

Viewpoints

Democratize The Electoral College

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GUEST COMMENTARY**By ASA GORDON**

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Now pending before the United States Court of Appeals for the District of Columbia Circuit is GORDON, DC Presidential Elector, vs. JOSEPH R. BIDEN, JR., Vice President of the United States, President of the Senate of the United States of America, a "Minority Vote Dilution" civil action to democratize the Electoral College in contemporary presidential elections by enforcing the Second Section of the Fourteenth Amendment to the Constitution. This Reconstruction Amendment mandated a reduced congressional representation for any Confederate state that would deny the former enslaved Africans the right to vote following the Civil War. The current Civil Action began as Gordon v. Cheney and was filed on Jan. 28, 2008, to commemorate the century and two score adoption of the 14th Amendment. My final brief presents a rare chapter in African-American history that is suppressed in our academic institutions and is egregiously misrepresented in American Jurisprudence. The brief's legal arguments are augmented with a historical context that demonstrates how the compromises over the issue of African slavery made by delegates to the Philadelphia Constitutional Convention in 1787 provided the foundation that continues to undermine the political impact of African-American voters on contemporary presidential elections.

When the issue of this Civil Action -- that minority polled presidential electors were not being counted as a percentage of their vote by race and/or party affiliation in those states without a "winner-take-all" state election statute -- was presented during a forum on voting irregularities in Ohio in 2004, the Hon. Rep. John Conyers, Jr. (D-Mich.) chair of the Committee on the Judiciary, declared: "This is the most amazing proposition that has ever been brought forward by a non-lawyer, and if it is accurate, it could change the whole outcome of the voting process in the United States."

The Department of Justice attorney representing the current vice president, who presides over the counting of presidential electors, presented a distorted historical context in this Civil Action that was fraudulent and offensive to the intent of the Reconstruction-era abolitionist framers of the Civil War Amendments. The Department of Justice attorney shamelessly invoked the infamous Supreme Court precedents that ended Reconstruction and reestablished White supremacy in the era known as White Redemption. That this position should be taken by an attorney general of African descent in the administration of the first black president is unconscionable.

My final brief documents and exposes the revisionist "lost cause" historical arguments of the Attorney General in this Civil Action under the following subject headings: The "Three Fifths Compromise" in the Electors Clause Denied Equal Representation to African-Americans and Distorted Equal Representation for Whites. The Attorney General Argues for this legacy to continue under the rule of "Winner Take All"; The History of the United States Constitutional Franchise Founded on Racial Quotas and Reconstruction Amendments Grounded in the Intent of the Declaration Should Inform the Court In Its Resolution of This Case; The Attorney General Invokes The Redemptionist Era Voting Rights Precedents that Reestablished Racial Supremacy and Ended Reconstruction; The Attorney General Defends the Discredited Theory of the Constitutional Democrats and the Confederate States of America.

My final brief presents tables that demonstrate how the "winner take all" rule in the Unbounded Southern States (states without an at-large "winner take all" election statute) dilutes the weight of the votes cast in a presidential election by race and/or party affiliation. Let us focus on Georgia, one of the states that is the subject of the Civil Action. Georgia is entitled to 15 presidential electors. The Abridgment of Votes by Party Affiliation table demonstrates how the electoral weight that represents the votes of Southern Whites for the minority-polled Democratic Party is transferred to the Republican Party that received a majority of votes under the "winner take all" rule. This table demonstrates that the popular vote for the Democratic presidential candidate in the 2008 presidential election in Georgia would translate to seven presidential electors. Under the "winner take all" rule, the seven electors are transferred to the Republican Party candidate. The Abridgment of Votes by Race table demonstrates how the electoral weight that represents the majority votes of Southern Blacks is transferred to augment the majority votes of Southern Whites under the "winner take all" rule. This table demonstrates that the Black popular vote in Georgia in the 2008 presidential election translates into approximately five presidential electors. Over 95 percent of Blacks in these states cast their votes for the Democratic candidate. Under the "winner take all" rule, the five electors that represent the majority choice of these states' Black populations are negated and transferred to represent the majority choice of the states' White populations. There is no state election law in Georgia that authorizes the allocation of the states' presidential electors on a "winner take all" basis. Therefore the exclusive selection of the States' slates of electors on a "winner take all" basis constitutes an abridgment of the States' citizens' "right to vote" and a debasement in the weight of their vote by race and/or party affiliation in violation of Amend. 14§2. as implemented by 2 U.S.C.§6.

The true measure of a democracy is not in counting how many votes are cast, but in how many of those votes that are cast truly count.

Thus the spirit of the infamous 1787 constitutional compromise known as the "3/5ths clause" survives in our time. From the year 1876, the dawn of the era of White "Redemption," for over a century, and still counting, the Electoral College as effected by the mechanism of "winner take all" has rendered the descendants of enslaved blacks as inert bodies that serve as little more than political ballast to inflate neo-Confederate Southern political power.

I defy any individual or attorney to read my pleadings before the federal courts and not conclude that, objectively, I have won this Civil Action on the merits. However, I am well aware that in the arena of American jurisprudence a pro-se litigant can win all the battles (i.e. Arguments) but still lose the war (i.e. Judgment). I am now preparing a petition for a Rehearing en banc of the panel's bailout judgment that I lack standing since I do not vote in any of the unbounded Southern states. However, there is no question that every voter of Georgia that voted for the minority-polled party in 2008 has the constitutional standing to reduce congressional representation of the five unbounded states of Arkansas, Georgia, Louisiana, Tennessee, and Texas by 33 congressional representatives. To avoid such a reduction, they must ensure at least 33 electors as a matter of law to the Democratic candidate in the 2012 election on the basis of unbounded southern states mal-apportionment of their presidential electors in violation of the Reduction of Representation federal statute 2U.S.C.§6. This suit has provided the legal blueprint at www.electors.us for proportional allocation of presidential electors based on the popular vote split in the unbounded southern states that will reflect in all future presidential elections the strength and proper weight of the black vote. All that a state voter for the minority party has to do is exercise their right to an equal and effective vote pursuant to Amend.14§2 as implemented by 2 U.S.C.§6.

I close with a transcript of my closing Oral Argument granted by motion in the United States Court of Appeals.

May it please the Court, this is a Civil Action to democratize the Electoral College, to the extent that the Electoral College can be democratized. This is a Civil Action to protect the citizens' right to vote for minority-polled presidential electors from any abridgment in the counting of their votes. This is a Civil Action to resurrect from legal purgatory, to resurrect from historical purgatory, that provision of the Constitution that gave full expression to the founding principle of our nation for which that "band of brothers" of European and African descent "gave the last full measure of devotion" to perfect our "more perfect union," "that this nation shall have a new birth of freedom" as realized in the second section of the Fourteenth Amendment to the Constitution of the United States of America "dedicated to the proposition that all men are created equal" and so created, your honors, are "endowed" in a "government of the people, by the people, for the people" with a "self-evident" right to an equal and effective vote.

Asa Gordon is executive director of the Washington D.C.-based Douglass Institute of Government, chair of the DC Statehood Green Party Electoral College Task Force and Secretary General of the Sons & Daughters United States Colored Troops. All court pleadings, videos, press releases and essays are available at www.electors.us.

