

Court upholds Weed's election

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SANTA CRUZ — City Councilwoman Jane Weed's election was upheld by the State Supreme Court Thursday, almost five years after her 1983 ballot victory was tarnished by allegations of voter fraud.

"The ruling validates the will of the people," said a jubilant Weed. "I think now we can get on with the work of government."

In a 4-3 decision, the court ruled that 80 disputed votes cast for Weed and fellow "progressive" candidate Bruce Van Allen at UC Santa Cruz were legal, even though the voters

no longer lived in the area at the time they voted.

Aside from validating Weed's win, the ruling may have far-reaching effects on residency requirements for voting in California.

The ruling is intended to ensure that voters who move frequently, such as university students, do not lose their voting privileges when they are between residences. The ruling is also aimed at preventing voter fraud by making it difficult for voters to vote "wherever he or she happened to be at the time registration closed."

"This is a great victory for ... the right to vote in general," said at-

torney Gary Cohen, who represented Weed.

But in effect, the ruling states that a voter need not live in a district to vote there, as long as certain conditions are met. First, the voter must have lived in the district at one time, and have registered to vote there. Second, the voter must consider his or her actual residence to be temporary.

"We hold that when a person leaves his or her domicile with the intention to abandon it, and when that person currently resides in a place in which he or she does not intend to remain, that person may vote in the precinct of his or her

former domicile until a new domicile has been acquired," Justice Edward Panelli wrote for the majority.

The decision leaves open the question of how long a person may deem his residence to be temporary, and how long he may continue returning to vote in an area he has moved away from.

"This ruling has an absolutely awesome potential for mischief," said attorney Tim Morgan, who represented Weed's challenger Bill Fieberling.

"In a city like Santa Cruz, with a

highly transient population, people who live here for a while and move away (would be allowed to) vote here for the rest of their lives."

Morgan was not insinuating a conspiracy. "It takes no organized effort, conspiracy or plot ... just inertia and lack of effort. When it's not an election year, people don't think about re-registering."

The dissenting opinion, authored by Justice David Eagleson, stated that voters who have lived in a location for more than 28 days should be required to vote in the area they reside in.

"The result (of the ruling) may well be that persons who no longer live in the precinct, or city, or county, and have no intention of ever doing so again will control the outcome of the election," Eagleson wrote.

Cohen downplayed the potential for voter fraud under the ruling, saying that there are other, practical ways of proving a voter's intent to remain in an area.

"Most people do establish new domiciles when they move," Cohen said. "And that can be established by objective criteria, such as did they put their utilities in their

name, or change the address on their driver's license or checks?"

"The registrar still has the ability to determine if people are voting in the right place," he said.

Morgan said that he and attorneys from the conservative Pacific Legal Foundation are "carefully considering" if there are grounds to seek a reassessment of the ruling.

"We may well file with the California Supreme Court and ask for a reconsideration," Morgan said. The case has no federal issues that would justify appealing it to the U.S. Supreme Court, he said.

The request would have to be accepted by four justices before the ruling would be reconsidered. Failing that, Morgan and PLF attorneys plan to ask state legislators to deal with the issue.

The Supreme Court also ruled that the contestants in the case must "bear their own costs," which means that no attorneys fees will be awarded in the case, Morgan said.

Weed and Van Allen said they paid out more than \$15,500 for lawsuit costs, all of which came from local fund-raising efforts.

The 1983 Santa Cruz municipal

election was immediately challenged by a group of citizens who claimed that the results were swayed by widespread voter fraud at UC Santa Cruz voting precincts.

In 1984 a trial judge ruled that 113 illegal votes were cast at university precincts — not enough to sway the results. Then in 1986, an appeals court judge overturned the election, saying that 193 illegal votes were cast — more than enough to tip the balance.

The State Supreme Court agreed to review the case so it could reconcile an "apparent conflict" between the Government Code and the Elections Code on voter residency requirements.

Weed kept her seat on the City Council while the case was decided. Her term was originally set to expire in November of 1987, but was extended for one year when city voters approved a charter amendment in 1985 changing council elections from odd- to even-numbered years.

Justices Stanley Mosk, Allen Broussard and John Arguelles joined Panelli for the majority vote. Justices Malcolm Lucas and Marcus Kaufman joined with Eagleson in dissent.



Jane Weed
Jubilant over decision

REFERENCE