

Fighting for Florida: Disenfranchised Florida Felons Struggle to Regain Their Rights  
March 28, 2004 By ABBY GOODNOUGH

TALLAHASSEE, Fla. - Gov. Jeb Bush looked out over a roomful of felons appealing to him for something they had lost, and tried to reassure them. "Don't be nervous; we're not mean people," the governor said as some fidgeted, prayed, hushed children or polished their handwritten statements. "You can just speak from the heart." And they did: convicted robbers, drunken drivers, drug traffickers and others, all finished with their sentences, standing up one by one in a basement room at the State Capitol and asking Mr. Bush to restore their civil rights. Their files before him, Mr. Bush asked one man about his drinking, another about his temper, and so on.

Four mornings a year, this unusual scene unfolds in front of the governor and his cabinet, as they review the requests of some of the thousands of felons whom Florida has stripped of their rights to vote, serve on a jury and hold public office. Since daybreak on Nov. 8, 2000, when the nation awoke to the shock of a presidential race ending in a virtual tie, Florida's voting laws and practices have been the subject of intense debate and scrutiny. The disputed election results led the state to adopt sweeping changes in how votes are cast and counted and how voter rolls are maintained. Yet as Florida becomes an election-year battleground again, with Governor Bush vowing to ensure victory here for his brother and Democrats eager to reclaim the state, its electoral practices - including its felon disenfranchisement law - are drawing renewed attention.

In one lingering puzzle from 2000, an unknown number of legal voters were removed from Florida's rolls leading up to the presidential election, after a company working for the state mistakenly identified the voters as felons. At the same time, some counties mistakenly allowed actual felons to vote or turned away legitimate voters as suspected felons. A lawsuit filed in January 2001 sought to prevent similar errors, while another, filed just before the 2000 election, charged that the ban on felons voting discriminated against blacks and should be overturned.

Critics say that President Bush would have lost in 2000 if disenfranchised felons had been allowed to vote. A 2001 report by a University of Minnesota sociologist counted more than 600,000 in Florida, not including those still in prison, on parole or on probation. More than one in four black men here may not vote, the report found. The state says it is impossible to know how many disenfranchised felons live here, because some have died or moved.

Although the Democratic Party here has not made fighting the ban a priority since 2000, to the frustration of civil rights groups, Scott Maddox, the party chairman, said he had followed the issue closely and believed the governor and legislature supported the ban for partisan reasons. "It's amazing to me that these Republicans that keep quoting the Bible seemingly don't believe in redemption and forgiveness when it comes to restoring civil rights," Mr. Maddox said through a spokeswoman.

Florida is the largest of the seven states that permanently take away the voting rights of all felons. While other states have scaled back similar bans in recent years, Governor Bush and the Legislature call their law a necessary consequence for citizens who commit crimes, and point out that many are eventually granted clemency. "The governor believes this is a fair process," Jacob DiPietre, a spokesman for Mr. Bush, wrote in an e-mail response to questions about the ban. He pointed out that more criminals were getting their rights restored without hearings under a smoother process set in place by the governor.

Partly because the ban drew widespread attention after 2000, the backlog of felons whose applications for rights restoration are under review - 35,585 as of March 15 - is more than five times what it was in July 2001. The state automatically restores the rights of some felons after reviewing their records, while others need only fill out a short application. But others, including convicted drug traffickers, sex

offenders, violent offenders and those guilty of public corruption, must go through an investigation and wait for a hearing in Tallahassee, which can take years. Many felons apply not just to regain voting rights, but because they cannot qualify for certain state-issued professional licenses - nursing or contracting licenses, for example - unless their rights are restored. Julio Lima, who was convicted on cocaine trafficking charges in 1997 said he had since gone to school to become an insurance adjuster but could not get a license without civil rights. Mr. Lima, 34, said he applied for restoration in 2002 and was still waiting for a hearing date. The clemency board, which consists of the governor and his three cabinet members, has files on each applicant. The State Parole Commission recommends before their hearings whether to accept their applications, based partly on investigations that might include interviews with employers, neighbors and victims. But the board does not always follow the recommendations. "How's the anger situation going?" Mr. Bush asked one man after leafing through his file on the most recent hearing day, March 18, when the clemency board considered 57 voting rights cases. "You've stayed clean?" the governor asked another.

Over the course of that morning, board members seemed especially interested to know whether former alcohol and drug abusers were now sober. They had little patience for multiple traffic violations, domestic violence records and blame passing. They rejected the application of a man convicted of killing a pregnant woman while driving drunk in 1989 (her mother was there, tearfully saying that he had never apologized) and a man convicted of a lewd act against a child in 1993. They restored the rights of a former drug addict who now helps AIDS patients and a convicted drug trafficker who said he wanted to make his young daughter proud by voting. In all, the board restored the rights of 23 felons, rejected the applications of 30 and delayed decisions on 4.

The law has been on the books since 1868, when Florida gave blacks the right to vote as a condition of the state's being readmitted to the Union after the Civil War. A new State Constitution drafted that year expanded the number of crimes that required disenfranchisement, a change that critics say was meant to affect blacks disproportionately. They also charge that this discriminatory intent of the ban persists even though the provision was re-enacted in 1968 as part of a new Constitution. A federal judge in Miami dismissed one lawsuit seeking to overturn the ban, *Johnson v. Bush*, filed just before the 2000 election by the Brennan Center for Justice at New York University. But in December, an appeals court in Atlanta reversed the decision and ordered a trial, saying the state had to prove it re-enacted the law for a "nondiscriminatory purpose" and not just for the sake of continuity. The state has asked for a rehearing of the appeal.

In recent decades, the largest number of people who regained their voting rights in a year was 16,192 in 1986, under Gov. Bob Graham, a Democrat. But the numbers dropped sharply in the 1990's, when another Democrat, Lawton Chiles, was governor. That is because the state made it harder for many felons to get restoration during the tough-on-crime era of the early 90's. "Jeb Bush is not responsible for this problem," said Howard Simon, executive director of the American Civil Liberties Union of Florida. "It's more than 100 years in the making under both Democrats and Republicans. But Jeb Bush and his cabinet are the only ones who can alleviate it right now." Lifting the ban would require a constitutional amendment, and civil rights groups have started a petition drive to try to put the issue on the ballot. Mr. Simon and others said an easier alternative would be for Mr. Bush and his cabinet to eliminate the hearing process.

Several thousand felons apply each month; in Mr. Bush's first three years in office, from 1999 through 2001, the state restored the rights of an average of 1,550 people a year, according to data from the Florida Parole Commission. But the number jumped in the last two years: 6,649 felons had their voting rights restored in 2002, and 14,828 in 2003, according to the commission. Mr. DiPietre, the governor's spokesman, said the application rules were streamlined in 2001. Among other changes, most felons guilty of less serious crimes and those with outstanding court fines were allowed to skip hearings. Another suit, filed by the Florida Conference of Black State Legislators and others in March 2001, led to

a court order last summer requiring the State Department of Corrections to help 125,000 felons apply to get their voting rights back once they had finished serving their sentences. A third suit, filed by the N.A.A.C.P. in January 2001, resulted in a settlement in which the state agreed to screen suspected felons more carefully before reporting them to county elections supervisors for possible removal from the voting rolls.

Only Maine and Vermont allow felons to vote even while they are in prison. Besides Florida, only Alabama, Iowa, Kentucky, Mississippi, Nebraska and Virginia take away all felons' voting rights and do not automatically restore them. "Why should we keep people from voting after we spent all this money rehabilitating them?" Representative Kendrick B. Meek, a Miami Democrat, said. "Why stand in judgment on whether they should vote or not? This is politicians standing in and playing the role of virtuecrat." That was how John Eason, the man convicted of committing a lewd act on a child, said he felt as he left his hearing, his application denied. He wanted his rights back so he could get a contractor's license, he said, to take over his father's business. Mr. Eason's sister traveled with him from Lakeland to tell Mr. Bush that he had been a model uncle. "The government thinks they're doing society a favor by showing that it's still convicting the bad people," Mr. Eason said. "But how does it benefit society to keep me down in this way?"

Things turned out better for Cecil Taylor, who had been convicted of driving drunk and whose college art teacher came to speak of his potential. After the board asked Mr. Taylor if he had drunk alcohol since his conviction, and Mr. Taylor said he had not, Mr. Bush restored his rights - with a caveat. "I'm praying that you're not going to start drinking again," Mr. Bush told him. "When we make these decisions, sometimes it puts us in a little bit of a precarious position in that you could let us down."