

**CHARLES H. WESLEY EDUCATION  
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## **NEWS RELEASE**

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### **FOR IMMEDIATE RELEASE**

#### **FEDERAL APPELLATE COURT UPHOLDS INJUNCTION ORDERING STATE OF GEORGIA TO COMPLY WITH NATIONAL VOTER REGISTRATION ACT**

**Atlanta, GA – Saturday, May 14, 2005** – A three-judge panel of the U.S. Court of Appeals for the Eleventh Circuit issued a unanimous ruling Thursday, upholding a lower court's preliminary injunction that required the State of Georgia to immediately begin accepting mail-in voter registration applications from private voter registration organizers, as required under the National Voter Registration Act of 1993 (“NVRA”). The injunction, issued last July, overruled a nearly 10-year-old policy of Georgia’s Secretary of State that required private voter registration drive organizers to obtain approval from local county elections officials before setting up a registration drive and collecting applications.

(To view a copy of the ruling, go to [http://www.moldenholley.com/NVRA Lawsuit.htm](http://www.moldenholley.com/NVRA_Lawsuit.htm) )

The lawsuit was filed by the Charles H. Wesley Education Foundation, Inc., the charitable affiliate of the Nu Mu Lambda Chapter of Alpha Phi Alpha Fraternity, Inc., located in DeKalb County, Georgia. The Foundation alleged that Georgia Secretary of State Cathy Cox and other officials within her Elections Division violated the NVRA (more commonly referred to as the federal “motor voter” law) when they rejected approximately 64 voter registration applications that the group had collected during its registration drive in June 2004. Several members of the fraternity and one of the individual voter registration applicants also were named as plaintiffs.

Secretary Cox contended that the applications sent in by the Foundation were invalid and would not be processed because the Foundation did not follow correct procedures under the Georgia Election Code for setting up a voter registration drive and for collecting applications. The Wesley Foundation insisted that it had complied fully with the federal NVRA and that, as a result, its drive did not have to comply with Georgia’s Election Code.

In addition to requiring voter registration at driver's license bureaus, public libraries, and other government venues, the NVRA also established procedures for nationwide voter registration using a federally mandated mail-in registration form. Federal law requires states to accept NVRA registration forms and to register qualified citizens who submit such applications by the close of the registration deadlines established by state law. Georgia law, by contrast, allows only for county-by-county voter registration by authorized officials and does not provide for registration by out-of-state residents. According to a declaration filed by Jaru Ruley, one of the named plaintiffs in the case, the Foundation chose to use the less restrictive NVRA procedures so that the group would be free to conduct cross-county and multi-state registration drives within the metro Atlanta area and beyond.

Last July, Senior U.S. District Judge William C. O'Kelley issued a ruling agreeing with the Foundation's position, stating: "Here, it is undisputed that each of the applications submitted by the Wesley Foundation arrived at the Secretary of State's Office in an envelope postmarked by the appropriate date. . . . Because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them."

On Thursday, the Eleventh Circuit agreed with Judge O'Kelley's analysis, ruling that the Foundation had established a substantial likelihood of success on the merits of its claims in the lawsuit. Writing for the court, Senior U.S. Circuit Judge Jerome Farris stated, "The NVRA protects [the Foundation's] right to conduct registration drives and submit registration forms by mail, and [Georgia's] denial of the sixty-four forms here was a clear invasion of that interest . . . ."

Atlanta attorney Bradley E. Heard, a Foundation and Fraternity Board member who is representing the plaintiffs in the lawsuit, said he was "extremely pleased" with the ruling of the appeals court. "We have always believed that Georgia's practice of rejecting privately submitted voter registration applications was contrary to clearly established federal law," Heard said. "Now that a second federal court has agreed fully with our position, we hope that Secretary Cox and the State of Georgia will be willing to work with us to achieve a speedy and just resolution to this matter, without wasting additional taxpayer funds to continue fighting this issue in court."

In the event the case is not settled, it will return to the federal district court, which must decide whether to issue a permanent injunction in the case and whether to award the Foundation compensatory and punitive damages and attorneys' fees.

**About the Charles H. Wesley Education Foundation:** The Charles H. Wesley Education Foundation, Inc., is the non-profit 501(c)(3) charitable and education foundation of the Nu Mu Lambda Chapter of Alpha Phi Alpha Fraternity, Inc. The Foundation supports virtually all of Nu Mu Lambda's charitable and community service efforts. Nu Mu Lambda, founded in 1980, is the second-oldest alumni chapter of Alpha Phi Alpha Fraternity, Inc. in the metropolitan Atlanta area. From 2001 through 2003, Nu Mu Lambda held the coveted title of Alpha Phi Alpha's national alumni chapter of the year. Alpha Phi Alpha (<http://www.alphaphialpha.net>) was founded December 4, 1906, at Cornell University. It was the first intercollegiate Greek-letter organization founded by African-Americans and is one of the oldest non-religious African-American organizations in the United States.

**For More Information on the National Voter Registration Act:** Go to the following web links from the U.S. Election Assistance Commission:

<http://www.eac.gov>

[http://www.eac.gov/register\\_vote.asp?format=none](http://www.eac.gov/register_vote.asp?format=none)

[http://www.eac.gov/register\\_vote\\_faq.asp](http://www.eac.gov/register_vote_faq.asp)

**For More Information on the Georgia Secretary of State's Elections Division:** Go to the following web link: <http://www.sos.state.ga.us/elections>

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