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Norfolk loses case to withhold voting applications

NORFOLK

The Virginia Supreme Court has ruled that the public has a right to review voting applications that were rejected by the Norfolk voter registrar.

A member of the Advancement Project, a Washington-based civil rights group, requested to inspect registration forms because the city initially rejected more than 6,000, or 55 percent, of Norfolk's voting applications before the November 2005 gubernatorial election, a significantly higher number than neighboring cities. Fewer than 1,000 of those applications ultimately were denied.

Elisa Long, the general registrar, maintained that the forms are private under Virginia election law because they contain Social Security numbers and other personal data. The state Board of Elections, the General District and Circuit Court agreed with Long.

Advancement Project member Andrew Rivera, a civil rights lawyer, appealed to the state Supreme Court, which found that if the Social Security numbers were redacted from the registration records, they no longer would be exempt from inspection. The records must be made available to Rivera after the numbers are removed, the court determined.

Rivera must pay for the work involved in the redactions, and cannot copy the records, the court ruled.

"Anytime there are limits placed on the ability of the public to conduct careful and thorough inspection of election records, that should make people nervous," said Kevin Martingayle, an attorney for Rivera. "Nothing is more fundamental to our democracy than open, fair elections."

Jeff Rosen, Long's attorney, said, "The registrar was trying to protect the records of the voters as well as the people who apply to vote." He said applications include information about criminal convictions and mental health hospitalizations.

As the case made its way through the courts, the General Assembly passed a bill stating that voting applications and rejection letters are open only to the registrar and the individual voter.

Information in the public voter rolls, such as lists of registered voters and those who voted in the last election, are still available. Rivera's case was not affected by that change.

Rosen said there was "glitch" in the wording of the statute, which was remedied by lawmakers as a result of this case.

"I am confident that after this case, this information will not be subject to disclosure again," he said.

Martingayle said Rivera had not "jumped to the conclusion that the Norfolk registrar had done anything improper."

"Before you reach a conclusion, you have to see the evidence," he said.

Long has said that part of the problem lay with Project Vote, a nonprofit group that targets

low-income and minority voters, which submitted about 5,000 applications. Many were incomplete or had errors, and applicants were given a chance to re-register, she said.

Project Vote countered that Long's procedures were overly exacting and placed extra registration hurdles on military, student and homeless voters.

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