

At issue in Florida tally: Voters' penmanship

RIVIERA BEACH, FLA.

In an era when few people write by hand, identities still hang on signatures

BY GLENN THRUSH,
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The nuns at Zina Rodriguez's Catholic school in the New York borough of the Bronx used to thwack her knuckles to punish sloppy handwriting. So she was shocked when her mail-in ballot in Florida was rejected because her signature did not match the one on record with elections officials.

Ms. Rodriguez, a registered Democrat, found the rejection notice in her mailbox at 7 p.m. the night before the Nov. 6 election, two hours after the deadline for appeal had passed. When she protested at the Palm Beach County Board of Elections the next morning, she learned that the culprit was a driver's license signature, hastily squiggled on an electronic signature pad two years earlier.

"There were 13 amendments on that ballot," said Ms. Rodriguez, 47, a behavioral health care consultant from Lake Worth, Fla. "The only reason I chose to write in was because I wanted time to research all the questions. I was fulfilling my responsibility. All of that got thrown away because I wanted to get out of the D.M.V. office as fast as I can. It is incredibly upsetting."

The issue of faulty signatures, especially on mail-in ballots, has emerged as a central point of contention in the county-by-county recounts taking place in Florida, with lawsuits spinning off the 2018 election like tornadoes off a hurricane.

On Thursday, Judge Mark Walker of the Federal District Court in Tallahassee, Fla., ruled that voters whose ballots had been invalidated by mismatches would have until 5 p.m. Saturday to resolve the problem. The new deadline would apply to just over 4,000 rejected ballots that could now be counted.

"This should give sufficient time, within the state's and counties' current administrative constraints, for Florida's voters to ensure their votes will be counted," he wrote.

Ruling the state law as applied was



An employee moving a pallet of ballot boxes during a recount on Wednesday at a Palm Beach County elections office in Florida.

unconstitutional, he wrote that the county election officials could reject the ballots "with no standards, an illusory process to cure and no process to challenge the rejection."

Many of the ballots given a second chance probably belong to traditionally Democratic voters, especially young people. Still, they would not be enough for Senator Bill Nelson, a Democrat seeking re-election, to overcome a 12,562-vote lead by Gov. Rick Scott, his Republican challenger, without further gains.

The signature battle touches on constitutional questions of equal protection and free speech. But it is rooted in larger societal trends that are rapidly rendering an individual's handwriting an unreliable electoral hallmark.

"The culture, and technology, are making signatures a devalued currency," said Tamara Plakins Thornton, a University at Buffalo professor who wrote a cultural history of handwriting in America. "They came into popularity as a means of expressing a person's indi-

viduality, which made them good for identification. Now people will just use an emoji."

A particular vulnerability was documented in a pre-election study by the American Civil Liberties Union in Florida, which found that young voters were more likely to have their mail-in ballots rejected because, in part, they did not use their handwriting enough to develop a steady signature.

"Younger voters don't have firm identity; their signature is in flux," said Daniel A. Smith, an elections expert and chairman of the political science department at the University of Florida who wrote the A.C.L.U. study. "They are living in a digital world and as a result their signature isn't a permanent measure of their identity."

As if to prove that point, an affidavit filed in court this week by an 18-year-old Miami voter whose signature had been rejected, Ezekiel Adreassen, was signed in painstaking but unsteady block lettering. Most schools, parochial or otherwise, no longer teach penmanship —

and only about 10 states still retain curative writing requirements in their curriculum guides. In 2014, Florida added cursive writing to its learning requirements for the third, fourth and fifth grades.

Businesses are fast phasing out the use of signatures. This year, Target and Walmart quit collecting them after four of the largest card networks — American Express, Discover, Mastercard and Visa — stopped requiring them in the United States to verify transactions.

Yet the signature remains the main means of identifying voters in Florida and many other states, despite research showing that signatures change as people age, become ill, fall out of practice or are simply in a rush.

In the past year, the A.C.L.U. has filed signature matching issues in a series of lawsuits across the country, arguing the process is unconstitutional and disenfranchises voters. The organization has won cases in New Hampshire and California.

In Georgia, the organization sued Bri-

an Kemp, the secretary of state and a candidate for governor in another undecided race, for disqualifying nearly 600 absentee ballots as a result of alleged signature mismatches. On Oct. 24, a restraining order was issued requiring election officials to provide absentee voters the opportunity to confirm their identity.

"People should not be denied their right to vote because of penmanship, but that's exactly what is happening in Georgia," Sophia Lakin, a staff lawyer with the A.C.L.U. Voting Rights Project, said in a statement issued before the election.

In Florida, out of more than two million ballots cast by mail, lawyers in Mr. Nelson's lawsuit said, state officials had identified about 5,000 that had been rejected over questions of signature validity and other ballot issues. However, Mr. Smith, who conducted the A.C.L.U.'s study on the signature issue, said he had obtained data from the Florida secretary of state showing that as of Nov. 12, at least 20,000 ballots had been thrown out during this election, about half of them because of signature mismatches and similar issues.

Judge Walker was trying to determine how counties match signatures on mail-in ballots with signatures in the voter file and what criteria they use to decide that a signature is a mismatch.

Preliminary data provided by the secretary of state shows that the greatest number of ballots rejected on signature issues was in Palm Beach County, a Democratic stronghold that threw out 931 ballots. Broward County rejected 188 because of signature issues.

Judge Walker chastised lawyers for the Republicans for making unsubstantiated claims that voter fraud was the reason such ballots had been rejected. He also seemed troubled that the lawyers working on behalf of Mr. Nelson's campaign were, in effect, asking him to rewrite Florida election law by requesting that local officials disregard the requirement that signatures match.

"This just seems like a really bad way to do this," he said.

Republicans, from President Trump on down, have blasted the legal effort as an attempt to hijack the election. "Dem lawyers came to Florida to get judges to change Florida elections laws, AFTER the election. That isn't a strategy to win an election, that is a strategy to steal an election," Senator Marco Rubio wrote Wednesday on Twitter.

County election officials are responsible for verifying the signatures of voters who cast mail-in or provisional ballots under state law. Questionable signatures are reviewed on a case-by-case basis, by three-member canvassing boards.

These are the same bodies that scrutinized hanging chads in the disputed presidential election of 2000, when Florida's vote-count in the presidential race between George W. Bush and Al Gore gained notoriety around the country.

Marc Elias, a lawyer representing the Democrats, said the solution was to do away with the signature crosscheck altogether and just require voters to sign a form attesting to their identity. "We don't need untrained people making judgments about something they know nothing about," he said.

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Broward County's supervisor of elections, Brenda C. Snipes, a Democrat who has become a target of Mr. Trump's ire, said her office held forensic signature examination training classes about every two years to train staff members in what constitutes a match — and a mismatch. "We are just trying to make sure there is a match that will allow the person to vote," she said.

Many Democrats argue that imposing new standards for evaluating signatures could discourage some voters, especially foreign-born citizens, from even trying to cast ballots.

Still, Patrick Murphy, a former Democratic congressman from South Florida, said it was time that the state reviewed how it authenticates mail-in and other ballots.

Mr. Murphy has a stake in the fight. His vote, too, was rejected as a result of a signature mismatch. Like Ms. Rodriguez, he only found out after the 5 p.m. deadline on Nov. 6 had passed.

"It's really screwed up," Mr. Murphy said. "There's nothing I can do at this point."

Contributing reporting were Jeremy Peters in Tallahassee, Patricia Mazzei in Miami, Stacy Cowley and Dana Goldstein in New York, and Daniel Victor in Hong Kong.

United on justice overhaul

NEWS ANALYSIS

The criminal system needs fixing: On that, Democrats and Republicans can agree

BY SHAILA DEWAN
AND CARL HULSE

Whether immigration or tax cuts or who won Florida, there is very little that Republicans and Democrats seem to agree on these days. But there may be one thing: the need to repair the nation's criminal justice system.

It is a cause that has made for strange alliances, including the liberal Center for American Progress, the conservative Koch brothers, law enforcement groups, the reality TV star Kim Kardashian and now, President Trump, who on Wednesday endorsed a bill that would improve prison conditions and reduce some sentences.

The view that punishment is too harsh and that rehabilitative measures are too scarce, is broadly supported in public opinion polls, especially as crime has hovered at a 20-year low. That popular support has translated into political backing. "Out in the real world where people live, it's not even controversial anymore," said Mark Holden, who leads Koch Industries' work on criminal justice issues.

Of course, not all the everyday people and the politicians who represent them arrived at this shared conclusion via the same path.

The left is persuaded by vast racial disparities and the fact that the United States is a global outlier, with the world's highest incarceration rate. Those on the right often point to unsustainable costs. The policy wonks arm themselves with

reams of data on the system's failure to lower recidivism or protect from wrongful conviction.

And, somewhere in the mix, is the notion of redemption and second chances. The bill endorsed by Mr. Trump on Wednesday has been years in the making, bolstered by state-level changes — often led by Republicans in party strongholds like Georgia, South Carolina, Oklahoma and, more recently, Louisiana — that repeatedly demonstrated that prison populations could be reduced with no increase in crime.

The trend can be traced to Texas in 2007, when Rick Perry, then the governor, saw a projection that the state would need 14,000 more prison beds at a cost of more than half a billion dollars.

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Marc Levin, a lawyer, had recently started a criminal justice program at a conservative think tank, the Texas Public Policy Foundation, and he was ready with an alternative: treatment and drug courts that would give judges an alternative to locking people up.

"There was a lot of luck involved that it turned out in 2007 things all came together," Mr. Levin recalled. "And obviously, it was Texas — if Vermont had done this, no one would have noticed."

Instead, Mr. Levin found himself fielding inquiries from state after state.

"Tough on crime" had been a political mantra. Mr. Levin called his campaign Right on Crime. Later, the Obama administration would chime in with Smart on Crime.

Advocates acknowledge that they vary their tactics depending on the audi-

ence. "It's common sense but we look at it through three different lenses: It's a moral, constitutional and a fiscal issue," Mr. Holden said. With other sea changes, he said, "people have seen some type of moral outrage — abolition, suffrage, civil rights, marriage equality. They've all been, basically, people coming together from all sides."

The messenger matters as well: Public polling has shown that people trust police officers the most, then the formerly incarcerated.

The Koch brothers were attracted to the topic because of the proliferation of criminal statutes — too many on the federal level to even count, Mr. Holden said. But they went on to tackle issues like high bail and poor legal representation for the poor.

Mr. Levin, for his part, thought that if conservatives were going to be skeptical of the government's role in areas like education and welfare, they should also be willing to apply that scrutiny to criminal justice.

He also saw an argument that appealed to the Tea Party's distaste for government interference. "There's a group of people that could be self-sufficient if we just remove the barriers that the government's imposed," he said, referring to laws that bar former felons from obtaining certain kinds of licenses. "We're doing more harm than good by keeping people in prison who don't need to be there."

Crime has long been an issue in election season. Few political veterans can forget the 1988 presidential campaign in which President George H.W. Bush bashed Michael Dukakis for releasing a prisoner, Willie Horton, on furlough who later went on to commit assault, armed robbery and rape.

Six years later, President Bill Clinton signed a major anti-crime bill that set lengthy prison sentences and flooded the streets with police officers. It is often cited as a driver of mass incarceration.

"Both parties were competing for who can be the most tough on crime throughout the 1980s and '90s, and then the Republicans came to their senses first, for financial reasons," said Inimai Chettiar, director of the Brennan Center for Justice. "So now you're going to have this happen, if it happens, under a very conservative president."

Bipartisanship on the need for change has helped inoculate candidates from Willie Horton-style attacks, and conservatives have been willing to give liberals political cover.

Of course, Mr. Trump's endorsement will provide more cover for wavering politicians than perhaps anyone else could.

"There are no politicians more popular than Donald Trump in Kentucky," said Holly Harris, executive director of U.S. Justice Action Network, a main proponent of the bill. "I can say that because I live there."

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A prison in Springville, Ala. President Trump has endorsed a bill, which has been years in the making, that would improve prison conditions and reduce some sentences.