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## Supreme Court to Consider Use of Voter ID

Justices Will Also Hear Lethal-Injection Case

By Robert Barnes  
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The Supreme Court said yesterday that it will consider whether state laws requiring voters to present photo identification at polling places unfairly discriminate against the poor and minorities, injecting the justices into a fiercely partisan battle just before the 2008 elections.

The court also said it will consider for the first time in more than a century whether a method of execution -- lethal injection -- is cruel and unusual punishment. Its new term will begin Monday, and the justices have already announced they will hear cases involving the rights of terrorism detainees and examining the limits of presidential power.

At a time when polarization on the court -- many of its most recent high-profile decisions have been decided 5 to 4 -- has turned it into a target for political partisans, the justices are stepping into a political battle by accepting the voter-ID case.

Proponents of the laws, which have been passed since the contested 2000 presidential election, say the measures combat fraud. Opponents say poor people and minorities, who often do not have driver's licenses, passports or other government-issued identification, would be excluded from the polls.

Seven states require a photo ID to vote and another 17 states require identification without photos, according to the National Association of State Legislatures. The battle has usually broken down along partisan lines, with Republicans favoring laws they said would combat voter fraud and with Democrats pushing proposals they said would encourage voter participation.

The voter-identification case accepted yesterday is from [Indiana](#), where Secretary of State Todd Rokita (R) said that "voter fraud exists, and Hoosiers shouldn't have to become further victims of it."

But state Democratic Party Chairman Dan Parker, whose party urged the court to take the case, said Republicans have "relied on fear and flimsy legal logic to push through a policy that deters voting instead of promoting it."

Richard L. Hasen, an elections law expert at [Loyola Law School](#) in [Los Angeles](#), said that the partisan split in legislatures also holds true in the courts. The Michigan Supreme Court split along party lines to uphold that state's identification law, and the [U.S. Court of Appeals](#) for the 7th Circuit almost neatly split on Indiana's law, depending on whether the judges were appointed by a Democrat or a Republican.

Judge Richard A. Posner, who wrote for a majority of the 7th Circuit in upholding the law, said, "Voting fraud impairs the right of legitimate voters to vote by diluting their votes." A dissenter, Judge Terence T. Evans,

responded: "Let's not beat around the bush. The Indiana voter photo ID law is a not-too-thinly veiled attempt to discourage election-day turnout by folks believed to skew Democratic."

[Virginia](#) is one of 17 states that require identification, although not necessarily a photo ID. [Maryland](#) does not require ID.

The combined cases are *Crawford v. Marion County Election Board (07-21)* and *Indiana Democratic Party v. Rokita (07-25)*.

The lethal-injection challenge comes from two [Kentucky](#) death row inmates; it will be the justices' first consideration of whether a particular method of execution violates the Eighth Amendment protection against cruel and unusual punishment since an 1879 ruling upholding the use of a firing squad.

The court ruled in 1976 that the death penalty itself was constitutional, and that is not at issue now.

Sentencing and death-penalty experts believe that the court's decision to take the appeal will further slow the already dwindling number of executions in states -- at least until a decision is reached next year.

"I think that the impact is going to be a large-scale hold on executions across the country," said Richard Dieter of the Death Penalty Information Center, which opposes capital punishment. At least 10 states, including Maryland, already have a moratorium on executions because of the controversy over lethal injection.

States began using lethal injection in 1978 on the grounds that it was more humane than electrocution and the gas chamber. Almost all 37 states that employ lethal injection use the same combination of three chemicals. Some studies have shown the combination to be unreliable, potentially leaving inmates paralyzed but not unconscious, and unable to cry out as they experience excruciating pain and eventually suffocate.

The inmates challenging lethal injection are [Ralph Baze](#), who has been on death row for 14 years after ambushing and killing two law enforcement officers, and Thomas Clyde Bowling Jr., who killed a couple and shot their 2-year-old son outside the couple's dry-cleaning business in 1990.

The court in earlier decisions ruled that inmates could challenge lethal-injection procedures in federal court, and the petition asking the justices to accept the case said about half of inmates have done so.

Maryland's method of lethal injection is being challenged in federal court, and the state's highest court ruled in December that state officials had not properly adopted the regulations for carrying it out. Gov. [Martin O'Malley](#) (D), an opponent of capital punishment, has delayed issuing them.

U.S. District Judge Henry E. Hudson in [Richmond](#) ruled in the case of Virginia death row inmate Christopher Scott Emmett last week that the state's proposed method of execution would not subject inmates to cruel or unusual punishment. The judge noted, however, that "the inconsistencies demonstrated by the evidence [about how the methods are carried out] are disturbing and may warrant administrative review."

The combined Kentucky case in the Supreme Court is *Baze v. Rees (07-5439)*.

Among the other cases accepted by the court was one from Virginia, where the commonwealth's highest court dismissed a drug charge against a man who had been illegally arrested for driving on a suspended license. Since the man should not have been arrested for the driving charge, but only issued a summons and released, the [Virginia Supreme Court](#) said officers could not lawfully conduct the search, which turned up crack cocaine in his pocket.

*Staff writers Jerry Markon, Eric Rich and John Wagner contributed to this report.*

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