

Wiley Rein Attorneys Secure Appeals Court Win in Voting Rights Case

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Working with the Maryland ACLU, Wiley Rein achieved a unanimous decision from the United States Court of Appeals for the Fourth Circuit on behalf of a voting rights organization and its volunteers that were seeking attorneys' fees. Partner Richard A. Simpson and Associates Kimberly A. Ashmore and Katrina A. Skowron were lead counsel on the appeal. Wiley Rein will donate any fees it obtains in the case to the ACLU.

The appeal arose out of a civil rights action against the Maryland Transit Administration that alleged an MTA regulation interfered with protected First Amendment activities, including voter registration, at bus and train stations. The district court granted summary judgment in favor of the plaintiffs, ruling that the regulation was unconstitutional, while awarding one dollar in nominal damages to each plaintiff, as requested. But the district court declined to grant injunctive relief, concluding that the MTA had agreed to suspend enforcement of the regulation pursuant to a joint motion the parties had filed, which the court had approved and deemed to be a "binding judicial undertaking."

Later, another district court judge, to whom the case had been reassigned, denied the plaintiffs' motion for attorneys' fees, based primarily on the fact that the court did not order injunctive relief, which was a large part of the relief plaintiffs had sought.

The appeals court disagreed. The Fourth Circuit ruled that the district court had erred in applying prior Supreme Court and Fourth Circuit jurisprudence. Further, the Fourth Circuit reasoned that the district court should have "credited" the plaintiffs for obtaining the MTA's agreement not to enforce the regulation when considering whether

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fees should be awarded and concluded that the rights at issue in the litigation were significant and served a public purpose. That led to the Fourth Circuit's conclusion that "this is the very form of litigation Congress wished to encourage" by allowing prevailing parties to recover fees. The case is *Project Vote/Voting for America, Inc. v. Dickerson*, No. 10-2403, 2011 WL 3796157 (4th Cir. Aug. 29, 2011).