

## **The Disenfranchisement of Felons on Probation: A Breach of Fundamental Rights**

For many American citizens, voting is not merely a right or a responsibility they have to our democracy; it's a privilege that they have worked hard to receive. Some Americans spend periods of their life fighting for their right to vote— such as individuals who become naturalized citizens— while other Americans devote their careers to protecting each citizen's right to vote. Regardless of their devotion to maintaining our democracy, all Americans agree on one thing: that the ability to vote and participate in our political system is a fundamental right for all citizens. Despite this assumption, laws continue to deny the right to vote to people across the country in our communities who are working, living, and raising families— former felons on probation are barred from voting in dozens of states, including Minnesota (Office of the Minnesota Secretary of State). Thus, because current law unjustly prevents their participation in our democracy and undermines the rehabilitation process, I believe that former felons who are on probation should have the right to vote expanded to them.

While legal precedent can often answer questions of applying the law, the question of voting rights for former felons is not one. Most court cases and regulations restricting the right to vote are on the state level. For instance, in Minnesota, Article VII, Section 1 of the State Constitution reads that “a person who has been convicted of treason or [a] felony” is not allowed to vote until the state restores their civil rights (MN Const. art. VII, § 1). The question then arises— when are their rights restored? This ambiguity hasn't been cleared up by any federal court cases, as most Supreme Court voting rights cases have dealt with discrimination. In Minnesota, the current system is based on a 1963 law that dictated that voting rights are restored

“at the point of discharge” from the criminal system, which includes time spent on probation (Callaghan).

The distinction between prison time and probation may seem a minor detail at first glance, but holds immense ramifications for enfranchisement. Federal data shows that in 2012, there were just shy of four million Americans on probation. In Minnesota, the percentage of the population is even higher. The Pioneer Press reported that some regions of the state face average probation sentences of seven years with the top five percent of sentences in the state ranging from 15 to 40 years probation (Ferguson). Because of Minnesota’s large probation population, the question of restoring the right to vote is especially pertinent. Estimates peg the number of individuals whose voting rights would be restored by enfranchising felons on probation at between 50 and 60,000 Minnesotans (Montemayor). The rights of such a significant portion of the population cannot be ignored. But, to understand the issue, we must first understand the individuals most affected by it— felons on probation.

For the most part, felons on probation are regular working people, often living in our communities without us even knowing them to be felons. Take, for example, Renee Brown-Goodell— a public relations manager for small financial firms in Golden Valley, Minnesota. Most people wouldn’t know it at first glance, but Renee was convicted of fraud in 2012 and served four years in prison. Despite being released years ago, Renee hasn’t been able to vote in the past two elections, even though she participates our in society like any other citizen. As Renee put in a 2019 Star Tribune interview, “I’m expected to work, I’m expected to pay taxes and take care of my family and behave as a regular American citizen should behave. Yet, I’m not a regular American citizen because you have stripped away my rights to be a regular American

citizen” (Montemayor). There are hundreds of thousands of other former felons on probation just like Renee— people whose past mistakes are still punished after they’ve served their time. These individuals’ contributions to American society are no less valuable than anyone else's. Thus, it both unreasonable and unjust to restrict their right to participate in our electoral process merely because of a past mistake for which they have served their time.

One of the most common counter-arguments to expanding voting rights to former felons is that doing so would enfranchise individuals who want to “subvert the public good,” often citing statistics that criminals often re-offend (Cilek). However, extending the right to vote can aid in rehabilitation, decreasing the frequency of repeat offenders. By limiting the right to vote, the state sends the signal to people on probation that they are not citizens and do not deserve a place in society. It is this kind of societal exclusion and “othering” which creates a self-fulfilling prophecy— felons on probation feel like they don’t belong and are thus more likely to turn away from the rules which govern our society and return to crime. Luckily, restoring felons’ rights would aid in reintegrating felons into society. [Giving former felons the vote not only sends the signal that they are valued members of society, but it also invests them in civic engagement by allowing them to express their voices](#) (Wood). Because restoring the right to vote sparks productive engagement and sends the right signals to former felons, the American Probation and Parole Association concludes that “disenfranchisement laws work against the successful re-entry of offenders” (Wood).

In addition to aiding the rehabilitation process, the vote should be expanded because felons on probation are affected by government policy more than the average citizen and ought to voice shaping that policy. By excluding felons from elections, society prevents them from

voicing their opinions on issues of criminal justice reform. For instance, even though former felons are counted in congressional districts, people on probation cannot influence legislative policy because they cannot vote for congressional representation. Furthermore, felons on probation can't even vote for sheriffs, police commissioners, and judges. Felons on probation who have served their sentence ought to have a say in these elections because local law enforcement policy and leadership plays a role in their everyday lives. It is unjust to deny the vote to any citizen, but especially when the material results of government policy disproportionately impact those citizens.

In short, not only is restricting former felons right to vote unjust, but it is an active harm to our democracy and our criminal justice system. Felons on probation are living all around us, working just like other Americans for the collective good of the nation. These individuals—these citizens—who have served their debt to society, ought to have a voice just like any other American. By denying them this right, we erode our democracy and judicial system. Criminal justice reform is inadequate without the legislative input of those most affected by the policy. Furthermore, by restricting undermining rehabilitation, the criminal justice system is undermined for all Americans. I believe that expanding the vote to felons on probation is not only a critical step in preserving the integrity of our democracy; it's a way to improve the electoral and judicial systems for all Americans.

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