

Virginia Supreme Court orders revocation of voting rights for 200,000 felons

Shelley Connor
25 July 2016

Late Friday evening the Supreme Court of Virginia struck down an executive order by Democratic Governor Terry McAuliffe that would have reinstated the voting rights of 206,000 Virginians who had completed sentences for felonies. The ruling, which passed 4-3, also retroactively stripped 11,662 citizens of their right to vote.

On April 22, McAuliffe issued an order that re-enfranchised felons who had completed their sentences and who were no longer on parole. In the wake of the state Supreme Court's ruling, McAuliffe expressed dismay that the court had upheld a law that dated back to Jim Crow days, although, according to the study he ordered on the matter, the majority of affected citizens were middle-aged white males.

Three justices dissented: Bernard Goodwyn and Cleo Powell, the court's only African American justices, and William Mims, a long-time Republican, dissented on the grounds that the petitioners had no standing to petition the court for mandamus.

The majority opinion, written by Chief Justice Donald Lemons, states that McAuliffe's order violated the Virginia Constitution, which explicitly states that "no person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority."

McAuliffe's blanket order, Lemons wrote, was an arrogation of executive rights that the Constitution was designed to prevent.

Lemons also stated that the order abrogated the rights of Virginia's voters by effectively changing the Constitution without legislative approval or popular vote. The primary petitioners in the case were Speaker of the Virginia House of Delegates William J. Howell and Majority Leader of the Virginia Senate Thomas

Norment, Jr. and "four other Virginia registered voters" who were unnamed in the Court's opinion.

Norment and Howell, who are both Republicans, argued that the order infringed upon their rights to decide the issue of clemency legislatively. They further argued that they would be "injured" in future election bids should they be forced to compete in an "invalidly constituted electorate."

"Petitioners allege," Lemons writes in the opinion, "respondents have directly injured them by allowing the registration of unqualified voters pursuant to the 'unconstitutional Executive Order,' thereby diluting their legal votes and infringing their right of suffrage..."

Immediately following the court's ruling, Howell and Norment crowed triumphantly in a joint statement: "Our nation was founded on the principles of limited government and separation of powers. Those principles have once again withstood assault from the executive branch. This opinion is a sweeping rebuke of the governor's unprecedented assertion of executive authority."

These sentiments were largely echoed by Virginia Republicans. Delegate Robert B. Bell, who is running for Attorney General, stated to Richmond.com that "[McAuliffe] spent 90 days bragging about this being the high point of his governorship. And the court made it very clear that he had acted unconstitutionally."

Virginia Republicans viewed McAuliffe's order as an attempt to flood the electorate with presumed Democratic-leaning voters in the lead-up to November elections. In 2008 Virginia emerged as an unexpected swing state, giving its electoral votes to Barack Obama by a margin of 6.3%. Virginia had consistently given its votes to the Republican Party for over forty years prior to that upset. In a volatile election cycle, both Republicans and Democrats have acted feverishly to

leverage the state's electoral power for their respective parties ahead of the presidential elections in November. McAuliffe's camp has countered these claims by accusing the GOP of racism and backwardness.

McAuliffe's former Secretary of the Commonwealth, Levar Storey, was one of the key architects of McAuliffe's efforts to reinstate voting rights for freed felons. Storey is himself the child of a felon who never had an opportunity to vote.

Storey is currently a mayoral candidate for the capital city of Richmond, Virginia. His opponent, Joe Morrissey, stated that while Storey's efforts were worthwhile, he had effectively "politicized" what should have been a legal issue, and that he had "taken a very good thing, voter registration, and thrown it on its heels."

The entire issue has illuminated the turbulent nature of American electoral politics.

The Court's ruling, as laid out in Chief Lemons' opinion, is an attempt by a member of the judiciary to hide his reactionary and malicious disregard for the working class beneath legal robes. While Lemons repeatedly pointed to the principles of voter rights, he and his court disenfranchised over 200,000 citizens on the basis that their votes were mere "dilution" of other voters' rights.

Additionally, for all his lofty exhortations on the sanctity of the court as an interpreter of the law held separately from the political branches, he and his peers allowed two members of the legislative branch—Howell and Norment—to use the court to gain leverage over their competitors by narrowing the pool of voters in their favor. This harkens back to the 2000 elections, when the Supreme Court of the United States stole the electorate's votes for George W. Bush. In both cases, the judiciary branch has demonstrated that it effectively functions as a choir for the political maneuvers of the ruling class.

Howell and Norment, while pandering for votes under a banner of smaller government and constitutional freedom, have worked to ensure that they personally, as members of government, maintain their privileged place. They have done this by working to ensure that as few voters as possible, especially those who might be assumed to vote against them, are able to exercise their right to vote.

Storey and McAuliffe, for their part, have taken an

important issue of equality and political parity—voting rights—and portrayed it as primarily a racial issue as opposed to a class issue.

Although black citizens are certainly overrepresented amongst felons in proportion to the population as a whole, white males still form the majority of felons affected by this issue. It has been demonstrated time and again that the poorest members of the working class are the ones most likely to be convicted of felonies and incarcerated; this wrangling over the votes of men and women who have served out their prison sentences highlights the fact that all rights are political, and that all politics are grounded in class.

McAuliffe has vowed to sign each individual order for the 206,000 Virginians affected by his blanket order before the court's ruling. In the meantime, their rights hang in the balance, regarded by both Democrats and Republicans as mere political ballast.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact