



The Supreme Court of North Carolina in Raleigh. (Aaron Mendelson / Center for Public Integrity)

HIGH COURTS, HIGH STAKES

# ‘Lose the courts, lose the war’: The battle over voting in North Carolina

by Aaron Mendelson July 25, 2023

NEW BERN, N.C. — As the daylight faded on April 12, 2018, a Craven County sheriff's deputy pulled over a white pickup. Heather French was sitting in the passenger seat.

The deputy began tailing the truck on the other side of the Trent River, in a location he deemed “consistent with [a] drug area.” He eventually pulled over the driver, whose registration had recently expired. During the stop, the deputy called in a K9 unit from the local police department, which sniffed for drugs as night set in. The officers didn't find drugs on French, but they searched through her wallet and noticed something else: Twenty-nine imitation one dollar bills.

The officers would later say that the material felt unusual and that each bill had a matching serial number and “pink Chinese lettering stamped on it.” They also said the bills looked “very realistic.” The prop money — which French maintains she never passed off as real money, something law enforcement has not contradicted — would become the reason she was stripped of her right to vote.

Over the next five years, French's eligibility see-sawed with a series of court rulings. They left her eligible to vote in some elections but not others, and illustrated the power of judges to grant, and to claw back, Americans' most basic rights.

The rulings also tell a story about the North Carolina Supreme Court, whose Republican majority traces back to changes legislators made in the dying days of 2016. North Carolina is one of eight states where Republican politicians have passed laws that pushed the courts in a conservative direction or helped strengthen Republican control, according to a Center for Public Integrity investigation.

These changes have ramifications for those states' residents and, increasingly, for the country.

In many ways, North Carolina represents the starkest example.

The driver of the truck in New Bern that April evening was John Cuddy, who purchased the prop money online for \$2. He told police that he and his wife had used it to tease French, who he described as “pretty much our only friend.” In turn, she'd kept some of it and played a joke on her mother.

“You know, we're poor. So for us, this is a prank,” French said.

She was arrested and charged with possessing “five or more counterfeit instruments with the intent to injure or defraud any person.”



Prosecutors offered French a misdemeanor plea deal, but she rejected it. “I have no problem admitting when I f— up ... That’s not one of those times. I will forever, ever maintain my innocence.” The money, she says, “is clearly fake.”

At a trial on July 6, 2020, her attorney argued the bills were only “play money,” and that no evidence showed French used it to buy anything or defraud anyone. Prosecutors argued that the location of the bills in her wallet was itself evidence of “an intent to defraud.” Judge Joshua W. Willey called the case “circumstantial” but said he was swayed by the location in the wallet.

He sentenced French to three years of probation and to pay court costs and for her court-appointed attorney, a total of over \$1,600. Additionally, she would pay a state-mandated \$40 each month she was on probation.

When the judge’s ruling came down, the felony on her record meant that French couldn’t cast a ballot.



Heather French outside her home in May 2023. French voted in the 2022 midterms after her right to vote was restored. (Aaron Mendelson / Center for Public Integrity)

“I was upset because the presidential election was coming up,” she said. After Trump was elected, she had begun paying closer attention to politics. “I would have given anything to be able to vote.”

The legal case made a rough stretch of French’s life rougher. Hurricane Florence ripped through eastern North Carolina in 2018, badly damaging the mobile home where she lived with her parents. The floor began sinking, mold crept in from the moisture, and the family had to live around holes in the walls, ceilings and floor. Eventually, with government support, she and her parents moved into an RV.

The felony made finding work nearly impossible. She put her energy into helping care for her aging, disabled parents, and began attending classes at Craven Community College. “I plan to pursue a degree in political science, actually, because of this court case,” said French, 32.

So when French received a text last year from a nonprofit, telling her she could now vote despite her criminal record, she was intrigued. But she didn’t do anything right away — French was concerned she might be arrested, like [20 people had been in Florida](#) for voting with criminal records. “I did not want to get slapped with another felony,” she said.

But a second text convinced her to call the county. She was eligible to vote, they told her, due to a ruling in a court case called *Community Success Initiative v. Moore*.

The same court system that had taken away French’s right to vote in her criminal case had now given it back, in this civil one.

In November 2022, she sat down in the kitchen of the RV and cast a ballot for the first time. She had jotted down notes about the U.S. Senate race, local contests and two state Supreme Court elections, and marked her absentee ballot accordingly.

“I felt like I was finally contributing something positive to society,” she said.

## **‘Your voice is your vote’**

The case that enabled Heather French to vote challenged the state’s felony disenfranchisement law, which bars people on probation, parole or post-release supervision from voting. People remain ineligible if their inability to pay fines and fees extended their supervision, even if they have completed all other terms.



The lawsuit was brought by groups that work with North Carolinians wrapped up in the criminal justice system. A key plaintiff, Community Success Initiative, was founded by Dennis Gaddy, 66.

Voting rights are Gaddy's heritage. He grew up on a dirt road in rural Fairmont, North Carolina, in the 1960s. He and his mother would drive around the area with stacks of the state's big, brown voter registration forms, "going up to people who didn't ever think they could even register to vote, and get them registered by hand."

His father was the chair of what locals called the "Gaddy Precinct." After polls closed on election day, the elder Gaddy would transport ballots to the smoke-filled rooms of the local board of elections to be tabulated.



Dennis Gaddy speaking at Second Chance Lobby Day in the North Carolina State Legislative Building. (Aaron Mendelson / Center for Public Integrity)

"He guarded those ballots like they were gold," Gaddy remembered. "So I saw that, smelled all that, was part of all that, knew how important it was."

Gaddy went to law school and became an attorney, but he was disbarred in 1990 and convicted of a string of felonies in the ensuing years. When Barack Obama became the first Black major party presidential candidate in 2008, Gaddy was still on probation and couldn't vote.



David H. Gaddy Jr., the father of Dennis Gaddy, in November 2022. He passed away the next month. (Courtesy of Dennis Gaddy)

“It was devastating to me,” he said.

He founded Community Success Initiative to assist people leaving prison with reintegrating into their communities. Regaining the right to register and vote was a key piece of that process. “Your voice is your vote,” Gaddy said. “If you can’t vote, you’re not really a citizen in North Carolina.”

Gaddy estimates 90% of the people he works with are Black men, and he saw how the law deprived many of a political voice. He also had clients deprived of the right to vote even when they’d otherwise be eligible, simply because they couldn’t afford to pay

the costs associated with their cases.

The lawsuit filed by Gaddy and others made those issues explicit. “This case is about the General Assembly’s intentional discrimination against Black people and against poor people,” Forward Justice’s Daryl Atkinson, one of the attorneys who argued the case for the plaintiffs, told Public Integrity.

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*“Your voice is your vote. If you can’t vote, you’re not really a citizen in North Carolina.”*

— DENNIS GADDY, FOUNDER OF COMMUNITY SUCCESS INITIATIVE

In legal filings and expert testimony, the plaintiffs documented how over 56,000 North Carolinians were stripped of the right to vote due to the state’s felony disenfranchisement laws. Virtually everyone with a felony owes money as part of their case, with the median amount for those on probation around \$2,400. Failing to pay those costs can extend probation for years, and, in rare cases, lead to arrest.

“You’ve got to pay to be able to vote in North Carolina. Flat out,” Atkinson said.



Before trial, a three-judge panel found that the requirement imposed an unequal burden, and issued an injunction. That granted the right to vote to roughly 5,000 people who had completed their felony terms except for the payment of fines and fees.

The trial that followed focused on the racially disparate impact of the law. Felony disenfranchisement has a long history in North Carolina, and legal filings pored over the past in exacting detail.

After the Civil War, former Confederates embarked on a campaign to convict Black men of petty crimes and publicly whip them. An 1867 article in the National Anti-Slavery Standard deduced that the whipping campaign’s “real motive ... is to guard against their voting in the future, there being a law in North Carolina depriving those publicly whipped of the right to vote.” Crowds would gather every day at the courthouse in Raleigh to watch the violence.

After the Fifteenth Amendment was ratified in 1870, politicians shifted to tactics that were not explicitly race-based. A version of the state’s current felony disenfranchisement law went on the books in 1877. Modifications to the law in the early 1970s provided more routes to people to get their voting rights restored, but the statute maintains “origins in racial discrimination and still disproportionately negatively affects African Americans in North Carolina,” Clemson University historian Orville Vernon Burton wrote in a filing.

### The disparate impact of felony disenfranchisement

A court ruling granting the vote to people on probation, parole and post-release supervision for felony convictions shows how heavily disenfranchisement fell on North Carolina’s Black residents.

■ Percent of re-enfranchised population ■ Percent of North Carolina population

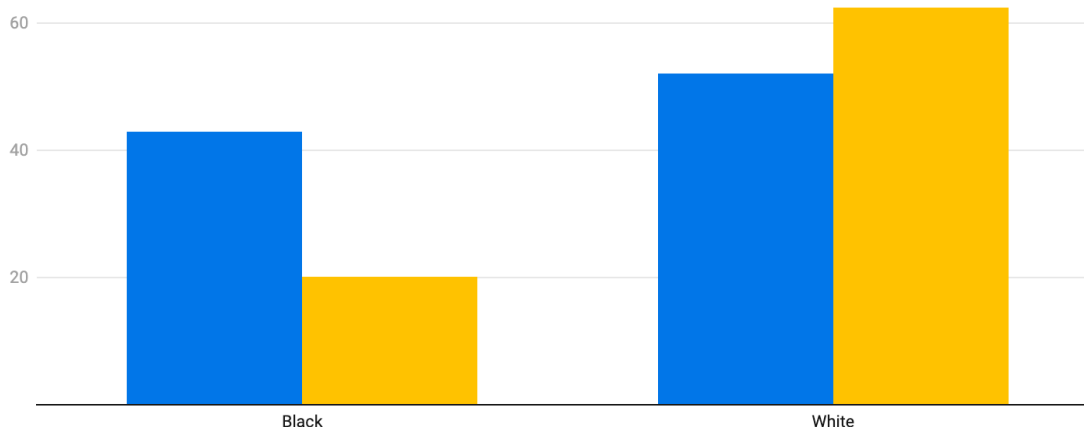


Chart: Aaron Mendelson/Center for Public Integrity • Source: N.C. State Board of Elections • Created with [Datawrapper](#)

The racial disparities are stark. When the lawsuit was filed, Black people made up 21% of the voting-age population of North Carolina, but over 42% of those disenfranchised. Black residents were denied the vote at nearly triple the rate of white residents.



At trial, Orlando Rodriguez, an attorney for the state legislature, granted that “the rate of felony convictions and, therefore, felony disenfranchisement, they fall crushingly hard on the African American community.” But, the state argued, that misses the point. Because 100% of people with felony convictions are disenfranchised, the law is not discriminatory.

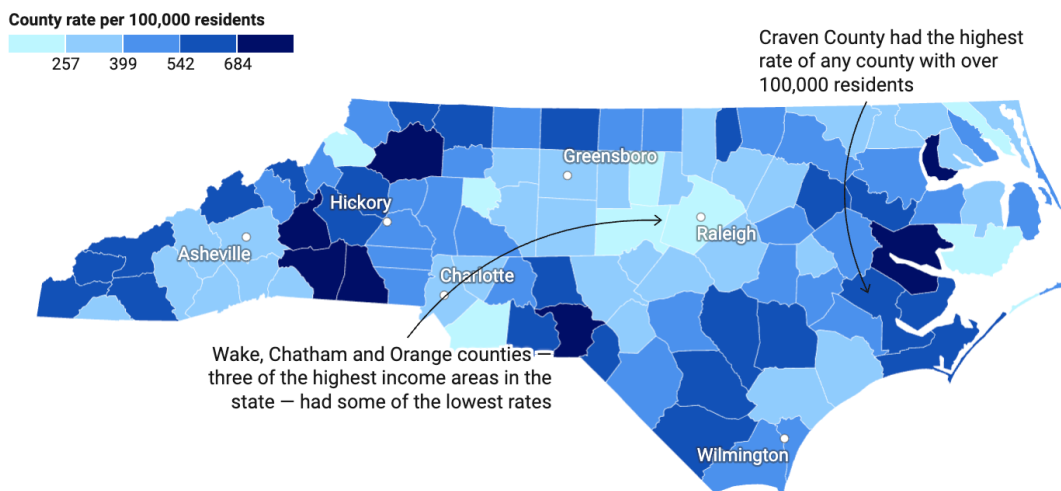
After a four-day trial, the three-judge panel ruled in March 2022 that North Carolina’s “denial of the franchise to people on felony supervision has the intent and effect of discriminating against African Americans, and unconstitutionally denies substantially equal voting power on the basis of race.”

With the stroke of a pen, tens of thousands of people regained their right to vote.

The geography of people under state supervision who were re-enfranchised underscores the disparities. Craven County, where Heather French was prosecuted, had the highest rate of people re-enfranchised of any county with over 100,000 residents. Many of the areas with high rates were among North Carolina’s poorest, while the ruling had less impact in higher-income counties, according to Public Integrity’s analysis of data from the State Board of Elections.

### Where residents were re-enfranchised

Following a ruling in 2022, tens of thousands of North Carolina residents under state supervision with felonies saw their right to vote restored. The state Supreme Court overturned the ruling this year.



Map: Aaron Mendelson/Center for Public Integrity • Source: N.C. State Board of Elections • Created with [Datavrapper](#)

Felony disenfranchisement “seems like a double punishment,” said Ricardo Gonzalez, a 20-year Navy veteran currently on probation, who registered and voted in Elizabeth City after the ruling. “I really do value service. And so part of voting, to me, is service.”





“I voted for every race I could,” said Lewis Whitmire, currently on post-release supervision in Catawba County. “Definitely want to vote in local elections. ... The one that affects my life a lot is who the sheriff is.”

“I think everybody should have a right to vote,” said Scott Wright, an avid Trump supporter in Carteret County on probation. He hoped to vote for the former president again in 2024.

“I got [to the voting site] early, because I just want to make sure that I’m going through the right steps,” said Damien Jacobs, who originally heard about the legal case on TV in prison. “You still have a voice.”

But the case wasn’t resolved. The state legislature appealed the ruling that allowed Jacobs and others to vote, putting it before the North Carolina Supreme Court.

The court had recently swung to Republican control, the result of partisan efforts in the state and a number of others to alter how justices reach the bench.

## **‘A very sudden and brutal use of legislative power’**

In 2010, North Carolina Republicans won majorities in both houses of the General Assembly for the first time in over a century. Two years later, they secured the governor’s mansion.

But political consultant John Davis’ eye was on the third branch. “Lose the courts, lose the war,” he wrote in a series of memos titled, “How the North Carolina Republican Party Can Maintain Political Power for 114 Years.” (His memos about Democrats only briefly mentioned state courts that year.)

Davis cast a skeptical eye on the work of the judicial branch. “Lady Justice may be blindfolded, and those scales she holds may be balanced, but if the case impacts the outcome of political races, Lady Justice will take that blindfold off to check the political party of the plaintiffs ... then she will adjust the scales accordingly,” he [wrote](#).

Davis argued that politicians would be smart to enact laws “to give Republicans advantages in judicial races.” In 2013, Republicans passed a bill that gutted the state’s public financing for judicial elections, a *bête noire* of powerful conservative donor Art Pope.



“Republicans take over and had a lot of pent-up frustration,” said Chris Cooper, a political science professor at Western Carolina University. “And so they very quickly tried to remake the state in the image that they wanted.”

Then 2016 happened. The same election that swept Donald Trump into the White House also saw Democrat Roy Cooper win the governor’s race in North Carolina. After the results came in, and before Cooper took office, Republicans convened an emergency session of the legislature and passed laws [designed to weaken the powers of the state’s executive](#).

They also introduced a bill to make North Carolina’s judicial elections partisan contests. The state had adopted nonpartisan elections in 2004, a move supported by Democrats. A switch back to partisan contests would make the state the first in nearly a century to adopt that method.

“Is a person more or less partisan, just because their party is listed on the ballot?” GOP Rep. Bert Jones asked during floor debate. “The answer is no. ... Folks, we’re not kidding anybody. Everybody here knows.”

Rep. Justin P. Burr was interrupted by protestors during his remarks. After legislative leaders directed law enforcement to lock the demonstrators out, Burr said that “the Democratic Party and its elected officials here know that the chances of electing a Democrat judge are increased if their party affiliation is hidden from the average voters.”

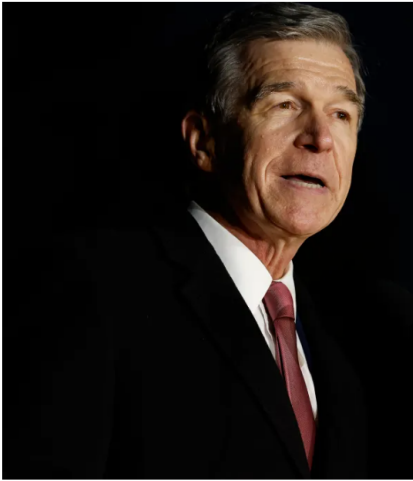
Senate President Pro Tem Phil Berger and House Speaker Tim Moore did not respond to repeated interview requests from Public Integrity about the bill. The measure passed, with all Republicans who voted supporting the change.

“It was a very sudden and brutal use of legislative power,” said state Sen. Graig Meyer, who was a Democrat in the House in 2016 and voted against the changes.

Gov.-elect Roy Cooper, who wouldn’t take office until 2017, was watching closely. “They believed that if they could make judicial races partisan again, that they would have a much better opportunity to control the courts and inject right-wing politics into the judicial system,” Cooper told Public Integrity this spring. “And they have been successful.”

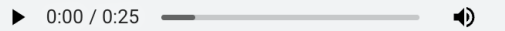
Since North Carolina returned to partisan Supreme Court elections, Republicans have won five of six contests. (The only Democratic victory came in a race where two Republicans appeared on the general election ballot and split the conservative vote.)





## IN HIS OWN WORDS

Listen to North Carolina's Gov. Roy Cooper, a Democrat, on Republican's efforts to control the courts.



(Photo credit: Chip Somodevilla / Getty Images)

Results from Burke County, North Carolina, illustrate the difference the party label makes. The area is the longtime home of the Ervin family, a Democratic political dynasty in the state. In the 2014 state Supreme Court race, without party labels, Sam Ervin IV received 62% of the Burke County vote.

When Ervin came up for re-election as an incumbent in 2022, his party affiliation appeared next to his name. In that election, he received just 34% of the vote in Burke County.

Ervin lost statewide in November, as did the Democrat running for another seat, flipping the court from a 4-3 Democratic majority to a 5-2 Republican one.



The North Carolina Supreme Court Justices: Chief Justice Paul Newby, Associate Justice Anita Earls, Associate Justice Michael Morgan, Associate Justice Phil Berger Jr., Associate Justice Richard Dietz, Associate Justice Tamara Barringer and Associate Justice Trey Allen. (Courtesy of the North Carolina Supreme Court)

## Same case, different results

The court's new Republican majority wasted no time making its impact felt. On February 3, they announced they would rehear two politically charged cases the court had decided less than two months before.

In the last three decades, the Supreme Court had reheard just two cases, both lower-profile matters. The cases being reheard in 2023 were anything but.



One concerned a voter ID law that justices found in December had discriminated against Black voters. The other, also decided in December, involved political maps that the court ruled were unconstitutional gerrymanders.

“None of the facts have changed. The law hasn’t changed. None of the circumstances have changed,” said Atkinson, the Forward Justice attorney. “The only thing that has changed is that new people have gotten elected.”

“I think this new Republican majority thinks that they were elected with a mandate to undo what the previous Democratic majority did,” said Billy Corriher of the People’s Parity Project, who has written widely about state high courts in North Carolina and elsewhere.

The court also heard the appeal in *Community Success Initiative v. Moore*, the felony disenfranchisement case. Attorneys for the state said that the terms of voting after a felony conviction are up to the state legislature, and not guaranteed by the constitution. In a legal filing, they argued that the plaintiffs, who included the North Carolina NAACP, were “tarring the civil rights reformers” of the 1970s by minimizing changes to the law in that decade.



*“I think this new Republican majority thinks that they were elected with a mandate to undo what the previous Democratic majority did.”*

— BILLY CORRIHER OF THE PEOPLE’S PARITY PROJECT

One of the judges sitting on the bench for the case was Justice Phil Berger Jr., the son of the senate Republican leader. The plaintiffs had filed a motion for his disqualification, which argued that “the appearance of impartiality is at its apex when, as here, the judge’s own father is a named defendant.” Berger chose to remain on the bench, as he has in other cases involving his father.

The North Carolina Supreme Court released its opinions in the redistricting, voter ID and felony disenfranchisement cases on the same day: April 28. In each case, the new majority handed a victory to Republicans in the legislature in a 5-2 ruling split along party lines.

In the redistricting case, the majority held that claims of partisan gerrymandering fall outside the purview of the state Supreme Court. The



ruling means that the state's legislative and congressional districts could be redrawn in the coming months — a huge victory for state Republicans, which could also shift several seats in the U.S. Congress.

Common Cause's Bob Phillips called the ruling "the worst decision, perhaps, the state Supreme Court has ever made." In her dissent, Justice Anita Earls wrote that "today's result was preordained on 8 November 2022, when two new members of this Court were elected to establish this Court's conservative majority."

In the wake of the ruling, Davis, the political consultant, wrote that "the Republican General Assembly will also likely gerrymander new legislative districts that will guarantee GOP super majorities for the remainder of the decade. And you can count on the 5-2 GOP-majority NC Supreme Court to rule that any new GOP-gerrymandered districts are constitutional."

In *Community Success Initiative v. Moore*, the majority found that felony disenfranchisement is required by the state constitution. They ruled that the trial court's finding of discriminatory intent in the law was due to "legal error" and tossed it aside. Justice Trey Allen adopted the state's explanation for the disparities, a stark departure for a court that only a few years earlier had acknowledged [discriminatory inequalities in the state's judicial system](#). "Since a disproportionately large percentage of felons are African American, it stands to reason that African Americans constitute a disproportionate share of felons currently incarcerated," he wrote.

The decision split not just on partisan lines, but also on racial ones, with the court's five white justices in the majority, and its two Black justices dissenting. In that dissent, Earls wrote that saying the law has no disproportionate impact "is plainly incorrect" and that requiring people to pay fines and fees before being eligible to vote is "shocking in multiple respects."

The ruling ended the right to vote for North Carolinians on probation, parole and post-release supervision for felonies.

They'd had it for just 276 days.

At least 49,200 people lost their voting rights that day, according to a Public Integrity analysis of state and federal data. The true number is almost certainly higher, as the data doesn't reveal how many people had their terms extended because of unpaid fines and fees, or were convicted of a crime in another state.

More than 8,600 registered voters immediately lost their eligibility as a result of the ruling, according to the North Carolina State Board of Elections.





Kevin Slade in New Bern, North Carolina. Slade had hoped to vote in future elections, but a court decision makes that impossible for now. (Aaron Mendelson / Center for Public Integrity)

Kevin Slade, 43, had been looking forward to voting in municipal elections later this year. “It’d be a blessing for me to be able to vote,” he said in early May, just three days after the court ruling was handed down.

Slade served 16 years in federal prisons around the United States, after he pleaded guilty to charges connected to selling cocaine in the New Bern area. Slade had been living in a halfway house since December, and looking out at the confluence of the Neuse and Trent Rivers in his hometown felt like a fresh start, even if the ankle monitor he wore was a reminder of his ties to the criminal justice system.

For Slade, the North Carolina Supreme Court’s ruling was a setback. Without changes to the law or the terms of his supervised release, it will be at least five years before he can cast a ballot.

“A year from now, if there’s a politician who was planning to do things that can prevent young males and young females from falling into the situation [that] I fell into? I would want to vote for that person,” Slade said. “They took that away from us.”

## ‘Much more hostile to civil rights’

Early on the morning of May 2, people boarded buses across North Carolina chartered for Raleigh, the state capital. Forty-one people left from a Craven County parking lot that day, just after 7:30 a.m.

When they arrived in Raleigh, they walked over to the Halifax Mall, across the street from the state legislature, and joined the crowd of 700 for the Second Chance Lobby Day.



Hundreds of people from across North Carolina attend Second Chance Lobby Day on May 2, 2023. (Aaron Mendelson / Center for Public Integrity)

The state Supreme Court’s rulings, less than a week old, weighed heavily on organizers and participants, there to advocate for policies that help people with criminal records reestablish their lives. A planned voter registration drive was scrapped at the last minute.

Under a bright blue sky with few clouds, Rev. William J. Barber II addressed the crowd. Barber was a driving force in Moral Mondays, a protest movement in North Carolina that began in 2013. Speaking about the previous week’s Supreme Court rulings, Barber said that “according to five of them, democracy is not welcome in North Carolina. Full citizenship is not welcome in North Carolina.”

He ticked through a list of priorities — allowing people with drug felony charges to receive [SNAP benefits](#), reducing criminal court fines, removing criminal charges from records. Barber got the loudest cheer when he mentioned voting rights.

Caitlin Swain, an attorney with Forward Justice, which represented plaintiffs in *Community Success Initiative v. Moore*, said that RSVPs for the event poured in after the rulings. She was taken aback by the trio of decisions, which she said sent a clear message.

“State courts have just become much more hostile to civil rights,” she said.



Corey Purdie of Wash Away Unemployment at Second Chance Lobby Day with his daughter. (Aaron Mendelson / Center for Public Integrity)

Corey Purdie was at the event with his daughter. In 2007, Purdie opened a car wash in New Bern so he could offer jobs to people returning from prison. In the years since, Purdie expanded to helping people with housing, transportation and other needs. His organization, Wash Away Unemployment, was one of the plaintiffs in the case.

He was still reeling from the decision. “It’s almost suffocating,” he said. Purdie said the saga would make it more difficult for the people he works with to trust the system and opt to vote, even when they were eligible.

Heather French, who was convicted of a felony over 29 imitation dollar bills in her wallet, took the news hard, tearing up when she learned about the ruling.

“You just don’t feel like a person,” she said. “Ever since I’ve dealt with being a felon, you don’t really realize how little of a person they view you as.”



She and her parents had recently moved into a new home, at the end of a gravel road in unincorporated Craven County. It was a step up from their storm-damaged mobile home and the RV where she cast her ballot in 2022. But money remains tight, and she struggles to pay the \$40 fee she owes each month. “One of the most stressful parts of being on probation is worrying about how you’re going to pay it,” she said.

At the earliest, French won’t be able to vote until her probation ends in November 2024, after the next presidential election.

But the wait could take far longer. Debt from unpaid court costs and probation fees could extend her probation term.

She’s not sure when she’ll be able to pay those — the felony on her record makes steady work hard to get — and regain the right to vote the court took away.

“I know they’re the Supreme Court,” French said in her modest home, 100 miles from the state’s neoclassical high court building. “I’m here, I’m the felon, and what am I going to say that’s going to matter? But no, I don’t think it’s right.”

*Public Integrity* journalist Pratheek Rebala contributed to this article.

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