

“Restoring the Voting Rights Act after *Brnovich* and *Shelby County*”

Hearing before the Senate Committee on the Judiciary, Subcommittee on the Constitution

July 14, 2021

QUESTIONS FROM SENATOR BLUMENTHAL

Questions for Mr. Jose Garza:

1. Statements at the hearing indicated that “in 2020, in Texas. . . 66% of registered voters cast their ballot—historic numbers of Hispanic and African American voters participated in the election[,]” and that because 66% of registered voters cast their ballot in the 2020 election in Texas, it showed that “anybody who wanted to cast their ballot who was legally qualified to do so had ample opportunity to do so and they did so in a very robust fashion.”
 - a. Is a 66% overall participation rate by registered voters probative of whether minority voters have the same opportunity to register and to vote as white voters? Why or why not?

Answer: No. Turn out in Texas is low for all groups, but worse for Latino and other minority groups. Registration rates are low for Latino voters. Being proud of a 66% participation rate shows a disregard for full participation. Texas works hard to make voting harder in Texas, especially for minority citizens. Because we have one election where voters overcame the obstacles placed before them to reach 66%, is not a cause for celebration or evidence that the obstacles are of no consequence. What would the rate of turn-out have been without voter ID, without signature match on mail in ballots, with election day registration etc.? How many more Latino voters would have been eligible to vote without the flawed “citizenship” purge conducted by the state?

- b. Do you agree that Hispanic and African American voters in Texas had the same opportunity to register to vote or to vote in the 2020 election as white voters?

Answer: No. Texas imposes more restrictions to registration meant to make it harder to register and to vote and those restrictions impacted the 2020 election. For instance, some but not all voters were purged from the registration rolls for not having names that exactly matched names on drivers licenses. Thus, if a new voter registered as Joe Garza, and had the exact same birth date and address as his Jose Garza driver’s license he would be rejected and sent a letter to explain the difference in his name. Recent data shows this restriction impacted Latino voters more than Anglo voters.

- c. What facts should Congress be examining to determine whether minority voters are being subject to discriminatory voting conditions?

Answer: In my opinion, Congress should examine voting restrictions enacted by Texas in recent years and examine data on how the restrictions impact voters' participation. Some of these restrictions include: voter ID, restrictions on voter registration and who can deputy voter registrar, criminal penalties imposed on voters who make mistakes, signature matching on registration forms and on mail ballot applications, and others.

- d. Is it correct that any qualified citizen who wants to cast a ballot in Texas can and has "ample opportunity" to do so? Can you provide additional detail about barriers to voting that qualified citizens in Texas faced in seeking to cast their ballots?

Answer: It is not correct. The answer to these questions is complicated. First, it cannot be answered without consideration of the history of voting in Texas. If you are poor and if you are black or brown you have been targeted for exclusion from participation throughout our history.

Then, what on the surface seems like small inconveniences become extremely difficult to overcome. For instance, if you have to go to the registration office to explain why you registered as Joe Garza when your driver's license shows you are Jose Garza, but you work during the hours that the registration office is open, it may be too much of an ask. Or if you are put to the task of explaining why you are registering to vote, but flawed government records show that you are a noncitizen you may fear that participation jeopardizes your ability to remain a citizen. Or if you assist more than one voter with an **application** for a mail ballot, you may be prosecuted for "election fraud". See attachment

TEXAS ELECTION CODE

Sec. 84.004. UNLAWFULLY WITNESSING APPLICATION FOR MORE THAN ONE APPLICANT. (a) A person commits an offense if:

(1) the person signs an application for a ballot to be voted by mail as a witness **for more than one applicant in the same election**; or

(2) the person signs an application for annual ballots by mail as a witness for more than one applicant in the same calendar year.

(b) It is an exception to the application of Subsection (a) that the person signed early voting ballot applications for more than one applicant:

(1) as an early voting clerk or deputy early voting clerk; or

(2) and the person is related to the additional applicants as a parent, grandparent, spouse, child, or sibling.

(c) A violation of this section does not affect the validity of an application involved in the offense.

(d) Each application signed by the witness in violation of this section constitutes a separate offense.

(e) An offense under this section is a Class B misdemeanor.

(EMPHASIS ADDED)