



U.S. Supreme Court Declines to Step into Michigan Battle Over "Straight Ticket Voting"

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Foster Swift Municipal Law News

October 31, 2016

In December 2015, the Michigan Legislature passed legislation intended to end straight ticket voting (i.e., checking a box on a ballot that registers a vote for a party's entire slate of candidates). Seven months later, however, the U.S. District Court for the Eastern District of Michigan issued a temporary restraining order blocking the law's implementation. The district court reasoned that the ban violated the Constitution and the federal Voting Rights Act because of its disproportionate impact on African Americans. Evidence was presented that African Americans are more likely than white voters to avail themselves of straight ticket voting. The U.S. Court of Appeals for the Sixth Circuit denied the State of Michigan's request to stay the district court's decision pending appeal – meaning that straight-ticket voting can continue.

The State of Michigan filed an emergency appeal to the U.S. Supreme Court, seeking a decision upholding the ban on the straight-ticket voting in time for the November election. The State argued that, in enacting the ban, it was simply following the lead of "40 other states by requiring voters to actually vote for each candidate they intend to support." The law, according to the State, was neutral and non-discriminatory because "it applies to all voters, regardless of race."

Those opposing the State's appeal - a group of non-profits and individuals - argued that straight-ticket voting in Michigan, in particular, is "essential" because the state does not allow early in-person voting or voting by mail, and only allows absentee voting if there is an excuse for doing so. These facts differentiate Michigan from other states with similar bans on straight ticket voting, according to the challengers.

The U.S. Supreme Court declined to take up the issue. It gave no explanation for its decision, although Justices Thomas and Alito stated that they would have granted the state's request. As a result, the district court's restraining order against the legislation remains in effect, and straight-ticket voting will be available on Michigan ballots

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for November's election.

Do you have questions about what this means for your municipality? Contact Laura Genovich at lgenovich@fosterswift.com or 616.726.2200.