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**FOREWORD: WHAT NORTH CAROLINA CAN LEARN
FROM THE *LEAGUE OF WOMEN VOTERS OF
INDIANA, INC. V. ROKITA* DECISION**

In the weeks before the 2008 election, the Republican National Committee argued that voter registration fraud was “rampant” in North Carolina.¹ At issue were the voter registration efforts of the Association of Community Organizations for Reform Now.² Problems with the group’s voter registration efforts were reported in a number of states, and after the discovery of some suspect registration forms in Durham and Wake Counties, the North Carolina State Board of Elections began an investigation.³ The investigation produced 135 bogus forms out of the nearly 28,000 submitted by the group in North Carolina, where more than 467,000 new voters were registered since January of that year.⁴ The executive director of the State Board of Elections claimed that it appeared that the perpetrators of the fraud were motivated by “personal greed,” not partisan politics.⁵

Preventing voter fraud, real and perceived, can become a passionate and divisive political issue. While we might assume that everyone would be in favor of preventing fraud, it should not be surprising to find strong disagreements as to the proper means for achieving this end. One proposed measure for preventing fraud is the requirement that voters show valid photo identification in order to vote. Proponents of such a measure argue that showing proof of identity via photo identification is common in many everyday transactions, such as when writing a check at a store, and not is unreasonably burdensome in order to protect the legitimacy of the ballot box.⁶ Opponents of such a measure argue that even restrictions that appear on their face to be benign may place an additional barrier between citizens and their voting rights, and point to a past history of literacy tests and poll taxes

1. Ryan T. Beckwith & Lynn Bonner, *GOP Alleges Voter Fraud*, NEWS & OBSERVER (Raleigh, N.C.), Oct. 16, 2008, at B3.

2. Beckwith & Bonner, *supra* note 1, at B3.

3. Lynn Bonner, *State Reviewing ACORN Voter Forms*, NEWS & OBSERVER (Raleigh, N.C.), Oct. 14, 2008, at B4.

4. Beckwith & Bonner, *supra* note 1, at B3.

5. *Id.*

6. See, e.g., Rick Martinez, *Identify the N.C. Electorate*, NEWS & OBSERVER (Raleigh, N.C.), Feb. 21, 2007, at A15.

originally proposed as allegedly modest burdens that were purposefully abused to disenfranchise citizens.⁷

In recent years, Republican legislators in North Carolina have attempted to enact new laws that would require photo identification when citizens vote.⁸ None of these proposals have advanced beyond their initial referral to a legislative committee.⁹ State Representative Tim Moore, a Republican from Cleveland County who has authored legislation requiring photo identification when voting states:

I believe photo I.D. is necessary to prevent voter fraud and protect the franchise. With the rise in identity theft and other types of fraud we must be more vigilant than at any time before to protect against fraud in the voting process. With voting options being expanded to multiple days and multiple voting sites, where poll workers would be less likely to recognize voters, there are more opportunities for mischief. I support structuring the identification process so that it does not unduly interfere with access and participation, but at the same time protects the voting process.¹⁰

His views are countered, however, by those of State Representative Deborah Ross, a Wake County Democrat, who believes:

Voter fraud has not been a problem in this state. North Carolina voter identification law is consistent with the requirements of the Help America Vote Act. Moreover, attempting to register to vote and voting using a false identity are felonies in this state. With these safeguards in place, additional voter identification requirements are unnecessary. Such additional requirements will only serve to inhibit senior citizens, disabled people, poor people and younger voters from registering to vote and voting.¹¹

7. See, e.g., American Civil Liberties Union, *Voting Rights Advocates Challenge Georgia Photo ID Law in Federal Court*, Sept. 19, 2005, <http://www.aclu.org/votingrights/gen/21247prs20050919.html> (last visited Aug. 24, 2009); See also, *Voter Fraud and Restrictive ID Requirements: Hearing Before the H.R. Elections Comm.* (Tex. 2009) (statement of Justin Levitt, Counsel, Brennan CTR. For Justice at N.Y.U. School of Law, available at http://www.brennancenter.org/content/resource/justin_levitt_before_texas_house_of_representatives/ (last visited Aug. 24, 2009).

8. See, e.g., H.R. 430, 2009 Gen. Assem. Reg. Sess. (N.C. 2009); H.J.R. 2284, 2007 Gen. Assem. Reg. Sess. (N.C. 2008); S. Res. 779, 2007 Gen. Assem. Reg. Sess. (N.C. 2007); H.R. 185 & 989, 2007 Gen. Assem. Reg. Sess. (N.C. 2007) (all providing examples of recent North Carolina state legislature requiring photo identification to be provided before a citizen can vote).

9. *Id.* (hard copies on file with law review).

10. Email from Tim Moore, State Representative, N.C. Gen. Assem., to Christopher J. Heagarty, Symposium Editor, N.C. Cent. L. R. (Aug. 10, 2009 at 7:34 PM EST) (on file with the law review).

11. Email from Deborah Ross, State Representative, N. C. Gen. Assem. to Christopher J. Heagarty, Symposium Editor, N.C. Cent. L. R. (Aug. 10, 2009 at 4:20 PM EST) (on file with the law review). Rep. Ross serves as the chair of the House's Judiciary II Committee and Ethics Committee, and as the vice-chair of the House's Election Law and Campaign Finance Reform Committee.

From their comments, Rep. Moore and his Republican colleagues seem committed in continuing to advocate for a photo identification requirement for voting while Rep. Ross and her Democratic colleagues seem equally committed to opposing such a change. While this debate continues, state lawmakers and others may look toward the experiences of other states in evaluating whether this type of proposal would be a boon or a bane for North Carolina voters. Matthew D. Neumann's case note on the *League of Women Voters of Indiana, Inc. v. Rokita* decision provides a thorough legal analysis of one state's implementation of such a program. The North Carolina Central Law Review hopes that Mr. Neumann's note will provide useful insight to those in our state who may be evaluating the benefits and problems of implementing a photo identification requirement for voting.

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