

# CRIMINALIZATION OF THE BALLOT BOX

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## WHAT IS THE CRIMINALIZATION OF THE BALLOT BOX?

- We define the Criminalization of the Ballot Box as “the abuse of public and private power to intimidate minority community members from voting for fear of criminal prosecution and to otherwise deter their constitutionally protected political activity.” This idea can also be framed as the “criminalization of voting.”
- Notable examples of criminalization have occurred in North Carolina, Florida, and Texas

## HISTORY OF VOTER PROSECUTION LAWS IN GENERAL

- In this country there has been a legacy of suppression of Black voters starting with outright denial of personhood, to disenfranchisement by violence, to laws that disparately disenfranchise Black voters such as felony disenfranchisement laws
- Just to give a high-level intro, voters are being prosecuted for voting, for assisting voters, and potentially for seeking to register people to vote among other things
- Three substantive issues with voter prosecutions are: (1) many of the violations stem from a place of confusion, (2) voters are selectively prosecuted, and (3) these prosecutions have the effect of limiting the electorate



**Crystal Mason (TX): 5 Years**



**Rosa Maria Ortega (TX): 8 years**



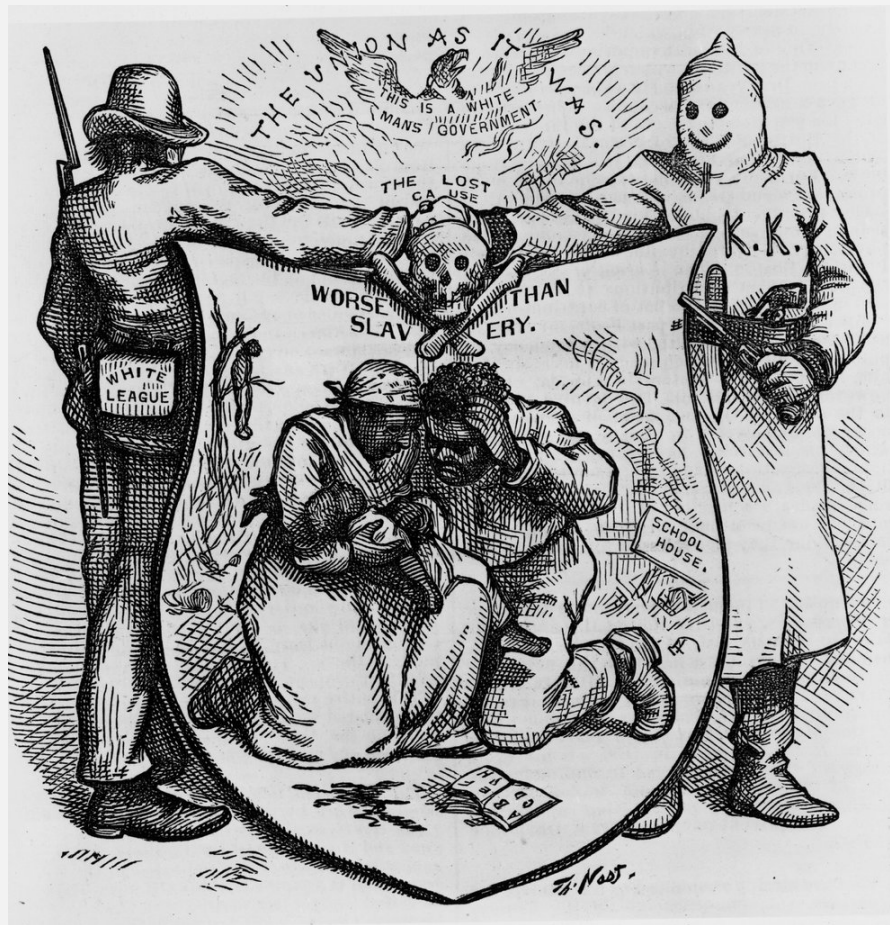
**Whitney Brown and Keith Sellers (NC):  
Pleaded to Misdemeanor Obstruction of Justice**



**Xavier Artis (FL): 13 months**

## CONNECTION TO JIM CROW LAWS

- The North Carolina voter prosecution statute aimed at people with felony records, passed via a NC “suffrage amendment” that included a poll tax, grandfather clause, and a literacy test component. The only one still in affect is the voter prosecution statute
- Alabama: Alabama’s constitutional amendment disenfranchising people with felony records was successfully challenged in Hunter v. Underwood (1985), which held that laws disenfranchising people with felony records could not be explicitly racially discriminatory.



## VARIOUS ITERATIONS OF VOTER PROSECUTIONS

- **Voting while ineligible due to a felony conviction or being a noncitizen**
- **Absentee ballot statutes that criminalize third party registration/assistance**
  - TN Law (Under the new law, the state can fine groups that submit 100 or more voter registration forms lacking a complete name, address, date of birth, declaration of eligibility and signature. People could also be charged with a misdemeanor for a variety of registration issues (including not sending in forms in a timely manner) → **Court Enjoined This Law**)
  - Georgia → Olivia Pearson was charged with improperly assisting a voter and “false swearing” (she was acquitted after a second trial)



# ARE WE REGRESSING?





## WHAT WE CAN DO TO SUPPORT?

- Educating people about these issues so that they can talk with their elected officials
  - NC APRI v. NSCBE case and education put pressure on the North Carolina legislature to change North Carolina's voter prosecution law aimed at people voting while ineligible due to a felony conviction
- Research on the prevalence of voter prosecutions and their chilling effect
- Overall support in defending voter prosecutions

## HOW YOU CAN HELP

- Data regarding the prevalence of voter prosecutions and data about their chilling effect
- If you hear about any voter prosecution cases that find their way into your docket, please let us know so we can track this data
- We have heard from various clients that these voter prosecutions are intimidating, we need more people's stories. There's a narrative that voter fraud is running rampant in our society, so we need people's stories in order to create a different narrative.

## CONTACT INFORMATION

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