



**For Immediate Release**  
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**LDF Media**  
212-965-2200 / [media@naacpldf.org](mailto:media@naacpldf.org)

### **LDF Files Amicus Brief in Critical Voting Rights Act Supreme Court Case**

Yesterday, the NAACP Legal Defense and Educational Fund, Inc. (LDF) filed an amicus brief in *Brnovich v. Democratic National Committee* (DNC), the lead in consolidated cases before the United States Supreme Court. The case concerns the scope of Section 2 of the Voting Rights Act (VRA) and the VRA's ability to address present-day vote denial schemes. LDF's brief illuminates how the text, history, and Congress's purpose in enacting Section 2 — which prohibits all racially discriminatory voting laws — requires consideration of all circumstances that burden Black voters, contrary to the restrictive view of Section 2 urged by government defendants, the State of Arizona.

*Brnovich* is the first case after 1982 in which the Supreme Court will interpret Section 2 as applied to vote denial claims. These claims involve challenges to discriminatory voting rules, like voter identification laws, cuts to early voting, and other barriers to registration or voting, that block voting or make it harder to vote.

“In enacting the Voting Rights Act, Congress designed Section 2 to prevent the sort of pervasive and unrelenting voting discrimination that we have continued to see in recent years,” said Leah Aden, LDF's Deputy Director of Litigation. “The reality is that strict voter ID laws, limits on early voting, and barriers to mail-in voting during a pandemic negatively impact Black voters in unique ways because of where we live, the jobs we have, if we have cars, and what underlying health conditions we may have.”

In 2016, the DNC sued the state of Arizona, claiming that two of its voting policies violated the VRA. In 2020, the full Ninth Circuit U.S. Court of Appeals ruled that Arizona's ban on out-of-precinct voting (which bars the counting of in-person ballots that are cast outside of a voter's assigned polling place on Election Day) and a ballot-collection law (which makes it a crime for certain third parties to handle mail-in ballots) violate Section 2. Arizona appealed to the Supreme Court in April 2020.

In its 2013 *Shelby County* decision, the Supreme Court removed a different provision of the Voting Rights Act, Section 5, which had prevented Arizona from implementing a voting policy at issue in this case. This decision left Section 2 of the VRA as the primary tool that Black and other voters of color have to address current racial discrimination in voting. Plaintiffs in this case successfully relied on Section 2 to challenge Arizona's discriminatory voting restrictions, but Arizona is now seeking to overturn that result by urging the Supreme Court to narrow the reach of Section 2.

“Section 2 was designed to root out racial discrimination in the electoral system. As our brief establishes, Section 2 has a sizeable reach that mandates the consideration of the

‘totality of the circumstances’ when assessing whether a challenged voting rule or practice has resulted in illegal discrimination. Given the history of discrimination in this country, the ‘totality of circumstances’ inquiry must include all acts of discrimination, not just those committed by the state or locality being challenged,” said Mahogane Reed, LDF’s John Payton Appellate and Supreme Court Advocacy Fellow.

The Supreme Court will hear oral argument in *Brnovich* on March 2, 2021.

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*Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.*

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