

Pennsylvania judge upholds anti-democratic “voter ID” law

Ed Hightower
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On Wednesday, Pennsylvania Commonwealth Court judge Robert Simpson, a Republican, denied a request for an injunction that would have barred the state from enforcing its new requirement that voters provide a state-issued photographic ID in order to cast a ballot.

The ruling in the case of *Applewhite et al. v. Commonwealth* is the latest victory in a Republican tactic of restricting ballot access for likely Democratic voters before the November 2012 presidential elections.

The Pennsylvania ruling serves as a revealing case study in many regards. In particular, it underscores the fact that there exists no “voter fraud” crisis which would justify new legislation.

In June, Republican Mike Turzai, the majority leader in Pennsylvania’s House of Representatives, boasted at a meeting of the Republican State Committee that the voter ID law would deliver the state to Mitt Romney in the November presidential elections.

“Pro-Second Amendment? The Castle Doctrine [part of the defense claimed by Trayvon Martin’s killer, George Zimmerman], it’s done. First pro-life legislation – abortion facility regulations – in 22 years, done. Voter ID, which is gonna allow Governor Romney to win the state of Pennsylvania, done,” Turzai said.

The lead plaintiff in the Pennsylvania case is 93-year-old Viviette Applewhite, who worked as a welder during World War II and marched with Martin Luther King Jr. in the 1960s. Applewhite has been voting since that time, but does not have a driver's license. The legal brief submitted by the American Civil Liberties Union and other advocacy groups details three attempts she made to obtain a birth certificate, a prerequisite for a driver's license, with the state Division of Public Records. She had her purse stolen five years ago, leaving her without a driver's license, Social Security card or birth certificate. Several other voters described similar situations.

Lawyers for the plaintiffs intend to appeal Wednesday’s

ruling to the Pennsylvania Supreme Court. In this case, they made a tactical decision to file suit in state court.

“Going into federal court is like going to the plate with two strikes already against you,” attorney Witold J. Walczak said.

He argued in his brief for the plaintiffs that Pennsylvania’s constitution more thoroughly defends the right to vote than does the US Constitution. One section provides that all elections be “free and equal” and that “no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

A similar argument based on additional state-constitutional grounds prevailed in a Missouri court in 2006, and recently in Wisconsin.

During the Pennsylvania suit, lawyers for the state stipulated before the court that they had no evidence of even a single incidence of voter fraud in the state.

Some 758,000 Pennsylvania voters, while registered to vote, have no record with the Department of Transportation and thus have no driver’s license. This amounts to nine percent of the state’s population. Many more than these may be denied the right to vote under the new legislation.

Over the course of the six-day hearing, the court heard evidence that subgroups of the population which lack photographic ID cards at higher rates tend to vote for Democratic candidates.

Specifically, female eligible voters lack photographic ID at higher rates (17.2%) than do males (11.5%). Latino eligible voters lack ID at higher rates (18.3%) than do non-Hispanic Caucasians (14.0%). Persons over age 75 lack ID at higher rates (17.8%) than middle-aged residents (10.3%), and younger respondents (age 18-34) also lack at higher rates (17.9%). Eligible voters with annual incomes below \$20,000 annually are more likely to lack a valid photo ID (22%) than all other income categories, most

notably those who make \$80,000 or more (8.2%). Regarding persons who did not complete high school, 18.5% of respondents have no photographic ID compared to 8.3% among college graduates.

None of this swayed judge Simpson. While describing Mike Turzai's admission as "disturbing" and "boastful," he ultimately found that the new law was neutral and nondiscriminatory.

Since January 2011, 19 states have passed a total of 24 laws that restrict the franchise, including photo ID requirements, curtailing early and absentee voting, criminalizing those who aid in voter registration and purging eligible voters from the voting rolls. All of these statutes are designed to deny significant sections of working class and poor people the right to vote.

In Ohio, state officials have curtailed early voting times for urban areas, while increasing them in rural -- more heavily Republican -- ones.

Five of the nine likely battleground states have introduced laws to this effect: Florida, Iowa, New Hampshire, Ohio and Virginia. States that have imposed restrictions account for the lion's share of the 270 electoral college votes required to win to take the presidency. Sixteen of these states account for 214 electoral votes.

5 million voters could be turned away in the 2012 presidential election, according to the Brennan Center for Justice at NYU Law School.

Cases regarding ballot access laws in Texas and Alabama may be headed to the US Supreme Court. Those cases challenge the constitutionality of the 1965 Voting Rights Act itself. Given the right wing makeup of the Supreme Court and the deepening decay of democratic rights since the stolen 2000 election, it is certainly possible that the entire Voting Rights Act could be struck down.



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