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Supreme Court to Hear Cases on Voting Rights and Climate Change

The justices will consider challenges to Arizona's ban on "ballot harvesting" and a suit against energy companies accused of contributing to climate change.

By Adam Liptak

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WASHINGTON — The Supreme Court, returning from its summer break, announced Friday that it would hear cases on whether voting restrictions in Arizona violated the Voting Rights Act and whether suits by state and local governments seeking to hold energy companies liable for their contributions to climate change may be heard in federal court.

The Arizona case will probably be heard in January, too late to affect the presidential election. But it will give the Supreme Court, in transition after the death of Justice Ruth Bader Ginsburg, an opportunity to weigh in on the roiling debate over how elections should be conducted. The case will also test the force of what is left of the Voting Rights Act, which was hobbled after the court in effect struck down its central provision in 2013 in Shelby County v. Holder.

The case, Brnovich v. Democratic National Committee, No. 19-1257, concerns two kinds of voting restrictions. One requires election officials to discard ballots cast at the wrong precinct.

The other makes it a crime for campaign workers, community activists and most other people to collect ballots for delivery to polling places, a practice critics call "ballot harvesting." The law makes exceptions for family members, caregivers and election officials.

In January, the United States Court of Appeals for the Ninth Circuit, in San Francisco, ruled that both restrictions violated the Voting Rights Act because they disproportionately disadvantaged minority voters.

In 2016, Black, Latino and Native American voters were roughly twice as likely to cast ballots in the wrong precinct as were white voters, Judge William A. Fletcher wrote for the majority in the 7-to-4 decision. Among the reasons for this, he said, were "frequent changes in polling locations; confusing placement of polling locations; and high rates of residential mobility."

Similarly, he wrote, the ban on ballot collectors had an outsize effect on minority voters, who use ballot collection services far more than white voters because they are more likely to to be poor, older, homebound or disabled; to lack reliable transportation, child care and mail service; and to need help understanding voting rules.

Judge Fletcher added that "there is no evidence of any fraud in the long history of third-party ballot collection in Arizona."

In a pair of dissenting opinions, four judges wrote that the state's restrictions were commonplace, supported by common sense and applied neutrally to all voters.

In one dissent, Judge Diarmuid O'Scannlain, writing for four judges, said lawmakers were entitled to try to prevent potential fraud. "Given its interest in addressing its valid concerns of voter fraud," he wrote, "Arizona was free to enact prophylactic measures even though no evidence of actual voter fraud was before the legislature."

The appeals court stayed its ruling, meaning that the restrictions will be in place for the November election.

In asking the Supreme Court to hear the case, Mark Brnovich, the state's attorney general, a Republican, argued that the measures were sensible and that the ballot collection law was needed to address the threat of election fraud.

"The majority invalidated two commonplace election administration provisions used by Arizona and dozens of other states to prevent multiple voting, protect against voter intimidation, preserve the secrecy of the ballot and safeguard election integrity," Mr. Brnovich wrote in his petition seeking review.

In a second development on Friday, the court agreed to hear an appeal from more than two dozen multinational energy companies that object to a state court lawsuit brought by Baltimore seeking to hold them accountable for their role in changing the earth's climate. The companies want to move the suit to federal court

The case, BP P.L.C. v. Mayor and City Council of Baltimore, No. 19-1189, is one of more than a dozen state and local governments around the nation have filed seeking compensation for what they said were injuries caused by the energy companies' conduct.

In its suit, Baltimore said the companies' "production, promotion and marketing of fossil fuel products, simultaneous concealment of the known hazards of those products and their championing of antiscience campaigns" harmed the city, which "is particularly vulnerable to sea-level rise and flooding."

The battle, for now, is about whether the suit belongs in state court.

Judge Ellen L. Hollander of the Federal District Court in Baltimore rejected what she called the companies' "laundry list" of reasons for trying to move the Baltimore case to federal court. Such rulings cannot ordinarily be appealed, and the United States Court of Appeals for the Fourth Circuit, in Richmond, Va., ruled in March that no exception applied.

In the Supreme Court, the energy companies argued that the issues in the case require adjudication in federal court.

"Resolution of the question presented is particularly important in the context of the ongoing nationwide climate change litigation brought by state and local governments against energy companies," they wrote. "The question is also of substantial legal and practical importance; indeed, the question is currently arising with acute frequency in climate change lawsuits similar to this one, where the arguments for federal jurisdiction are compelling."

The companies may be suspicious that the plaintiffs will have a home-court advantage before local judges in state court. They may also hope that federal courts will rule that federal law displaces one of the plaintiffs' central legal theories, that the companies can be held responsible under state law for creating a public nuisance.