



HOW PHILLY WORKS VOTER ID GOES ON TRIAL

If you never heard of Robin Simpson, that's about to change.

Commonwealth Court Robert E. "Robin" Simpson (no relation to Bart or O.J.) will take the bench tomorrow morning at 10 a.m. to begin hearing from people who want him to block the enforcement of Pennsylvania's new voter ID law, which they say is unconstitutional. He will also hear from people who believe the law is critical to protect against voter fraud.

Whichever side loses will appeal the decision to the Pennsylvania Supreme Court.

The Supreme Court's ruling will have a profound impact on the outcome of the 2012 presidential battle in Pennsylvania, by all accounts one of the key battleground states.

*This edition of **HOW PHILLY WORKS** gets you ready for tomorrow's court battle over the controversial and politically charged issue of voter ID. (We already told you all the ins and outs of the state's voter ID law, but if you want a refresher, check out www.seventy.org/voterID or call 1-866-687-8683.)*

People all over the country are watching what's happening in Pennsylvania closely. We hope you are, too, since the legal debate is all about your vote. You can keep track of the court proceedings by following the ACLU of PA's reports on twitter (<https://twitter.com/aclupa>) or their blog (<http://aclupa.blogspot.com>).

- July 24, 2012

What do we know about Robin Simpson?

He's a Dickinson guy (undergrad and law), was a Common Pleas Court judge in Northampton County for 13 years and elected to the Commonwealth Court (one of Pennsylvania's two intermediate appellate courts) in 2001. He was retained in November 2011 in a statewide retention election (you should have seen his name on the ballot) after being recommended by the Pennsylvania Bar Association as a judge of "integrity and excellent character" with "excellent writing and sound analytical abilities." If you are a lacrosse fan, he was a Dickinson Red Devil.

You said voter ID is "politically charged." Do we know if he's a D or an R?

Republican. But don't expect this to figure into his decision. By the time his next retention race rolls around in 2021, he will have reached the court's mandatory retirement age. Anyhow, he isn't shy about bucking the party. In 2008, he rejected a challenge by the state Republicans to get lists of



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voters they claim were fraudulently registered by ACORN, a controversial group that has faced voter fraud charges across the country.

Why would the political parties care so much about his decision anyhow?

Because voter ID laws are often characterized by their supporters: Generally speaking, Republicans like voter ID; Democrats don't. Pennsylvania's voter ID law was passed by a Republican-dominated House and Senate (the votes in each chamber were split almost entirely along party lines) and signed by a Republican Governor. The national Democratic Congressional Campaign Committee has started an online petition drive to fight Pennsylvania's voter ID law.

Does the Committee of Seventy have any predictions about what Simpson will rule?

It's impossible to know. (Who would have expected U.S. Supreme Court Chief Justice John Roberts to uphold Obamacare?)

When will he make a decision?

We expect sometime in mid-August. This case will be on the fast track since it affects the November 6 election. Whichever side loses will appeal to the Pennsylvania Supreme Court.

Does Seventy advise voters to wait to see what happens?

Absolutely not. Seventy opposed the voter ID when it was in the General Assembly, but now we are entirely focused on making sure that all voters – regardless of their party affiliation or the candidates they support – are prepared to vote on November 6. We have convened a group of statewide, regional and local groups – known as the PA Voter ID Coalition – to conduct an aggressive *non-partisan* campaign to spread the word about the voter ID law and to help voters get the ID they need to vote. You can read the list of coalition members [here](#).

What does the voter ID law have to do with me?

For the first time, every voter in Pennsylvania must present a photo ID every time they go to the polls. Even if the person working at the polls is your mother, she is legally required to ask for your identification. If you don't have it, you won't be able to use the voting machines on November 6.

What's the big deal? I have plenty of photo IDs.

Most people do. But, according to information just released by the state, about 758,000 registered Pennsylvania voters do not have the two most common types of photo ID people will bring to the polls: a driver's license or a non-driver's photo ID. Nearly one in five registered voters in Philadelphia (187,000 people) are among them.

Why don't they just get one?

That's part of the court case. The lawsuit to block the law is being brought by advocacy groups and ten plaintiffs who say they don't have one of the photo IDs that will be accepted at the polls in



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November – and it will be very difficult, perhaps impossible, for them to get one. They argue that the voter ID law violates the right to vote that they are guaranteed in the Pennsylvania Constitution.

How hard can it be to get a photo ID?

Each of the plaintiffs has a different story to tell, many revolving around their inability to get an official birth certificate, one of the documents required to get a photo ID for voting if you don't have one. Four of the plaintiffs, for instance, say the states where they were born don't even have a record of their birth. You can read their stories at:

<http://www.aclupa.org/legal/legaldocket/applewhiteetalvcommonwealt/voteridclients.htm>.

What does the state have to say about these stories?

The state argues that anyone who doesn't have an acceptable photo ID, including the plaintiffs, has plenty of time to get one before November 6. They point to a number of steps taken by the state to remove any barriers to getting a photo ID for voting. And, they add, just because the process may involve some inconvenience doesn't mean the constitutional right to vote has been violated.

You said something about voter fraud.

Yes, the state says that requiring people to show a photo ID will help protect the integrity of the voting process and prevent fraud. Their opponents claim that the only "fraud" a voter ID requirement will prevent is impersonating someone at the polls – and that the state has produced no evidence that this happens.

Is there more?

Of course, what lawyer doesn't make multiple arguments? The plaintiffs also accuse the voter ID law of hitting some voters harder than others. For example, they say voters most likely not to have an acceptable photo ID are overwhelmingly poor, elderly, homeless, disabled or racial minorities. The state says the law applies equally to every Pennsylvania voter and doesn't create more burdensome rules for some people over others.

Who is telling the truth?

We're not going there. That's Judge Simpson's job. And he doesn't have a lot of past law to rely on. No court in Pennsylvania has ever considered a voter ID law.

Why are you making a big deal about Judge Simpson if the Supreme Court has the final word?

Good question. It may turn out that Judge Simpson is not simply a pass-through to the Supreme Court. With six justices on the state's highest court – three Democrats and three Republicans – an even split means that Judge Simpson's decision on whether the law stays or go will prevail.



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Why doesn't the Supreme Court have an uneven number of Justices to avoid split votes?

Actually, it does. But the seventh Justice, Joan Orié Melvin, isn't hearing cases at the moment since she has faces criminal charges for using her sister's (former state Senator Jane Orié) and her own then-Superior Court staff for her judicial campaigns.

Why are you saying the Supreme Court could decide on party lines?

In highly political cases like voter ID, especially in states like Pennsylvania where judges are elected and need the party's support, it is not uncommon for people to talk about decisions being made on party lines. And when this doesn't happen, people tend to be very surprised. One example happened early this year when PA Supreme Court Chief Justice Ron Castille voted with the Democrats to throw out the (GOP-dominated) General Assembly's redistricting maps.

PA Supreme Court justices don't have to worry about retention, right? Isn't it a slam dunk?

You think so? Ask former Pennsylvania Supreme Court Justice Russell Nigro, who lost a retention election in 2005 because voters were outraged over a pay raise for all three branches of government passed by the General Assembly and signed by then-Governor Ed Rendell four months earlier.

Now what?

Our non-partisan advice: Keep moving ahead. Find out what kinds of photo ID will be accepted at the polls in November. If you don't have one, learn how you can get a photo ID for voting from a Pennsylvania Department of Transportation Driver's License Center. Again, you can find out everything you need to know by going to www.seventy.org/voterID or by calling 1-866-OUR-VOTE (1-866-687-8683).

There is much more to come on voter ID. We will keep you posted on the lawsuit and on other developments with the voter ID law, which seems to have new twists almost every day.

*And, as we always say at the end of our **HOW PHILLY WORKS**, if you have something you want to say, e-mail us at futureofthecity@seventy.org.*