

Commonwealth Court Decision
Judge Robert Simpson Jr.
On Remand from Supreme Court Decision

Applewhite v. Commonwealth of Pennsylvania et al.

Liberal Access

Court questioned whether there is sufficient time to implement yet another new procedure as proposed by DOS. Judge Simpson's opinion reviewed the number of registered electors that are estimated to not have proper id and the number of Photo IDs issued to date. The Court was not convinced that proposed changes will cure the deficiency in the liberal access requirement identified by the Supreme Court

Disenfranchisement

Judge Simpson expected more Photo IDs to be issued by this time. For this reason he agreed with Petitioners argument that the remaining five weeks before the election the gap between the photo ids issued and estimate need will not be closed. He is not convinced that there will be no voter identification disenfranchisement arising out of the Photo ID requirement, so is obliged to enter a **preliminary injunction** in accordance with Supreme Court order.

Preliminary Injunction

Judge Simpson stated that he will not enjoin the training efforts of the Department or the portion of the law which requires the election officials from asking for photo ID at the polls. However, he did enjoin the portion of the law which causes disenfranchisement, which is that a provisional ballot shall be required if the person is not able to show proof of ID. Because this section is enjoined, he also enjoined the other sections relating to the county of preliminary ballots if a person does not show proper identification. The extent of this injunction shall have the effect of **extending the transition through the general election (i.e. soft roll out)**. This preliminary injunction is in place for the November 2012 General Election.

Permanent Injunction

The Court concluded its opinion with the acknowledgement that the Petitioners' preserved their facial challenge to Act 18 and that the merits of this challenge will be considered at a later trial. He clarified that it was his understanding that the Supreme Court's order concerning whether there was any disenfranchisement related to the focus of a "preliminary injunction" for the November election, not on the "facial" challenge to Act 18.