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In Catawba County voter fraud case, attorney says voter ID law could help

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Attorney Scott Reilly

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Catawba County was set to try its first felony election fraud case Wednesday morning. The case ended in a misdemeanor plea, but the defense attorney argued the situation may not have happened if North Carolina had a voter identification law.

Horatio Johnson was charged with felony election fraud for voting in the Nov. 4, 2008, presidential election. Although Johnson was previously convicted of felonies, he was eligible to vote in March 2008 and registered to do so, said his attorney Scott Reilly.

In August, he pleaded guilty to a felony drug conviction.

“At some point, a letter should have gone to him, telling him he was ineligible to vote,” Reilly said.

Johnson maintains he did not receive that letter.

Prior to the beginning of the trial Wednesday morning, Reilly did not admit Johnson applied for an absentee ballot.

Instead, he argued in opening statements that it was an example of why North Carolina needed voter identification, something the Republican majority approved in the state legislature this year and which was vetoed by Gov. Bev Perdue.

“There is no voter identification in North Carolina,” Reilly said. “Anyone can vote in North Carolina because there is no voter identification.”

He said all the state had was a ballot with Johnson’s name on it as evidence.

Assistant district attorney Sean McGinnis admitted he only had circumstantial evidence, but believed the case could be proven based on a handwriting sample on documents Johnson signed at previous court appearances.

Reilly objected, saying the documents weren’t given to him prior to the trial.

Before Superior Court Judge Beverly Beal could rule on the presentment of evidence, McGinnis and Reilly talked briefly and agreed to a plea of misdemeanor common law obstruction of justice.

Johnson was given a suspended sentence of 120 days in prison and unsupervised probation. He is also eligible to vote again.

After the plea arrangement, Reilly admitted Johnson voted in the 2008 election, applying for the absentee ballot on Oct. 20, 2008.

Reilly said he and Johnson agreed to the plea arrangement for two reasons.

“If he was found guilty, he could go to prison for 12 to 15 months, and he wouldn’t get to vote, which to Horatio is very important,” Reilly said. “This is a good compromise for both parties, and there’s no sentence for him.”

Johnson said he thought he was eligible to vote in 2008, which was his first time voting.

“They never sent a letter saying I couldn’t vote,” he said. “I wouldn’t have voted if I wasn’t supposed to. I wanted to vote for Obama. I wanted to see a change. I got a change, all right. In the courthouse.”

Larry Brewer, director of the Catawba County Board of Elections, said a letter was mailed to Johnson.

“We mailed a letter to the last known address in 2008,” he said. “It didn’t come back undelivered, so we assumed he got it.”

Brewer said a letter is mailed to each person convicted of a felony as the county department is notified from the state and federal boards of elections. He said it takes about a month or so after people are convicted for the paperwork to be processed from the state.

“Ignorance of the law is no excuse,” Brewer said of Johnson.

In the 2008 general election, in which Barack Obama was elected president, Brewer said there were three people charged with felonies for illegally voting, including Johnson. All three pleaded guilty to misdemeanors.

After Johnson's plea, Reilly reiterated that the voter ID bill, called "An Act to Restore Confidence in the Government," could have solved this problem. The bill called for voter identification cards.

"Had we gone to trial, I think we would have gotten into North Carolina's lack of voter identification, because I think that would have solved everything," he said. "They only had his address and signature, and no person can verify that's him."

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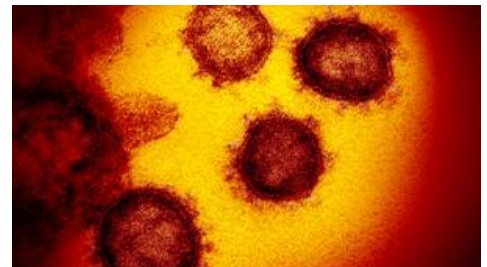
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