama, a young man by the name of Jimmie Lee Jackson was killed in the act of defending his mother from the police during a demonstration (Klein). Additionally, in 1964 Michael Schwerner, James Chaney, and Andre Goodman, three civil rights activists, were all murdered in Mississippi by the K.K.K. (Fields). These men were part of the initiative “Freedom Summer” which sought to improve the number of registered African Americans in Mississippi (Fields).

Thus, the violence of “Bloody Sunday in Selma” was not what made this incident significant. Rather what distinguished this demonstration from those before it, was the fact that it was captured on camera and displayed to the entire country (Klein). This exposure was unprecedented given the national media attention the demonstration received. The night of the incident ABC opted to interrupt its scheduled programming to display footage of the violence that consumed Selma earlier in the day (Klein). Close to 50 million households, whether they wanted to or not, were made aware of the injustice and violence peaceful demonstrators were subjected to (Klein). The transgressions that occurred in Selma exposed the nature of the country; one controlled and governed by the notion of racism. Many who were previously

unaware of the degree of unjust behavior being directed toward protestors swiftly sympathized with them, by taking part in different forms of demonstrations (Klein). The exposure the incident in Selma received through the national media spurred many Americans to pressure the government into improving voting rights conditions (“Voting Rights Act” [1965]). Such pressure ultimately proved fruitful when President Johnson signed the Voting Rights Act of 1965 on August 5th (“Voting Rights Act” [1965]). Yet despite the passage of such monumental legislation it still remains a pity that violence played a key role in getting it over the finish line.

Furthermore, an interesting observation of how these events unfolded lies in the apparent ignorance of many across the United States in regard to the foul treatment protestors were facing. It is quite difficult to believe that people were unaware of the degree of racism present in the country. Rather it seems as though the exposure of such a horrific event spurred them into action as a means of safeguarding the prestige of the country. Racism has always been a common theme throughout this nation’s history; present during the nation’s founding and present even to this day. Moreover, the Jim Crow era was firmly established during the 20th century and only ended thanks to the passage of the Civil Rights Act and Voting Rights Act (Onion). During the Jim Crow era, multiple laws were passed that allowed states to implement mechanisms such as literacy tests and poll taxes to discourage African Americans from voting (Onion).

Nonetheless, whether it was a means to preserve the prestige of the country, the pressure people put on Congress as a result of the “Bloody Sunday in Selma” gave way to a promising piece of legislation. The V.R.A. was a very ambitious act that sought to protect the voting rights of minority groups who were being discriminated against simply based on the color of their skin (Crayton). The soul of this act lies in sections 2, 4, and 5; with sections 4 and 5 working in conjunction to formulate a formidable mechanism to hold states accountable. Beginning with

Section 2, this section allows people to sue against laws or policies that they deem to be affecting their voting rights (Crayton). Section 4 of the act established a framework for identifying states who were depriving minorities of their voting rights (“The Heart of the Voting Rights Act”). The system consisted of two forms of assessment; with the first one being whether a state had mechanisms in place that in any way could restrict access to those eligible to vote (“The Heart of the Voting Rights Act”). The second form of assessment relied on statistics; it sought to assess whether a state had less than 50% of its population, who were eligible to vote, registered (“The Heart of the Voting Rights Act”). If any of the aforementioned assessments were applicable to a state they would then become subject to “preclearance” also known as Section 5 (“The Heart of the Voting Rights Act”). A state under preclearance would have to obtain approval from a court before passing new voting laws (Crayton). Thus as a whole, the V.R.A. was a powerful and imposing piece of legislation, which proved to be successful early on after its passage. According to the National Archives, “By the end of 1965, a quarter of a million new Black voters had been registered...By the end of 1966, only four out of 13 southern states had fewer than 50 percent of African Americans registered to vote” (“Voting Rights Act” [1965]). These statistics put into perspective how effective the V.R.A. was. The act was safeguarding the voting rights of minority groups, something that at the time of its passage was unprecedented even with the existence of the 15th amendment. Thus, with this perspective surrounding the act, this paper will seek to shed light on how the Supreme Court has minimized the Voting Rights Act of 1965 over the years through different court cases.

### **Literature Review**

The literature surrounding how the Supreme Court has lessened the effectiveness of the Voting Rights Act of 1965 is predominantly centered around a single court case; Shelby County

v. Holder. This particular court case is regarded as the most important case in the history of the V.R.A. given the dire negative implications it had on the act. The only other court case mentioned as another clear indicator of the Supreme Court weakening the V.R.A. is *Brnovich v. Democratic National Committee*. However, to avoid redundancy the specifics of the aforesaid court cases will be properly discussed during the results section of the paper. Rather this portion of the paper will serve as a continuation of the discussion of the positive consequences that came about with the passage of the V.R.A. as well as some of the discussions that arose as a result of the ruling of *Shelby County v. Holder*.

It is important to shed light on the positive consequences of the act since it gives weight and significance to its narrowing. In the academic paper “Black Representation and Repression in the Contemporary Era: The Voting Rights Act and the Supreme Court” by William J. Crotty, two tables are provided that highlight the results of a study conducted in 1968 by the U.S. Commission on Civil Rights. The study sought to examine the impact the V.R.A. had on states where racial discrimination was deeply rooted (Crotty 36). The first table focuses on the states of Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina, and provides the percentage of non-whites registered to vote before and after the passage of the V.R.A. (Crotty 36). Each of the states saw substantial increases in the percentage of non-whites registered to vote; with Alabama and Mississippi being the standout states (Crotty 36). Alabama went from 19.3% to 51.6% while Mississippi went from 6.7% to 59.8% (Crotty 36).

The second table from the study provides the same information but for the following states: Arkansas, North Carolina, Tennessee, Texas, and Virginia (Crotty 37). While these states also experienced an increase in registered non-whites, they were not as substantial as the previous group (Crotty 37). Noteworthy increases occurred in Virginia going from 38.3% to

55.6%, and in Arkansas going from 40.4% to 62.8% (Crotty 37). Additionally, something to note is the fact that the percentage of white registered voters also increased respectively for each of the 11 states and retained a higher percentage than non-whites (Crotty 36).

All this considered, this study was monumental since it evidently answered two important questions; would the V.R.A. produce fruitful results and was the V.R.A. necessary? The answer to both questions was a resounding yes. The V.R.A., with sections 2, 4, and 5, was constructed as a means of protecting and guaranteeing voting rights for all U.S. citizens, but especially for minorities. The increase in registered voters across southern states shortly after the V.R.A.'s passage speaks volumes about the effectiveness of the act. If sections 4 and 5 had not been effective in executing their roles said increases should have been nonexistent. However, the act's effectiveness also confirmed the country's necessity for it. The fact that states such as Mississippi and Alabama had such low percentages of non-white registered voters before the passage of V.R.A. indicates the freedom and power states had and the unwillingness of the federal government to safeguard said people's voting rights.

Now, the positive impact of the V.R.A. goes beyond simply increasing the number of registered non-white voters. An American Journal of Political Science (AJPS) paper by Sophie Schuit and John C. Rogowski brings notice to how this act played an important role in providing African Americans with an opportunity to have prominence in the political landscape of the United States. The paper highlights how prominent figures of the civil rights movement, including Martin Luther King Jr., saw the passing of the V.R.A. as an opportunity to have a real influence on the nation's politics (Schuit and Rogowski 515). Given that the V.R.A. was constructed in a way that allowed it to hold states in check, via preclearance, this meant that previous restrictions in place to deter minorities from voting would be removed (Schuit and

Rogowski 515). Thus, the deduction made is that due to the act, politicians would be forced to alter their political campaigns to include African Americans given that they could alter their prospects of either winning elections or remaining in their positions (Schuit and Rogowski 515). Essentially, a group of people who were once an afterthought for politicians became imperative for their prospects of remaining in politics. Furthermore, this paper highlights how various studies have shown that it is irrefutable that with the passage of the V.R.A. African Americans were able to garner political relevance; with the 1960s marked as the turning point for such change given the historical pieces of legislation passed during this time (Schuit and Rogowski 516). This paper along with the 1968 study conducted by the U.S. Commission on Civil Rights perfectly highlights the strength and significance of the V.R.A. in protecting voting rights.

The success of the Voting Rights Act made the decision of *Shelby County v. Holder* in 2013 a historic one given that it stripped an important aspect of the act. Preclearance was deemed to be outdated by the Supreme Court and was essentially removed from the act (“The Heart of the Voting Rights Act”). This decision sparked discourse on the fate of the V.R.A. as well as to what could have led the Supreme Court to such a drastic decision. In chapter 10 of the book *Ethics for Contemporary Bureaucrats*, Susan Gooden and Brandy Faulkner dive into what could have led to the aforementioned decision. Gooden and Faulkner argue that the court's opinion portrayed itself as, “...consistent with a white racial framing of the law as color blind, a position that has been invidiously used to deny rights and privileges to non-white people” (Gooden and Faulkner 156). In essence, the authors are arguing that with the removal of preclearance and the justification given by the court for such action, the ruling had the priorities of whites at the forefront but sought to present itself as seemingly unbiased and fair. In assuming a stance of colorblindness, it is ignoring the country's deep-rooted history of racism and discrimination.



Additionally, Gooden and Faulkner further argue that the opinion provided by John Roberts underscored how his main concern lied in safeguarding the image of states, covered by preclearance, and showed little to no thought or consideration of what the removal of preclearance could spell for the voting rights of non-whites (Gooden and Faulkner 156). These arguments presented by Gooden and Faulkner will be important to keep in mind when delving into court case analysis later on in this paper since they can provide a different perspective as to the why of certain court rulings.

### **Expectations/Hypotheses**

There is no denying that *Shelby County v. Holder* marked a new era in the history of voting rights given the Supreme Court's ruling that significantly narrowed the impact of the act. However, this paper seeks to provide a well-rounded answer of how the Supreme Court has narrowed the impact of the aforesaid act. I am of the belief that while *Shelby County* is arguably the most impactful ruling there are likely more cases in which the Supreme Court narrowed the impact of the V.R.A.; such is the case with *Brnovich v. Democratic National Committee*. The aforementioned court case was a result of the *Shelby County* ruling. The 2013 ruling paved the way for the *Brnovich v. Democratic National Committee* case decision.

Thus, I also hypothesize that a similar incident must have occurred leading up to the ruling of *Shelby County v. Holder*. My expectation for this research question is that there are court cases that came before *Shelby County* that laid the foundations for the aforesaid case. While the cases might not have had the same impact or extent as *Shelby County*, I hypothesize that they limited in some shape or form the reach of the Voting Rights Act; or at the very least left aspects of the act up for debate. It seems odd to believe that the ruling of *Shelby County* was a singular occurrence without precedents to go off by.

## **Research Design**

The methodology that was utilized to seek an answer for the research question put forth by this paper was through content analysis; specifically the analysis of court cases. The narrowing of the Voting Rights Act by the Supreme Court can only be researched through court cases since they are the basis on which the court exercises its authority and opinion. At the beginning of the research phase, the target cases for this project included primarily those that marked a clear attack on the V.R.A. as well as resulting in a court opinion that narrowed or put into question the reach of the act. However, as I delved further into the research I noticed connections between a couple of court cases.

These connections prompted me to include them in the results section of this paper since although they might not have resulted in the narrowing of the V.R.A., they served as good comparison points of different rulings by the Supreme Court on fairly similar topics. In total this paper will discuss seven court cases: *South Carolina v. Katzenbach*, *Beer v. United States*, *Georgia v. Ashcroft*, *Rucho v. Common Cause*, *Shaw v. Reno*, *Shelby County v. Holder*, and *Brnovich v. Democratic National Committee*. As indicated earlier, of these 7 cases not all narrowed the impact of V.R.A, but each was important in the history of voting rights

## **Results**

### *South Carolina v. Katzenbach*

The *South Carolina v. Katzenbach* case is significant not for having narrowed the impact of the Voting Rights Act, but for the claims it made and the time in which they were made. This case involved South Carolina's attorney general, Daniel Mcleod who on behalf of the state challenged the V.R.A preclearance (Corasaniti). The main argument proposed by Mcleod was that said measure of the act was unconstitutional given that it was a direct attack on the rights of

states (Corasaniti). Furthermore, South Carolina was of the belief that the mechanisms that constituted preclearance were beyond the authority of Congress in relation to what they, the state, deemed to be dictated by the 15th Amendment (Dinan). In other words, South Carolina was challenging preclearance on the basis that their rights as a state were not being respected. The state saw preclearance, and likely the V.R.A. as a whole, as trespassing their autonomy to make their own decisions. The underlying message that can be deduced from the argument presented by Mcleod is that South Carolina believed that only states should have the right to make changes to voting laws or policies. In essence, states should be the ones to dictate whether voting restrictions are removed or if non-whites are granted greater voting accessibility; rather than being imposed by Congress via an act. From this court case, it was quite evident that the V.R.A. was not unanimously accepted and would have to withstand significant backlash.

Now, this challenge was presented by South Carolina fairly quickly after the enactment of the V.R.A. and was given a ruling by the Supreme Court the following year in 1966 (Corasaniti). The court ruled 8-1 in favor of safeguarding the constitutionality of preclearance, representing a monumental victory for the integrity of the V.R.A. (Corasaniti). Earl Warren, the chief justice at the time, argued that Congress was in their right to enforce the rights guaranteed by the 15th Amendment (Dinan). That is to say, with the passing of the V.R.A. Congress was seeking to safeguard the voting rights of U.S. citizens and in no way was seeking to provide advantages or disadvantages to any particular group of people. All Congress was doing with the passage of the V.R.A. was trying to level the playing field. This case was included in this paper for being the first major challenge towards the V.R.A., and for showcasing how it would have to rely on the Supreme Court for safeguarding. Despite the ample pressure people put on Congress to pass the V.R.A. its long-term livelihood was not a guarantee.

*Beer v. United States*

The *Beer v. United States* court case is of significance because it involved a situation in which the Supreme Court was essentially forced to assess what was permitted and prohibited by the V.R.A. preclearance. The case was a result of a redistricting plan created by the city of New Orleans in an effort to comply with preclearance (“*Beer v. United States*, 425”). Before the passage of the V.R.A., during the 1960s the city completely undermined African Americans in the way districts were drawn; it was to the point where no Black person made part of the city’s council for a decade (“*Beer v. United States*, 425”). However, with the passage of the V.R.A. the city of New Orleans was forced to redraw the districts after the 1970 census (“*Beer v. United States*, 425”). The city proposed a map in which African Americans would constitute majorities in three districts; two as majorities in terms of population and one in terms of voting majority (“*Beer v. United States*, 425”). This new map essentially only guaranteed one Black elected official but ultimately was an upgrade from the former map (Corasaniti).

In full belief that this new map would be approved under the protocols of preclearance, the city of New Orleans was shocked to learn that the Attorney General disapproved of said map (“*Beer v. United States*, 425”). Thus, feeling wronged the city sought a hearing from the District Court for the District of Columbia, but the court too rejected their map on the basis that they deemed it would compromise the voting rights of the Black population (“*Beer v. United States*, 425”) Subsequently, in another bid to have their map approved, the city appealed the decision to the Supreme Court with the argument that the map was drawn with no intention of discriminating against any particular group of voters (“*Beer v. United States*”). The court, in 1976, in a 5-3 decision ruled in favor of New Orleans stating that the map violated no principles of preclearance (“*Beer v. United States*”). Justice Stewart, in the opinion, argued that the map

created by New Orleans improved conditions for Blacks and that such map changes can only violate preclearance if they are constructed with the means of racially discriminating against a certain group of people (“Beer v. United States”). The Supreme Court further argued that reapportionment plans can only violate preclearance if they blatantly discriminate on the basis of race and if a retrogression occurs; meaning a worsening of the voting conditions for minorities (“Beer v. United States”). The map created by New Orleans did the bare minimum for Blacks but ultimately was approved because it did not revert conditions to a time before the V.R.A. Yet, the question that arises with this decision is given the context of the map, how could conditions have been made worse? Black voters prior to the V.R.A had no representation in the New Orleans’ council and this new map only guaranteed them one elected official. Thus, the indirect message from this court ruling was that states could get away with the bare minimum so long as conditions were relatively improved or most importantly not worsened. Nonetheless, this case would serve as a precedent for Georgia v. Ashcroft.

### *Georgia v. Ashcroft*

The Georgia v. Ashcroft court case covered a fairly similar topic as Beer v. United States yet it produced significantly distinct results due to its interpretation of the idea of retrogression under preclearance. As in the previous case, redistricting was at the heart of this case but rather than being at the city level, it was redistricting for the state’s Senate (“Georgia v. Ashcroft, 539”). Once the data of the 2000 census was gathered and analyzed the Georgia General Assembly believed it was prudent to redraw the state’s map in order to maximize potential given the fluctuations in the state’s population (“Georgia v. Ashcroft, 539”). A key statistic gathered from the census was that current districts that had Black majorities had more than enough members to allow for some reorganization (“Georgia v. Ashcroft, 539”). Furthermore, Black

voters were predominately affiliated with the Democratic Party in Georgia and this was evidenced through the make-up of the Senate (“Georgia v. Ashcroft, 539”). Thus the committee in charge of the redistricting, who were primarily Democrats, sought to maximize the reach of their Black voters by spreading them out in strategic sectors without sacrificing an unnecessary amount of majority districts (“Georgia v. Ashcroft, 539”). They justified the redistricting as an effort to continue to keep Black voters present and relevant in electing candidates (“Georgia v. Ashcroft, 539”). Whether this was true or used as an excuse for the personal gain of the Democratic party is up for debate.

Now, the redrawn map faced no significant pushback by the state legislature and was approved and signed by the governor fairly quickly in 2001 (“Georgia v. Ashcroft, 539”). Once approved the last checkpoint left was approval under the preclearance guidelines. The state sought approval from the District Court for the District of Columbia, but to their dismay, they were denied approval on the basis that a couple of the districts that were redrawn, per preclearance, committed retrogression (“Georgia v. Ashcroft, 539”). As one would expect this decision was appealed to the Supreme Court and a ruling was provided in 2003 (“Georgia v. Ashcroft”). In what was a tight 5-4 decision the court ruled in favor of Georgia stating that the District Court inadequately analyzed the map by focusing their attention on a few of the districts rather than analyzing the whole (“Georgia v. Ashcroft”). In the court opinion, Justice O’Connor argued that through a holistic analysis, it was evident that various other districts had an increase in black voters despite the few districts that lost black voters (“Georgia v. Ashcroft”). Furthermore, O’Connor also highlighted the fact that the District Court failed to take into account the fact the new map was approved by elected officials of the state that composed said districts (“Georgia v. Ashcroft”). This was a significant ruling, because it essentially narrowed

the impact of preclearance, given that the court ruled that it must be interpreted in a holistic sense. If the positives outweigh the negatives in terms of garnering minorities more opportunities for representation, then a plan cannot be struck down simply for the retrogressions of a few districts. Additionally, what makes this ruling interesting is that if it was ruled on the basis of the decision of *Beer v. United States*, Georgia's plan would have likely been struck down. Two similar incidents resulted in two different interpretations of what violates preclearance.

*Shaw v. Reno*

*Shaw v. Reno* is another example of a court case in which the Supreme Court narrowed the impact of the V.R.A. In this case, the topic in question was gerrymandering and whether it was allowed for the sake of complying with the guidelines of preclearance (Corasaniti). This particular case originated in North Carolina in a bid by the state to clear the protocols of preclearance (Corasaniti). The 1990 census prompted the state to create a new districting map to correspond with the then-current population, but still needed to be in line with preclearance (Corasaniti). The state's first iteration of its new map included only one district in which Black voters constituted a majority, and was rejected by the Attorney General on the basis that more could have been done for Blacks in certain areas of the state ("*Shaw v. Reno*, 509"). North Carolina's second proposal created a second district in which Blacks would constitute a majority and was ultimately approved and cleared under preclearance ("*Shaw v. Reno*, 509").

Despite its clearance not everyone was satisfied with the new restructuring given that five white citizens from the state sued on the argument that the make-up of the two Black districts constituted racial gerrymandering and thus violated their 14th amendments ("*Shaw v. Reno*, 509"). In other words, these people were arguing that these two districts were purposefully constructed to give what they deemed an unfair advantage to Blacks. The case eventually

reached the Supreme Court as an appeal given its rejection by a District Court which found no basis in their argument given that it concluded that the two districts did not have an overarching effect on the entire map (“Shaw v. Reno, 509”). In 1993 in what was a 5-4 decision the Supreme Court ruled in favor of the citizens arguing that racial gerrymandering did take place given the layout of the two districts (“Shaw v. Reno”). Furthermore, in the opinion, the court argued that places under preclearance do not have the freedom to use any means possible to satisfy it (Corasaniti). Additionally, the court stated that it was not correct to purposefully create districts solely on race if it results in a district with an odd and unnatural layout that alienates its inhabitants (Corasaniti). This ruling significantly narrowed the impact of the Voting Rights Act. The act was created to protect the voting rights of minorities and provide them with an equal opportunity. However, this case showed this would be practically impossible. The court opted to concentrate on two districts rather than taking a holistic approach. While indeed the two districts were purposefully created to give Black voters a majority this was not, in my opinion, an infringement of the 14th amendment. If the two districts had created an unfair advantage for Blacks in the entire map then it would have been a different story. But that was not the case, they were simply given two districts in an act to give them political relevance.

#### *Rucho v. Common Cause*

The ruling of *Rucho v. Common Cause* highlighted another instance in which the Supreme Court interpreted similar topics in varying ways. As with the previous case, *Rucho v. Common Cause* dealt with the idea of gerrymandering. The Brennan Center for Justice (B.C.) explains that the origins of the case lie within the 2016 North Carolina congressional map (“*Rucho V. Common Cause*”). The B.C. states that the state Democrats sued on the basis that they believed that the map was a clear representation of partisan gerrymandering, with the



Republicans manipulating the map for their convenience (“Rucho V. Common Cause”). Now, as explained by Oyez, a District Court ended up ruling in favor of the Democrats and thus labeled the state’s map as a clear indicator of partisan gerrymandering (“Rucho v. Common Cause”).

However, the North Carolina Republicans, unwilling to cede the map they constructed, decided to appeal the court decision to the Supreme Court (“Rucho v. Common Cause”). The court delivered a verdict, in 2019, with a 5-4 decision that ultimately favored the Republicans (“Rucho v. Common Cause”). In the opinion, the court argued that partisan gerrymandering is not within the jurisdiction of the Supreme Court, given that it involves politics directly unlike the notion of racial gerrymandering among others (“Rucho v. Common Cause”). In essence, the court argued since this was a clear case of politics in which the grievances were amongst political parties about politics, such decisions were beyond their authority (“Rucho v. Common Cause”). As a result, the court concluded that no decision could be made for such cases (“Rucho v. Common Cause”). This was a historic ruling given that, albeit, indirectly the Supreme Court’s opinion favored the Republicans. This meant that the 2016 congressional map was acceptable and essentially set the precedent for other states to follow in its step if they so wished. While the V.R.A. was not officially impacted by this ruling in the end it was. This showed that states could get away with gerrymandering so long as it was presented as partisan gerrymandering. In my opinion, it is quite difficult to make out the differences between racial and partisan gerrymandering, if any were to exist. Ultimately, all forms of gerrymandering involve politics so what exactly distinguishes the former from the latter?

#### *Shelby County v. Holder*

Shelby County v. Holder will be the penultimate case highlighted in this paper and is arguably the most important case given the impact it had on significantly narrowing the impact

of the Voting Rights Act. This case revolved around Shelby County, an Alabama county, seeking an official decree from a court stating that preclearance and the portion of section 4 that created the mechanisms to detect which states would be subject to preclearance to both be unconstitutional (“Shelby County v. Holder, 570”). This was a tall task since it was seeking to dismantle the Voting Rights Act. The District Court denied their claim and reaffirmed the fact that both of these sections of the V.R.A. were legal (“Shelby County v. Holder, 570”). Additionally, the U.S. Court of Appeals also supported the ruling of the aforesaid court (“Shelby County v. Holder, 570”).

Thus, Shelby County appealed its case to the Supreme Court and received a verdict in 2013 (“Shelby County v. Holder”). In what was another tight 5-4 decision the court ruled in favor of Shelby County, marking a new era for the Voting Rights Act (“Shelby County v. Holder”). In the opinion, John Roberts deemed Section 4 of the V.R.A. to be unconstitutional on the grounds that it was outdated and no longer portrayed the current state of the nation (“Shelby County v. Holder”). This was an interesting argument since Roberts was essentially declaring that the country, at the time of the ruling, had long moved on from racial discrimination. The court was taking a huge gamble with this reasoning since states that were once under preclearance now had more liberty and flexibility to make changes to their voting procedures (Corasaniti). An article by the Brennan Center for Justice highlights how the states of Texas and North Carolina passed stringent voting laws regarding deemable forms of identification fairly quickly after the ruling of Shelby County (“The Effects of Shelby”). To the relief of minorities both laws were eventually struck down on the basis of section 2 of the V.R.A. (“The Effects of Shelby”). Yet, these actions from Texas and North Carolina spelled troubling times for minorities. The only thing keeping the Voting Rights Act alive and relevant after the ruling was

Section 2. A formidable piece of legislation that brought great optimism for the direction the country was heading, was practically dismantled with *Shelby County v. Holder*.

*Brnovich v. Democratic National Committee*

*Brnovich v. Democratic National Committee* will be the last court case that will be discussed in this paper. This case is the last significant narrowing that has occurred to the Voting Rights Act since the ruling of *Shelby County v. Holder*. This case stemmed from Arizona in regards to two particular voting policies the state had implemented (“*Brnovich v. Democratic*”). The first policy consisted of rejecting the ballots made by individuals outside of their corresponding precinct, while the second policy restricted who was able to return ballots on behalf of individuals (“*Brnovich v. Democratic*”). These two rules were clearly intended to restrict voting access. If that was not the goal of Arizona, why go through the trouble of passing such regulations?

The Democratic National Committee ended up filing a lawsuit against these two policies arguing that they breached section 2 of the Voting Rights Act (“*Brnovich v. Democratic*”). The Committee’s argument was corroborated by the Ninth Circuit, which deemed that the two policies meant to discriminate against minorities (“*Brnovich v. Democratic*”). However, as one could expect, said the ruling was appealed to the Supreme Court and a ruling was delivered in 2021 (“*Brnovich v. Democratic*”). In a fairly lopsided 6-3 decision the court ruled in favor of Arizona and rejected the arguments presented by the Committee (Corasaniti). In the opinion, the court reinterpreted section 2 of the V.R.A., by claiming that the use of said section was only valid in the event of a clear action that prohibited minorities from voting in an election (“*Brnovich v. Democratic*”). The court stated that section 2 could only be invoked in clear and blatant acts of voting discrimination that can restrict a person’s ability to cast a ballot (Corasaniti). The court

further argued that in cases such as this, a holistic approach must be taken, meaning that it is important to examine whether more forms of voting exist before striking down voting policies (Corasaniti). In essence, restrictive voting policies such as these could not be removed so long as people have different options to choose from. This was a significant ruling because although section 2 was not rendered futile its scope was altered. As stated by the Brennan Center for Justice, this ruling significantly restricted on what grounds people could invoke said section when filing lawsuits for voting laws or policies they deemed to be discriminatory (“Brnovich v. Democratic”). After this ruling the Voting Rights Act was still alive but it was a shell of its former self. The act could no longer effectively safeguard the voting rights of minorities, since through rulings such as these the court was bestowing states with different ways to overcome it.

### **Discussion**

Now, having concluded research on this topic the results obtained partially aligned with the expectations and hypotheses I had. As stated throughout this paper the central research question I was seeking to answer was how the Supreme Court has narrowed the impact of the Voting Rights Act. This prompted me to research court cases in order to see the extent of the impact the court had on the act. My background knowledge on the topic mostly centered around *Shelby County v. Holder* and *Brnovich v. Democratic National Committee*. For *Shelby County v. Holder*, due to a course taken at U.C. Irvine, I was well aware of the ruling and its impact on the act. However, for the latter case, it was mostly preliminary knowledge since I was not fully aware of the ruling and only knew that it negatively impacted the Voting Rights Act. Thus, the research phase of this project was enriching. One of the hypotheses I had was that there would be more cases other than *Shelby County v. Holder* and *Brnovich v. Committee National Committee*.

My reasoning for this expectation was that given the impact of the ruling of Shelby County there surely must have been cases before it that paved the way for such drastic changes.

These ideas would prove to be partially correct because while there were cases that came before *Shelby County v. Holder* that paved the way for the case it was not necessarily in the way I envisioned it. What I mean by this is that while the majority of the cases presented in this paper in some shape or form impacted the Voting Rights Act, the explanations and interpretations given by the Supreme Court were not necessarily consistent, despite sharing similar topics. Take *Beer v. United States* and *Georgia v. Ashcroft*, two cases that both covered redistricting but received distinct interpretations. In *Beer v. United States*, the Supreme Court primarily used the idea of retrogression to justify not striking down an apportionment plan that did the bare minimum for Blacks in New Orleans (“*Beer v. United States*”). Then in *Georgia v. Ashcroft*, the court argued that retrogression cannot be used for justification if the map as a whole proves beneficial for minorities (“*Georgia v. Ashcroft*”). These are two completely different arguments for what is roughly the same topic.

A similar incident occurred in *Shaw v. Reno* and *Rucho v. Common Cause*. The two cases dealt with gerrymandering, but each received vastly different arguments. In *Shaw v. Reno* the court ruled on the grounds of racial gerrymandering and then for *Rucho v. Common Cause* concluded that partisan gerrymandering was beyond the scope of the Supreme Court. When having a context of the two cases, the decision of *Rucho v. Common* becomes more perplexing. As mentioned during the analysis of the case, what exactly differentiates the two forms of gerrymandering that make one acceptable for judgment and the other not? The court’s argument was that partisan gerrymandering entails politics and that such decisions do not correspond to the court (“*Rucho v. Common Cause*”). The arguments presented by the Supreme Court in the four

aforementioned cases make me conclude that the court treated each case as mostly singular occurrences. It is almost as if for each of the cases they sought the best justification for siding against the Voting Rights Act. Each decision impacted the Voting Rights since it essentially put boundaries on the range of preclearance. Then with *Shelby County v. Holder* and subsequently *Brnovich v. Democratic National Committee* the court attacked sections 4, 5, and 2 respectively. All these court cases shaped the current version of the Voting Rights Act. A version that is severely weakened to the point of no return.

### **Conclusion**

This paper was able to provide an answer as to how the Supreme Court has impacted the Voting Rights Act by highlighting seven different court cases. Of the seven court cases, only one truly did not have a negative impact on the act and it was *South Carolina v. Katzenbach*. The reason why the case was included in this paper was to highlight how the act did not have unanimous support from the public. In hindsight, this particular case has parallels with *Shelby County v. Holder*. The two cases challenged the notion of preclearance but each garnered different results. In the *South Carolina* case, the Supreme Court supported the Voting Rights Act while in *Shelby County* the court turned its back on it. One case portrayed the V.R.A. at its peak while the other portrayed the act close to its worst state.

Each of the other cases covered in this paper such as *Shaw v. Reno* and *Beer v. United States* had impacts on the Voting Rights Act but not to the extent of *Shelby County* and even *Brnovich*, rather the impact occurred by limiting the reach of certain aspects of the act. As in any research project limitations exist. A limitation of the project was time, given that my focus was divided between this paper and my other courses at UC Irvine, but nonetheless, I feel I was able to achieve what I sought to accomplish with this paper. Additionally, this paper sparked ideas for

future research projects I would be interested in embarking on. One of which would be a study on what is the best course of action for protecting the voting rights of minorities. With the current iteration of the House and Senate is there a viable pathway for the passing of a new piece of legislation that could serve as the substitute for the Voting Rights Act? Another topic I am also interested in researching is partisan and racial gerrymandering. Are there really differences between the two?

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