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Turning Democracy Right Side Up
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Guest Commentator

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Nearly fifty years ago, Dr. Martin Luther King, Jr., in a voting rights speech given before an audience of 20,000 in Washington, D.C., recognized that "all types of conniving methods are being used to prevent Negroes from becoming registered voters."

Unfortunately, Dr. King's words ring true today in Alabama, where the Secretary of State, the chief election official, is denying the right to vote to eligible Alabamians.

Although Alabama's Constitution permits people convicted of felonies not involving "moral turpitude" to register to vote, registrars throughout Alabama were advised by the Secretary of State to refuse to register these potential voters unless they have a Certificate of Eligibility from the Alabama Board of Pardons and Paroles, a document that they need not and indeed cannot receive.

Alabama courts have made clear, however, that people convicted of felony crimes such as driving under the influence, drug possession, or liquor law violations, do not lose their right to vote. In fact, the Alabama Board of Pardons and Paroles recently issued a press release to this effect.

The Secretary of State's unlawful behavior is symptomatic of a disturbing practice that we have named "felon disfranchisement creep," which occurs when election officials – whether intentionally or through ignorance of the law – improperly expand existing felon disfranchisement laws to deny the vote to eligible citizens.

And the problem is not Alabama's alone. As recently as in the 2004 elections in Louisiana, a parish registrar refused to allow volunteers to register pre-trial detainees who were, in fact, eligible to vote under law. In Florida, a discriminatory felon purge list was created by the state and exposed only after the media sued to obtain it.

The Black Commentator – Turning Democracy Right Side Up

As states like Alabama appropriately revisit and relax felon disfranchisement statutes to restore eligibility to voters, felon disfranchisement creep threatens to erect new barriers to the exercise of the fundamental right to vote.

To combat this problem in Alabama, the NAACP Legal Defense and Education Fund and local Alabama counsel recently filed complaints in state and federal court to require the Secretary of State to follow the state's own constitution and voting laws. We simply cannot permit confusion or worse, resistance by state election officials, to deny eligible voters access to the crown jewel of our democracy: the right to vote.

The origin, legacy and letter of the Voting Rights Act of 1965 dictates that Alabama's Secretary of State should be leading the way toward expanding, rather than unlawfully restricting, the right to vote for Alabama's citizens. As Dr. King warned America that day, "The denial of this sacred right is a tragic betrayal of the highest mandates of our democratic traditions and it is democracy turned upside down."

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