



## Stop Kavanaugh: Voting Rights

*Judge Kavanaugh would threaten hard-won protections for the right to vote.*

Judge Kavanaugh **worked against the interests of minority voters** while working with fellow conservative ideologues as an attorney in private practice.

- 1999-2000 Term: Supreme Court considers Native Hawaiians' rights in *Rice v. Cayetano*<sup>i</sup>
- Kavanaugh-Bork-Clegg amicus brief argues Hawaii violated the Constitution by permitting only Native Hawaiians to vote in elections for the Office of Hawaiian Affairs<sup>ii</sup>
- Kavanaugh op-ed on "Hawaii's naked racial-spoils system" accuses the Clinton Justice Department of "sheer political calculation" and supporting "racial separatism" for its involvement in the case, citing Justice Scalia's "one race" theory<sup>iii</sup>
- In an interview, Kavanaugh says: "This case is one more step along the way in what I see as an inevitable conclusion within the next 10 to 20 years when the court says we are all one race in the eyes of government"<sup>iv</sup>
- Though the Supreme Court shares Kavanaugh's ultimate conclusion, Stevens-Ginsburg dissent cites Hawaii's unique history and Supreme Court precedent<sup>v</sup>

Judge Kavanaugh was a senior advisor in the George W. Bush administration when **voting rights came under serious attack**. Today, the American people are being denied access to records that would tell us what role he played in those attacks.

- The Bush administration fired U.S. attorneys for refusing to prosecute nonexistent voter fraud<sup>vi</sup> and politicized U.S. Department of Justice Civil Rights Division hiring<sup>vii</sup>
- The Bush administration undermined the Voting Rights Act by politicizing Section 5 enforcement<sup>viii</sup> and, though President Bush ultimately signed the 2006 VRA renewal, questioning the ongoing need for this landmark law<sup>ix</sup>
- Judge Kavanaugh served as White House staff secretary—a senior advisor role deeply involved in major policy decisions—from 2003-2006, when these actions were taken<sup>x</sup>
- A responsible senator who supports voting rights will not recklessly allow a vote on this lifetime nominee until they have a chance to review his full record, including documents from his staff secretary tenure<sup>xi</sup>

Judge Kavanaugh's judicial record further demonstrates a **lack of commitment to racial justice**.

- *South Carolina v. U.S.* ruling upholds a restrictive voter ID law<sup>xii</sup> that has, according to the U.S. Department of Justice, significant racial disparities<sup>xiii</sup>
- Judge Kavanaugh's ruling impacts nearly 200,000 registered South Carolina voters, including more than 60,000 nonwhite voters, without DMV-issued ID<sup>xiv</sup>

- Judge Bates, a fellow Bush appointee, agrees with Kavanaugh but writes separately to underscore the importance of Voting Rights Act preclearance: "[O]ne cannot doubt the vital function that Section 5 of the Voting Rights Act has played here . . . Congress has recognized the importance of such a deterrent effect"<sup>xv</sup>
- *Greater New Orleans Fair Housing Action Center v. HUD* ruling dismisses a claim of racial disparity in post-Katrina housing relief and broadly attacks the ability to prove disparate impact claims<sup>xvi</sup>

The stakes for our democracy are high in **a number of key pending cases** that may well make their way to the high court.

- *Whitford v. Nichols, Benisek v. Lamone, and Common Cause v. Rucho*: Whether extreme partisan gerrymandering is reviewable as a possible constitutional violation<sup>xvii</sup>
- *NAACP v. Merrill*: Voting-related problems related to prison locations and the vast disparities in minority incarceration rates<sup>xviii</sup>
- *Thompson v. Kemp, Thomas v. Bryant, Indiana State Conference of NAACP v. Lawson, and One Wisconsin Institute v. Thomsen*: Racial discrimination challenges to state redistricting plans and restrictions on voting rights<sup>xix</sup>
- *Fish v. Kobach*: Requirement that voters submit proof of citizenship before voting<sup>xx</sup>

<sup>i</sup> <https://www.oyez.org/cases/1999/98-818>

<sup>ii</sup> <https://civilrights.org/oppose-confirmation-brett-kavanaugh-supreme-court-united-states/>

<sup>iii</sup> <https://turtletalk.files.wordpress.com/2018/07/are-hawaiians-indians-the-jus.pdf>

<sup>iv</sup>

[https://www.judiciary.senate.gov/imo/media/doc/Brett%20M.%20Kavanaugh%2012\(e\)%20Attachments.pdf#page=166](https://www.judiciary.senate.gov/imo/media/doc/Brett%20M.%20Kavanaugh%2012(e)%20Attachments.pdf#page=166)

<sup>v</sup> <https://supreme.justia.com/cases/federal/us/528/495/#tab-opinion-1960603>

<sup>vi</sup> <https://www.brennancenter.org/publication/justice-departments-voter-fraud-scandal-lessons>

<sup>vii</sup> [https://cdn.americanprogress.org/wp-content/uploads/issues/2007/03/pdf/civil\\_rights\\_report.pdf#page=23](https://cdn.americanprogress.org/wp-content/uploads/issues/2007/03/pdf/civil_rights_report.pdf#page=23)

<sup>viii</sup> [https://cdn.americanprogress.org/wp-content/uploads/issues/2007/03/pdf/civil\\_rights\\_report.pdf#page=44](https://cdn.americanprogress.org/wp-content/uploads/issues/2007/03/pdf/civil_rights_report.pdf#page=44)

<sup>ix</sup> <https://www.theroot.com/rove-bush-was-skeptical-of-voting-rights-act-1790884790>

<sup>x</sup> <https://www.washingtonpost.com/news/monkey-cage/wp/2018/08/04/this-is-why-the-senate-should-care-about-brett-kavanaughs-time-as-bushs-staff-secretary/>

<sup>xi</sup> <http://www.pfaw.org/press-releases/pfaw-statement-on-gop-scheduling-kavanaugh-hearing-without-full-record-their-corruption-and-hypocrisy-is-mind-boggling/>

<sup>xii</sup> [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2012cv0203-299](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2012cv0203-299)

<sup>xiii</sup> <https://civilrights.org/oppose-confirmation-brett-kavanaugh-supreme-court-united-states/>

<sup>xiv</sup> <https://www.thenation.com/article/63756-reasons-why-racism-is-still-alive-in-south-carolina/>

<sup>xv</sup> [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2012cv0203-299](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2012cv0203-299)

<sup>xvi</sup> <https://www.demos.org/publication/kavanaugh-has-unsettling-record-democracy>

<sup>xvii</sup> <http://www.pfaw.org/report/key-cases-on-the-way-to-supreme-court-that-kavanaugh-and-others-could-use-to-overturn-precedent-and-harm-our-rights/#voting>

<sup>xviii</sup> <http://www.pfaw.org/report/key-cases-on-the-way-to-supreme-court-that-kavanaugh-and-others-could-use-to-overturn-precedent-and-harm-our-rights/#voting>

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