

# DAVID STRAS AND VOTING RIGHTS

## Highlights:

- David Stras opposed voting rights and efforts towards a more transparent democracy.
  - Stras ruled to weaken the Voting Rights Act.
  - Stras ruled in favor of a deceptive ballot measure that challengers said did not accurately describe the voter ID law it was pushing.
  - Stras struck down a Missouri lobbying registration and disclosure law.

## Stras Opposed Voting Rights And Efforts Towards A More Transparent Democracy

### STRAS RULED TO WEAKEN THE VOTING RIGHTS ACT

**Stras Ruled That Private Citizens Could Not Sue To Protect Their Voting Rights.** According to the Nation, “Last Monday, just before Thanksgiving, the United States Court of Appeals for the Eighth Circuit tried to pull a villain move on the 15th Amendment of the Constitution by gluing shut the mouths of Black people fighting for the right to vote. In a shocking and legally dubious decision, the circuit ruled in *Arkansas State Conference NAACP v. Arkansas Public Policy Panel* that private citizens could not sue to protect their voting rights under the law that is literally named The Voting Rights Act. Trump-appointed judge David Stras wrote the decision.” [Nation, [11/29/23](#)]

**The Nation: Stras’ Ruling Made The Voting Rights Act “Functionally Inoperable.”** According to the Nation, “Of course, Stras isn’t trying to take the right to sue away from any bigoted website designer who doesn’t want to serve same-sex couples, or any white man who is angry that their mediocre child missed out on their first choice of a university. Instead, Stras is focused on stopping groups like the NAACP from suing on just one topic: voting rights. In so doing, this ruling doesn’t merely weaken the Voting Rights Act; it makes the law functionally inoperable.” [Nation, [11/29/23](#)]

### January 2024: The Eighth Circuit Announced It Would Not Rehear The Case

**January 2024: The Eighth Circuit Announced It Refused To Rehear The Case.** According to the NAACP, “Today, the Eighth Circuit Court of Appeals announced it will not rehear the *Arkansas State Conference NAACP v. Arkansas Board of Apportionment* voting case. Lead plaintiff, the Arkansas State Conference of the NAACP is challenging the Arkansas State House map, arguing that the map unlawfully suppresses Black voting power and violates Section 2 of the Voting Rights Act of 1965. Today’s decision comes following an appeal in a 2-1 ruling in November where the Eighth Circuit panel backed a district court decision that determined private parties cannot pursue legal action to protect their voting rights under Section 2 of the Voting Rights Act.” [NAACP, [1/30/24](#)]

### STRAS RULED IN FAVOR OF A DECEPTIVE BALLOT MEASURE THAT CHALLENGERS SAID DID NOT ACCURATELY DESCRIBE THE VOTER ID LAW IT WAS PUSHING

### Challengers Argued That A Minnesota Ballot Measure On Voter ID Was Deceptively Worded

**The Minnesota State Legislature Introduced A State Constitution Amendment Titled “Photo Identification Required For Voting” They Wanted To Put On The Ballot, It Would Have Required A Photo ID To Vote.** According to vLex, “In the same session law, the Legislature also approved the language of the question to be placed on the November 2012 general election ballot concerning the proposed constitutional amendment: Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to

eligible voters, effective July 1, 2013? Id. § 2(a), 2012 Minn. Laws at 146. Finally, the Legislature approved a title for the ballot question: ‘Photo Identification Required for Voting.’ Id. § 2(b), 2012 Minn. Laws at 146.” [vLex, accessed [6/25/24](#)]

- **The Amendment Required “All Voters, Including Those Not Voting In Person, Must Be Subject To Substantially Equivalent Identity And Eligibility Verification Prior To A Ballot Being Cast Or Counted.”** According to Case Text, “The proposed amendment would designate the provision above as (a) and add two subsections, (b) and (c), as follows: (b) All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law. (c) All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.” [Case Text, accessed [6/25/24](#)]

**The Proposed Amendment Was Challenged Because The Proposed Wording On The Ballot Because It Was Misleading And Did Not “Accurately And Factually Describe The Proposed Amendment.”** According to vLex, “On May 30, 2012, petitioners filed a petition with our court under Minn.Stat. § 204B.44, seeking to ‘strick[e] the ballot question pertaining to the Voter Identification and Provisional Ballot Amendment’ and to enjoin the Secretary of State from placing the question on the November 2012 general election ballot. Petitioners allege that the Legislature’s ballot question ‘is misleading because it does not accurately and factually describe the proposed amendment, and because it fails to describe at all certain important substantive provisions contained in the amendment.” [vLex, accessed [6/25/24](#)]

### **Stras Denied The Petition From The Challengers, Essentially Allowing The Proposed Amendment To Appear On The Ballot**

**Stras Along With The Rest Of The State Supreme Court Denied An Appeal From The Challengers To The Amendment Thus Allowing The Poorly Worded Amendment To Appear On The State Ballot.** According to Case Text, “PER CURIAM. This action was brought under Minn.Stat. § 204B.44 (2010), seeking to correct an alleged error in the preparation of the ballot for the general election. Specifically, petitioners seek to prevent the people of Minnesota from voting on the question of whether photographic identification should be required to vote in Minnesota. The court is unanimous in concluding that petitioners are not entitled to this unprecedented relief. We express no opinion in this case as to the merits of changing Minnesota law to require photographic identification to vote; that question, as petitioners concede, is not presented in this case. Because we conclude that the petitioners have not met their burden of demonstrating that there is an error that requires the judiciary to intercede, we deny the petition.” [Case Text, accessed [6/25/24](#)]

### **The Measure Was Eventually Defeated**

**The Voter ID Ballot Measure Was Defeated.** According to the Brennan Center for Justice, “On Tuesday, Minnesota voters defeated a ballot initiative that would have amended the state constitution to require voters to present a photo ID at the polls in order to be able to vote. This was the latest in a string of pushback victories for voting rights, and the final verdict was squarely in the hands of voters.” [Brennan Center for Justice, [11/9/12](#)]

## **STRAS STRUCK DOWN A MISSOURI LOBBYING REGISTRATION AND DISCLOSURE LAW**

**A Missouri State Lobbyist Argued That He Should Not Have To Register As A Lobbyist Given That He Was Uncompensated, Challenging The State Law.** According to the Harvard Law Review, “Where do courts draw the line between lobbyists and politically involved individuals in determining the constitutionality of lobbyist registration laws? Recently, the en banc Eight Circuit addressed this question in *Calzone v. Summers* by holding that Missouri’s lobbyist registration law violated the First Amendment as applied to an uncompensated lobbyist who incurred no expenditures. As the court aptly stated: an individual ‘does not lose his First Amendment rights just because he speaks through an organization that shares his perspective.’ Despite the dissenters’ concerns regarding the categorical rule, it is far from clear whether the court’s decision will have the feared effect of broadly undermining such disclosure laws. [...] Ronald Calzone, an ‘active figure in Missouri politics’ who is the sole agent of a nonprofit organization called Missouri First, qualified as a ‘legislative lobbyist’

under Missouri's statute according to section 105.470(5) because he is a 'natural person who acts for the purpose of attempting to influence . . . [legislative] action' and is 'designated to act as a lobbyist by any . . . entity.' This is despite the fact that he neither received compensation from Missouri First, nor incurred any expenditures associated with his lobbying activities. In 2016, after the Missouri Ethics Commission began investigating Calzone for alleged violations of the statute, Calzone filed a federal suit seeking a permanent injunction to prevent enforcement of the law. The district court rejected his as-applied First Amendment challenge, finding that lobbying registration furthered the 'important interest' of 'government transparency,' thereby satisfying exacting scrutiny as applied to an uncompensated lobbyist. Similarly, it rejected Calzone's facial challenge based on the statute's constitutional vagueness. [Harvard Law Review, [12/5/19](#)]

### **Stras Dissented From An Opinion Upholding The Law**

**Stras Dissented From An Opinion Upholding The Law.** According to Wiley, "A panel of the U.S. Court of Appeals for the Eighth Circuit recently upheld, by a 2-1 vote, Missouri's lobbying registration and reporting laws as applied to an unpaid volunteer lobbyist. The ruling underscores the varying thresholds and circumstances that trigger state lobbying registration and reporting requirements, and the very minimal or nonexistent thresholds in some states. [...] In a strong dissenting opinion, Judge David Stras suggested that perhaps a more demanding 'strict scrutiny' review standard should apply to lobbying reporting laws. Judge Stras also criticized the majority for acting as a mere 'rubber stamp' for Missouri's law under the more relaxed 'exacting scrutiny' standard." [Wiley, [January 2019](#)]

### **The Case Was Heard By The Entire Eighth Circuit, And Stras Wrote The Opinion Partially Striking Down The Law**

**After The Case Was Heard By The Entire Eighth Circuit, Stras Wrote An Opinion Partially Striking Down The Law.** According to People for the American Way, "Trump judge David Stras wrote a 6-5 November decision for the full 8th Circuit court of appeals in Calzone v. Summers that reversed a prior decision in which he had dissented and partly struck down a Missouri lobbyist registration and disclosure law, endangering other such disclosure requirements. The three other Trump judges on the 8th Circuit – Ralph Erickson, Steven Gras, and Jonathan Kobes – provided deciding votes in favor of Stras' opinion." [People for the American Way, [12/2/19](#)]