

# US appeals court to reconsider decision striking down Mississippi Jim Crow-era voter disenfranchisement law

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News

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The US Court of Appeals for the Fifth Circuit [agreed](#)<sup>2</sup> on Thursday to reconsider a [decision](#)<sup>3</sup> from August that a provision of the [Mississippi Constitution](#)<sup>4</sup> that permanently prevents people convicted of certain felonies from voting is unconstitutional.

The court agreed to rehear the case involving Section 241 of the Mississippi Constitution after Secretary of State Delbert Hosemann [petitioned](#) the court to reconsider its earlier decision. Pursuant to [Federal Rule of Appellate Procedure 35](#), Hosemann argued that the earlier decision conflicts with US Supreme Court and federal appellate precedent. Additionally, Hosemann asserted that the case raises questions of exceptional importance. The court's order vacated the previous decision until the matter is resolved.

The court's earlier August decision found that Section 241 violates the US Constitution's [Eighth Amendment's](#) prohibition on "cruel and unusual punishment." Judge Edith Jones dissented and argued that the court's decision went against Eighth Amendment precedent. Hosemann agreed with Jones in his petition to the court, stating:

First, the panel did not have the option of stripping Mississippi of its power to disenfranchise felons indefinitely. Longstanding Supreme Court precedent rejects the view that a State is barred from indefinitely disenfranchising an entire category of felons. Second, even if that were not so, the panel was wrong to conclude that Mississippi's disenfranchisement of felons is a "punishment" subject to the Eighth Amendment. Under Supreme Court precedent, Section 241 of the Mississippi Constitution is a nonpunitive voting regulation. Third, even if disenfranchisement were a punishment, it is not cruel and unusual. The Constitution recognizes that States may disenfranchise felons, it places no temporal limits on that power, nearly every State disenfranchises some felons, and many States still permanently disenfranchise some felons.

Rule 35 allows a federal appellate court to reconsider a prior decision if a majority of the judges agree that the case should be reheard *en banc*. *En banc* is a procedure where all judges from a particular court, for example the Fifth Circuit, hear a case for matters of exceptional complexity or importance. The parties will submit new briefs and oral arguments to the court to consider at a later date.

## Works Cited:

1. <https://tinyurl.com/29dmfh5v>
2. <https://www.ca5.uscourts.gov/opinions/pub/19/19-60662-CV1.pdf>
3. <https://www.jurist.org/news/2023/08/us-appeals-court-throws-out-mississippi-jim-crow-era-felon-disenfranchisement-law/>
4. [https://www.sos.ms.gov/content/documents/ed\\_pubs/pubs/Mississippi\\_Constitution.pdf](https://www.sos.ms.gov/content/documents/ed_pubs/pubs/Mississippi_Constitution.pdf)
5. <https://constitution.congress.gov/constitution/amendment-8/>