



Written by [Bob Adelman](#) on October 25, 2022

New York Judge Strikes Down Rule Allowing “No Excuse” Absentee Balloting

Democrats’ ever-growing lust for power in New York State was considerably dampened last Friday [by a ruling by a state supreme court judge](#) declaring its rule allowing absentee voting for any reason unconstitutional.

In other words, in one of the most liberal (i.e., power hungry) states in the union, the state’s constitution still reigns supreme.

The New York State Constitution guarantees every citizen the right to vote. It has been amended so that voters unable “because of illness or physical disability” to vote in person may request and receive a mail-in ballot.



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But the heavily Democrat-laden state legislature (Democrats control 106 of the 150 Assembly seats and 43 of the 63 Senate seats) decided to “clarify” the meaning of “illness” so that it would include anyone suffering from, or who might possibly think they might be suffering from, Covid-19.

As Supreme Court Justice Dianne Freestone wrote:

“Because of illness” shall be expanded to include, but not be limited to, “instances where a voter is unable to appear personally at the polling place of the election district in which they are a qualified voter because there is a risk of contracting or spreading a disease that may cause illness to the voter or to other members of the public.”

This proviso, which became effective in August 2020, was set to expire on January 1, 2022. But the power-grabbing ruse worked so well that the Democrat-controlled legislature decided to extend the period for the full year 2022.

Judge Freestone also noted that when voters had an opportunity actually to amend the constitution directly to reflect what the Democratic legislature wanted, it was soundly defeated. Wrote Freestone, “New York voters overwhelmingly rejected this broad-sweeping ballot proposal that would have amended the [state’s] Constitution to authorize all voters to vote absentee in any election for any reason.”

But that didn’t deter the Democrats. This little ruse all but guaranteed that Democrats would rule in perpetuity in The Empire State.

Judge Freestone saw through the ruse and declared the legislature’s efforts to expand mail-in balloting unconstitutional because they “conflict with and violate various provisions of the Election Law and the New York State Constitution [and] interfere with various constitutionally-protected rights of citizens.”



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She wasn't done. She called out the defendants' attempts to justify the extension using "alarmist" statistics:

Indeed, the Respondents' [the defendants'] respective papers are replete with alarmist statistics of rising incidences of COVID-19 infections and the collective phantom menaces of Monkey Pox and Polio looming.

The Respondents suggest throughout their respective papers and arguments that this consternation about constitutionality is the Shakespearean "much ado about nothing"... This Court is skeptical of such a pollyannish notion.

She added that if the overreach was not nipped in the bud now, then the expiration date will continue to be renewed on into infinity:

There is nothing before this Court to suggest that the continued overreach of the Legislature into the purview of the New York State Constitution shall sunset or that this authority once taken shall be so returned.

Despite the express will of the People against universal absentee voting ... the Legislature appears poised to continue the expanded absentee voting provisions ... into an Orwellian perpetual state of health emergency ... cloaked in the veneer of "voter enfranchisement."



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