

# Are Voter ID Laws Headed Back to the Supreme Court?

By Donald Scarinci

The next term of the Supreme Court begins in a few short weeks and [voter ID laws](#) may be one of the first issues on the agenda. The legality of several voter identification laws are being challenged in the federal courts and may be on the fast track to the reach country's highest court before the November Presidential election.

The Supreme Court last considered the constitutionality of voter ID laws in 2008. In [Crawford v. Marion County Election Board](#), the Court upheld a controversial Indiana voting law requiring photo identification.

## *The Facts of the Case*

The case challenged the constitutionality of an Indiana statute requiring citizens voting in person to present photo identification issued by the government. Under the law, Senate Enrolled Act No. 483, a voter who is indigent or has a religious objection to being photographed may cast a provisional ballot that will be counted only if she executes an appropriate affidavit before the circuit court clerk within 10 days following the election. In addition, a voter who has photo identification but is unable to present that identification on election day may file a provisional ballot that will be counted if she brings her photo identification to the circuit county clerk's office within 10 days.

Challengers to the law sought to enjoin its enforcement and have it declared invalid. They argued that the voter ID law substantially burdened the right to vote in violation of the [Fourteenth Amendment](#).

## *The Supreme Court's Decision*

In a sharply divided 6-3 ruling, the Supreme Court ultimately upheld Indiana's voter ID law. Ultimately, the Court concluded that the law was reasonable because the burden of acquiring, possessing, and showing a photo identification was not a significant increase over the usual voting burdens, and Indiana's interests in protecting the integrity of its elections were sufficient to sustain that minimal burden.

Justice Stevens, joined by Chief Justice Roberts and Justice Kennedy, acknowledged that "even rational restrictions on the right to vote are invidious if they are unrelated to voter qualifications," citing the precedent established in *Harper v. Virginia Bd. of Elections*. His opinion further notes that a state law's burden on a political party, an individual voter, or a discrete class of voters must be justified by relevant and legitimate state interests "sufficiently weighty to justify the limitation."

However, in this case, the justices found the Indiana voter ID law contained “even handed restrictions” protecting the “integrity and reliability of the electoral process itself.” The justices specifically held that deterring and detecting voter fraud and protecting public confidence in elections were both legitimate state interests.

The justices also concluded that the burdens imposed on voters were minimal and justified. Justice Stevens wrote, “Because Indiana’s cards are free, the inconvenience of going to the Bureau of Motor Vehicles, gathering required documents, and posing for a photograph does not qualify as a substantial burden on most voters’ right to vote, or represent a significant increase over the usual burdens of voting.”