

Voting? No Photo ID Required, Yet

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Senator Kathleen Vinehout writes about voting and the Voter ID law. She shares background on the decisions leading up to the U.S. Supreme Court action that puts the Wisconsin ID law on hold.

ALMA - “I haven’t voted in three years,” a Galesville fairgoer told me this summer. He leaned up against the pole barn at the Trempealeau County Fair and shoved his fingers in his pockets. “I don’t want to show up and be told I can’t vote.”

Changes in voting rules are confusing. A requirement to have a certain type of photo ID to vote has been an ‘on again, off again’ law leading up to this election.

On November 4, voters will not be required to show a photo ID.

The U.S. Supreme Court put a hold on Wisconsin’s photo ID law. The high court made no comment on the law and may rule on it later. If not, legislators in January may revisit the photo ID law. But for now, the law is on hold, so the Galesville man should vote along with every other eligible voter.

In 2011, Wisconsin passed its restrictive photo ID law. Restrictive because the types of IDs allowed are limited, requirements on absentee voters are strict and the number of people potentially unable to vote is high— estimated at 300,000.

Since 2011, the law ping-ponged back and forth in federal and state courts as one court found it legal while another declared the law unconstitutional. Most recently the U.S. Supreme Court halted enforcement of the law but did not issue an opinion on its final status.

About the same time as the Supreme Court decision, Judge Richard Posner of the US 7th Circuit Court of Appeals wrote the dissenting opinion on that court's tied vote on taking up an appeal of Wisconsin's photo ID law before the full court.

At issue – among others – was whether the Wisconsin law was similar to an Indiana law upheld by the courts. If the laws of the two states were similar, presumably Wisconsin's law could go into effect.

Back in 2011, I argued Wisconsin's photo ID would be the strictest in the nation. Since then, Texas passed a stricter law. But Wisconsin's law remains one of the most limiting. The nonpartisan National Council of State Legislatures (NCSL) recently listed Wisconsin as one of 9 strict photo ID laws nationally.

During debate on the Wisconsin law my Senate colleagues and I who opposed the law argued courts would find it unconstitutional because of its restrictive nature and the large of people without acceptable IDs. Proponents of the law argued it was modeled after Indiana already upheld by the nation's highest court.

In his dissent Judge Posner argued Wisconsin's law was not comparable to Indiana's law except that the laws "belong to the same genre". With 330,000 voters lacking required identification and Wisconsin's law being more limiting than Indiana, the judge wrote "the effects of the photo ID requirement on voter suppression are likely to be much greater in Wisconsin, especially since as we saw earlier its law is stricter than Indiana's."

Many people in Wisconsin are concerned about voter fraud. There are many types of fraud ranging from voting more than once to ballots that are unsecured. However, Wisconsin has a history of clean elections with very little documented voter fraud.

A photo ID law is used to address one type of fraud: voter impersonation. This is when a voter pretends to be someone he or she is not.

In his recent judicial opinion Judge Posner summarized: “There is compelling evidence that voter impersonation fraud is essentially nonexistent in Wisconsin.”

In conclusion, Judge Posner wrote: “There is only one motivation for imposing burdens on voting that are ostensibly designed to discourage voter impersonation fraud, if there is no actual danger of such fraud, and that is to discourage voting by persons likely to vote against the party responsible for imposing the burdens.”

Rules governing voting make a difference in how many people go to the polls. Wisconsin ranks high among voter participation in elections. For example, in 2012, Wisconsin ranked second only to Minnesota with 73% of eligible voters voting; Indiana ranked 40th with 56% of voters going to the polls.

Voting is a precious right in our democracy. Democracy works when large numbers of people are involved on Election Day.

So, go vote!

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