



May 7, 2008

**COURT UPHOLDS INDIANA LAW
DESIGNED TO PREVENT ALIEN VOTING**
(Crawford v. Marion County Election Board)

The U.S. Supreme Court this week rejected a challenge to an Indiana law that requires voters to present photo IDs when they come to vote and that is designed to prevent improper voting by aliens and others not permitted to vote.

The Court's decision was a victory for the Washington Legal Foundation (WLF), which filed a brief in the case, *Crawford v. Marion County Election Board*, urging that the photo ID law be upheld. The Court agreed with WLF that Indiana legislators were well within their rights in adopting measures designed to prevent election fraud. The Court held that these measures do not violate the U.S. Constitution by (as the plaintiffs alleged) imposing an undue burden on the right to vote.

WLF's brief was drafted with the pro bono assistance of Thomas R. McCarthy, Bert Rein, Suzette Rodriguez Hurley, and Brendan Morrissey, attorneys with the Washington, D.C. law firm of Wiley Rein LLP.

In the wake of renewed interest in election fraud issues following the 2000 Presidential election, at least five States (including Indiana) adopted laws requiring voters to present photo IDs when they come to vote. Some of those States also require those seeking to register to vote to provide proof of U.S. citizenship. Every one of those laws has been the subject of litigation, but most of the lower courts (including the U.S. Court of Appeals for the Seventh Circuit in this case) have upheld the laws. In affirming the Seventh Circuit's decision, the Supreme Court made clear that such laws are not subject to facial challenge. The Court left open the possibility that discrete groups of voters might be able to challenge photo ID laws on an as-applied basis, by demonstrating that such laws impose a particularly severe burden on the voting rights of their groups.

“Evidence suggests that across the country many unregistered individuals – including aliens – attempt to vote by providing poll workers with the names of others who *are* registered to vote,” said WLF Chief Counsel Richard Samp after reviewing the Supreme Court's decision. “Americans will soon lose faith in the integrity of the election process if States are not permitted to take effective steps to ensure that aliens and other unregistered individuals are not voting,” Samp said.

The plaintiffs asserted that the Indiana law imposed onerous documentation requirements that would discourage citizens from attempting to vote. In upholding dismissal of the plaintiffs' claims, the Court noted that virtually all Indiana residents possess a driver's license or some other photo ID, and that those without an ID can get one at no cost and with relatively little effort. The Court agreed with WLF that in light of the relatively minor documentation burden imposed on prospective voters and Indiana's significant interest in preventing election fraud, the Indiana law does not infringe on anyone's constitutional right to vote.

WLF also argued that the plaintiffs lacked standing because none of them could show that they would be denied the right to vote based on the lack of a photo ID – and thus that none of them could demonstrate the injury-in-fact necessary to establish standing. The Court held that the Democratic Party had standing to bring suit and thus deemed it unnecessary to examine the standing of the other plaintiffs.

WLF is a public-interest law and policy center with supporters in all 50 states, including many in Indiana. It devotes a significant portion of its resources to promoting the fairness of elections, as well as to combating illegal immigration and ensuring that aliens who engage in criminal activities are excluded from American society.

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For further information, contact WLF Chief Counsel Richard A. Samp (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.