Parties, Politics, and Political Participation Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Voter ID
Mr. Faulhaber Class Period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Crawford v. Marion County Election Board** Argued: January 9, 2008/ Decided: April 28, 2008

Facts

The right to vote is a fundamental right guaranteed by the U.S. Constitution. But there are limits to this right, and states can establish reasonable restrictions on time, place, and manner of voting. For example, states can pick the date and time of their elections and can require their residents to register before voting. This case is about whether Indiana went too far – severely limiting the right to vote – by enacting a law that requires its citizens to present a photo ID before they can vote.

This statute, which went into effect in 2005, says that someone who shows up to vote in person must present a government-issued photo ID. A voter who does not present photo identification must vote by a provisional ballot; this vote will only be counted if the voter obtains a photo ID within ten days. Prior to the enactment of this law, a voter simply signed a poll book at the polling place, and polling officials could compare that signature with a copy of the signature from when the voter first registered to vote. Indiana legislators were concerned, however, that some people were voting fraudulently – in particular, by impersonating someone else. While there was no evidence of voter fraud in Indiana, this problem existed in other states.

While almost everyone voting in person would have to show an ID, those without an ID can get a free one from the Indiana Bureau of Motor Vehicles (BMV). The BMV does not charge a fee to issue an identification card to a person wishing to vote, who does not have a current license, and who will be at least eighteen (18) years of age at the time of the next election. The applicant must present the BMV with either a birth certificate or certificate of naturalization along with another document that shows the person’s name and address (such as a utility bill or a bank statement).

Several voters, candidates, and political organizations, including the state’s Democratic Party, sued the local election board, state of Indiana, and others. They claimed that the law violated the voting rights of some voters, especially those who are poor and minority, and would also discourage others from trying to vote. The trial court found in favor of the election board and state; the federal court of appeals affirmed. The Supreme Court granted review.

Issue

Does Indiana’s statute, requiring voters to present a government-issued photo ID, severely burden citizens’ right to vote?

U.S. Constitution and Precedents

* **Article 1, Section 4**

The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each state by the Legislature thereof; but the Congress may at any time by Law make or alter such regulations, except as to the places of choosing Senators.

* **Burdick v. Takushi (1992)**

In this case a voter challenged a Hawaii election law that prohibited write-in votes. The voter claimed that Hawaii’s refusal to count write-in votes – even if it was a protest vote for Donald Duck – violated his First Amendment freedoms of expression and association. The Court analyzed this case by balancing the burden on the plaintiff’s right to convey his message against the state’s interests, among other things, in preventing sore losers in the primaries from running a divisive write-in campaign.

* The Court ruled for Hawaii, explaining that the burden on the voter was reasonable and not severe. But it made clear that if the burden had been severe, then Hawaii would have had to justify its law by showing great need (a compelling interest) for the voting restriction.
* **Purcell v. Gonzales (2006)**

In 2004, Arizona voters passed Proposition 200, which required voters to show proof of citizenship when they register to vote. In its opinion the Court mentions the potential for conflict between the fundamental right to vote and a state’s interest in preventing election fraud. It also recognized that voter-identification laws prevent voter fraud and thus the “dilution of the weight of a citizen’s vote.

***Identifying Arguments Directions: Read each of the following arguments and place a MC next to those arguments that Support Marion County and a C next to those that support the Crawford’s position.***

\_\_\_\_\_1. **MC/C** This law severely burdens thousands of prospective Indiana voters who do not have a current photo ID. While photo IDs are available for free from BMV offices, not everyone has the required documents, and traveling to and from those offices will take considerable time and be overly expensive for some voters.

\_\_\_\_\_2. **MC/C** This burden falls most heavily on the poor, the elderly, the disabled and minorities – those groups most likely to be without photo IDs and who would have the hardest time getting them.

\_\_\_\_\_3. **MC/C** The Voter ID Law does not impose a severe burden on the right to vote. It simply requires a photo ID in order to vote as a means of preventing voter fraud. A voter ID can be obtained free from the state.

\_\_\_\_\_4. **MC/C** While the purpose of the law is to prevent voter fraud, the state has presented no evidence that in-person fraud has ever occurred in Indiana.

\_\_\_\_\_5. **MC/C** Threats of multiple voting and voter impersonation are real and serious. For example, voter fraud hurts legitimate voters by diluting their votes. Fraud has occurred in other states, and Indiana should be able to take measures to prevent it.

\_\_\_\_\_6. **MC/C** Government has a very strong interest in regulating elections to ensure their integrity and fairness. When elections are viewed as unfair, voters are driven out of the democratic process.

\_\_\_\_\_7. **MC/C** Not only is the burden of complying with the law reasonable, but the number of voters potentially affected by the law is small. The vast majority of adults have IDs; indeed, people need one to fly or enter a courthouse.

\_\_\_\_\_8. **MC/C** The identification requirement was passed by a Republican controlled legislature but falls most heavily on voters likely to vote for Democrats, which suggests that the purpose is political and illegitimate rather than to prevent voter fraud.

\_\_\_\_\_9. **MC/C** This lawsuit is a politically divisive partisan effort by the state’s Democratic Party and undermines the reasonable power of the state legislature.

\_\_\_\_\_10. **MC/C** Even if the number of potential voters burdened by this law is relatively small, it is a constitutional violation because the right to vote is fundamental and voter access should be expanded not reduced.

*The Argument above I thought was most persuasive to support Marion County was #\_\_\_\_. The reason I found that # persuasive is …*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *The Argument above I thought was most persuasive to support Crawford was #\_\_\_\_. The reason I found that # persuasive is …*

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Go to pgs. 778-779 in your Text: In plain English, what did the Court decide and why? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Do you agree with the Court’s Decision, why or why not? Explain.

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Would You Support/Oppose the Montana Legislature requiring a photo ID for in-person voting? Explain

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