

Supreme Court Asked to Strike Down MN Law Banning Political Expression on Clothing Worn at Polling places

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Challenging a Minnesota law that bans political speech on any “badge, button, shirt, or hat” worn at election polling stations, attorneys for The Rutherford Institute, Cato Institute, Reason Foundation, and The Individual Rights Foundation are calling on the United States Supreme Court to review the case of *Minnesota Majority v. Joe Mansky*. Under Minnesota Statute § 211B.11, unelected and unaccountable polling judges are given the power to prevent voters from wearing any “political badges, political buttons, or other political insignia...at or about the polling place on primary or election day.”

Insisting that the Minnesota law opens the door to abuse of voters’ free speech rights by giving appointed election officials unlimited discretion to determine what political speech should be censored, The Rutherford Institute and its coalition partners are urging the Court to strike down the law as overbroad, unconstitutional, and “a sweeping prohibition of core First Amendment speech.” For example, the polling ban could prohibit popular buttons or stickers that read, “I Voted,” context-less images such as a marijuana leaf, and even iconic photographs of Gandhi, Martin Luther King Jr., or John Lennon that could be classified as “political.”

“The polling site is one of the few remaining places where citizens can effectively voice their discontent with their government,” said constitutional attorney John W. Whitehead, president of The Rutherford Institute and author of *Battlefield America: The War on the American People*. “Shutting down this traditional forum for expression threatens the very democratic principles that this nation was founded on, and undermines the purpose of the First Amendment. In order to preserve the integrity of the First Amendment and the polling place, it is our hope that the high court will invalidate the statute as a violation of the freedom of speech.”

In 2010, legislators in Minnesota revised its election law to include a ban on the wearing of any apparel that included “political” speech at polling places. In response to the state’s attempt to stifle speech at polling places, Minnesota Voters Alliance and several other voters’ rights groups filed a lawsuit in 2010 requesting an injunction to stop the law from taking effect ahead of the upcoming election. The requested injunction was denied, and the law went into effect as scheduled. On Election Day, several registered voters were specifically threatened with prosecution or were told to remove clothing items or buttons that read “Please I.D. Me” or had Tea Party logos, and an untold number of other voters were deterred from wearing such items in the first place on the threat of prosecution. Following the election, the District Court dismissed the lawsuit, finding that the statute was not unconstitutional on its face. The voters’ rights groups

appealed to the U.S. Court of Appeals for the Eighth Circuit, which affirmed part of the decision but returned the case to the District Court to decide if the law was invalid as applied to some speech. After the District Court and Court of Appeals again ruled the law was valid, the voters' rights groups filed a petition in June 2017 asking the Supreme Court to review the law. In weighing in on the case in support of the voters' rights groups, The Rutherford Institute and its coalition partners argue that the law invites the targeted suppression of minority viewpoints and undermines the core objective of the First Amendment.