

Court decisions stop voter ID requirements in Wisconsin, Texas

Patrick Martin
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In separate actions taken on much different legal grounds, the US Supreme Court stopped Wisconsin from requiring photo identification from voters before they are allowed to cast ballots in the November 4 election, while a US district judge ruled that a similar voter ID requirement in Texas is unconstitutional.

The two decisions could significantly affect the outcome of the 2014 elections, since the Wisconsin law would have barred as many as 300,000 registered voters from casting ballots, while the Texas law would have excluded an estimated 800,000 registered voters. Both states have contests for governor and US senator, as well as state legislative races.

The Supreme Court action on Wisconsin came in a 6-3 vote, in which two conservatives, Chief Justice John Roberts and Justice Anthony Kennedy, sided with the four liberal justices, Stephen Breyer, Ruth Bader Ginsburg, Sonya Sotomayor and Elena Kagan. Conservatives Antonin Scalia, Clarence Thomas and Samuel Alito dissented.

The Wisconsin law, passed in 2011 as part of the right-wing assault on democratic rights and workers' rights spearheaded by Governor Scott Walker, required voters to present a state-validated photo ID like a driver's license in order to receive a ballot. Voters who cast absentee ballots by mail would be required to submit a photocopy of their ID with the ballot or it would be discarded.

A federal district judge in Milwaukee struck down the law as unconstitutional, saying that it would "deter or prevent a substantial number of the 300,000-plus registered voters who lack ID from voting," and have a disproportionate impact on black and Hispanic voters.

A three-judge panel of a federal court of appeals reinstated the law last month only hours after hearing arguments, a judicial action of unprecedented speed.

The full circuit court split five to five on whether to hear an appeal, in effect denying it, and civil rights groups opposing the law then appealed to the Supreme Court for an emergency stay, which was granted Thursday night.

In several previous cases involving state restrictions on ballot access, the five conservatives have voted together to uphold state laws, generally enacted by Republican legislatures and signed by Republican governors, to reduce hours of voting, limit early voting, or require photo IDs. All these are measures calculated to reduce the turnout among poor, minority and student voters, thus favoring Republican candidates.

The high court majority made no decision on the constitutionality of the Wisconsin voter ID law, but rather cited the "proximity of the election" as a reason to suspend the new law's effect, pending a full hearing which would take place after November 4.

Roberts and Kennedy evidently switched their position on the Wisconsin decision because the case came before the high court less than four weeks before the election, under conditions where thousands of voters had already cast absentee ballots under the old law, and might be disqualified under the new law.

The court wrote: "It is particularly troubling that absentee ballots have been sent out without any notation that proof of photo identification must be submitted." Given that absentee voters tend to be older and wealthier than the average, and favor Republicans, disqualifying their ballots could hurt Republican candidates, partially offsetting the partisan advantage to be gained by reducing voter turnout in minority areas.

Moreover, attempting to implement the new law on the fly, less than 30 days before the election, threatened to produce an administrative crisis that would discredit the entire vote. While 300,000 voters would need state-

issued IDs, the state agency tasked with providing them, the Department of Motor Vehicles, was equipped only to issue 500 a week.

Wisconsin Attorney General J.B. Van Hollen said he would seek an administrative remedy for the absentee ballot issue and hoped to convince the court to reinstate the law. He added, “I believe the voter ID law is constitutional and nothing in the court’s order suggests otherwise.”

In two earlier cases involving emergency challenges to state election laws, the Supreme Court upheld by 5-to-4 an Ohio law that reduced the period for early voting, and upheld by 7-to-2 a North Carolina law that did away with same-day registration and discarded ballots cast in the wrong precinct. The common denominator is that in each case the court majority left existing procedures in place, citing the nearness of the election.

Thursday’s ruling in Texas, following a two-week trial in federal court in Corpus Christi, addressed the substance of the voter ID issue, and not just the practical problems in implementing it. Judge Nelva Gonzales Ramos issued a decision denouncing the law as deliberately discriminatory and calling the costs involved in obtaining a photo ID “an unconstitutional poll tax.”

The requirement of a photo ID—which excluded student IDs issued by universities, but included gun permits—was imposed for illegitimate purposes, the judge found. The new law “creates an unconstitutional burden on the right to vote, has an impermissible discriminatory effect against Hispanics and African-Americans, and was imposed with an unconstitutional discriminatory purpose,” she wrote.

A spokesman for the NAACP Legal Defense Fund, which challenged the law, hailed the decision, saying, “The evidence in this case demonstrated that the law, like its poll-tax ancestor, imposes real costs and unjustified, disparate burdens on the voting rights of more than 600,000 registered Texas voters, a substantial percentage of whom are voters of color.”

Texas Attorney General Greg Abbott issued a statement promising an immediate appeal, although it was not clear whether such an action could be taken before the election. Abbott is the Republican candidate for governor of Texas, on the November 4 ballot, and stands to benefit personally from the law’s

discriminatory impact on minority voters.

The US Government Accountability Office published a report Wednesday suggesting that voter ID laws had a significant impact in reducing voter turnout in states that changed their requirements between the 2008 and 2012 elections, with a disproportionate effect on young and African American voters.



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