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A Way to Guarantee Voting Rights

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A way to guarantee voting rights

On a technicality, more than 13,800 ballots cast in the correct county were disqualified in the 2020 Election.



On June 22 there will be primary elections in New York.

Photo: Fernando Martinez / Impremedia

By: Jarrett Berg and Rachel Landy Updated Jun 08, 2021, 12:23 pm EDT

In 2004, state legislator Andrea Stewart-Cousins faced nine-term Republican Nick Spano in a state Senate election. The election was very close, certified in favor of Spano by 18 votes.

The result depended on 457 registered voter ballots that could not be found on the printed voter list when they arrived at the polls. Staff

instructed them to vote by affidavit ballot. Officials later determined that they accidentally voted at a different Westchester polling place than the one assigned.

New York's highest court ordered that these ballots be discounted entirely, refusing to give poll workers a duty to help lost voters at the wrong polling places (also known as the "wrong church").

In 2009, lawmakers required poll workers to redirect lost voters to have their votes counted. But a new report published by VoteEarlyNY found that this "wrong church" technicality disqualified more than 13,800 ballots cast in the right county in Election 2020, the largest source of disqualified affidavit ballots from registered voters.

A disproportionate majority (69%) were cast in New York City, where 2,357 Bronx voters (approximately one in 187 voters) cast a ballot at another Bronx vote center. The 20 hardest-hit Assembly districts in the City had nearly the same number of disqualified ballots as the 57 counties outside the City.

The rule does away with even statewide races in which all voters can participate and legislative or local races for which hard-hit voters remain eligible.

At the federal level, the Supreme Court is reviewing a Voting Rights Act challenge to a similar Arizona rule. In a decision striking down the law, the Ninth Circuit found a discriminatory impact on minority communities in Arizona.

Confusion after moving a short distance in an urban area, moving frequently, and counterintuitive voting assignments lead to more incorrect votes. Similar factors may be at work in many of New York's majority and minority communities, where thousands of people were

instructed to fill out affidavit ballots under the mistaken understanding that they would count. That is an injustice.

California and New Jersey protect civil rights by preventing total disqualification of these ballots. Instead, officials count the votes from all contests a voter would have been eligible to vote. In Albany, the Senate passed similar legislation, but the Assembly did not vote on it.

In Arizona, impact litigation may be the only option. But New York can reform a failed policy that has suppressed voters and confused caucuses since Nick Spano edged out Stewart-Cousins in 2004.

-Berg is a co-founder of VoteEarlyNY and Landy is a voting rights activist

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