

Court to hear Weed's appeal

By GUY LASNIER
STAFF WRITER

The California Supreme Court has decided to take up the voter-challenge case that could have removed Santa Cruz Mayor Jane Weed from office.

Had the court not accepted the case for review, Weed would have been removed and Bill Fieberling seated in her place. Fieberling finished sixth in the 1983 City Council race for four seats. Weed was fourth and former councilman Bruce Van Allen was fifth.

As it stands now, Weed will likely remain on the council for her full term, which ends next year. Her presence keeps the 4-3 liberal/progressive majority intact.

At a jubilant, hastily called press conference yesterday in the mayor's office, Weed said her attorneys say the earliest the case could come up is six to nine months. Weed also said she was surprised the court accepted the appeal.

The case stems from a challenge of votes cast at four UC-Santa Cruz precincts. The plaintiffs, a group of 22 Santa Cruz citizens, sued Weed and former councilman Van Allen, contending that 460 votes, enough to change the final election results, were illegal. The votes were cast at precincts where the voters no longer resided, the suit charged.

The plaintiffs, known as the All Santa Cruz Coalition, charged more than 90 percent of the student votes went to Weed and Van Allen. If the votes were thrown out, Fieberling, the former Santa Cruz Public Works director, would win the fourth council seat, the group said.

Then-Santa Cruz County Superior Court Judge Harry Brauer



Guy Lasnier

Mayor Weed with flowers at yesterday's press conference; Bruce Van Allen looks on.

ruled 110 votes were illegally cast, but they were not enough to affect the final outcome.

Brauer's decision was overturned last November by the 6th District Court of Appeal. The appeals court found that 192 votes — enough to change the outcome — were illegally cast.

The appeals court also ruled Weed and Van Allen must pay all costs and attorney's fees.

In agreeing to take the case, the Supreme Court did not announce what aspect it is concerned with. Any of a number of issues could be involved.

At yesterday's press conference, Weed's supporters said the case has important implications regarding voting in the state. Attorney Bob Taren said the issue is "do you lose your right to vote if you leave your domicile and don't find another for 30 days?"

Attorney Tim Morgan, who represented the plaintiffs, said he was surprised the court agreed to hear the appeal, particularly "in light of the strong opinion in the court of appeals."

Morgan said he expects the court, with three new justices, will uphold the lower court decision. But, he said, the immediate "political effect is to keep the City Council majority in office."

"There is an old saying, 'Justice delayed is justice denied,'" Morgan said. "That may well be the case in Santa Cruz on this issue."

Weed said the decision renewed her faith in the court and judicial system.

Van Allen said he "lost the election fair and square and I hope the Supreme Court bears this out."