

Supreme Court Strikes Down Restrictions on Polling Place Attire

June 19, 2018

This election season, voters may notice more expansive and opinion-oriented fashion choices in polling places. In a 7-2 ruling—with Justice John Roberts writing for the majority and Justice Sotomayor writing for the dissent—the Supreme Court ruled that Minnesota's law prohibiting voters from wearing politically themed garb inside the polling place violated the First Amendment.

The case, *Minnesota Voters Alliance v. Mansky*, stemmed from an effort in the 2010 election to allow voters to wear buttons to the polls printed with the words "Please I.D. me." Minnesota does not require identification for registered voters to vote in the polls, and this has been a controversial issue. The plaintiffs sued after voters were asked to cover certain political insignia, including the "Please I.D. me" buttons and a "Don't Tread on Me" T-shirt bearing a Tea Party slogan. The plaintiffs argued that Minnesota's law allowed too much discretion in deciding what was "political" and violated their right to free speech.

The State of Minnesota argued that the law serves the noble purpose of creating a space for people to vote that is free of intimidation, an "island of calm in which voters can peacefully contemplate their choices." The Supreme Court, while acknowledging this virtue and acknowledging its own precedent prohibiting campaigning within 100 feet of polling places, said that Minnesota's law prohibiting political insignia was too broad and too open to interpretation to pass constitutional muster. The Court noted that the "State must draw a reasonable line" and that "the unmoored use of the term 'political' in the Minnesota law, combined with haphazard interpretations the State has provided in official guidance and representations to this Court, cause Minnesota to fail even this forgiving test."

Justice Sotomayor's dissent, which Justice Breyer joined, would have certified the question to the Minnesota Supreme Court to construe the statute before deciding the constitutional question.

This decision has implications for Minnesota voters and voters in nine other states with similar restrictions. Minnesota's primaries in August and the general election in November will be the state's first test to see how the decision impacts voters' expressions of their political views in polling places. Time will tell whether there will be an uptick in politically charged fashion in the polling places as a result and whether that will have an impact on the voters' "island of calm."