

Minnesota Law Banning Political Insignias In A Polling Place Struck Down Under The First Amendment

14 Jun 2018

Under Minnesota law, a “political badge, political button, or other political insignia may not be worn at or about the polling place” where voters head to vote in elections. Election judges working the polls have authority to determine whether a particular item violates the prohibition, and those who refuse to remove offending items go through an administrative process that may result in a civil fine. The Minnesota Voters Alliance challenged the law on facial and as-applied grounds as violating the First Amendment. They lost at the district court and before the Eighth Circuit, and took their facial challenge to the Supreme Court. The court, in a 7-2 decision authored by Chief Justice Roberts, reversed, holding that the law facially violated the First Amendment. The Court first held that a polling place is a “nonpublic forum,” and Minnesota had an interest to keep such places free of distractions from the voting process. However, given that the law did not define what made a particular item “political,” it was too vague to withstand constitutional scrutiny. Justice Sotomayor, joined by Justice Breyer, dissented, arguing that the case should have been certified to the Minnesota Supreme Court for a determination as to what “political” meant before the Court weighed in. A link to the opinion in *Minnesota Voters Alliance v. Mansky* is [here](#).

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