

SUPREME COURT OF LOUISIANA

NO. 98-C-2929

ROOSEVELT SAVAGE

V.

BILLY EDWARDS, MAYOR OF THE TOWN OF JONESVILLE, JANET T. PAYNE, CLERK OF COURT, PARISH OF CATAHOULA, SUE D. MANNING, REGISTRAR OF VOTERS, PARISH OF CATAHOULA, FOX McKEITHEN, SECRETARY OF STATE, JERRY M. FOWLER, COMMISSIONER OF ELECTIONS

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
THIRD CIRCUIT, PARISH OF CATAHOULA**

KNOLL, JUSTICE, Dissenting

In affirming a reversal of the trial court by the court of appeal, the majority totally ignores the provision of La.R.S. 18:1432 that provides: “If the trial judge in an action contesting an election determines that: (1) it is impossible to determine the result of election, . . . the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates. . . .” The record in this case is undisputed that voter fraud was widely pervasive. The trial court found evidence of: (1) widespread vote buying occurring during absentee voting; (2) illegal and fraudulent voting of absentee ballots; (3) individuals not qualified to vote being permitted to vote; (4) individuals qualified to vote being denied the right to vote; (5) illegal selling of votes on election day; and (6) illegal vote buying on election day. Despite these factual findings, findings accepted by the court of appeal, the majority affirms that a contestant to an election case cannot prevail even though widespread corruption is established unless he or she can show that the numbers were “sufficient to change the result of the election.” I cannot accept this rationale as a correct interpretation of the relevant legislation.

If an action contesting an election were that easy to determine, the Legislature would have expressly said so. It did not. Instead, the Legislature precisely anticipated the facts involved in this election contest case and stated: “If the trial judge in an action contesting an election determines that: (1) it is impossible to determine the result of election, . . . the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates. . . .”

.” La.R.S. 18:1432. To this end, I respectfully disagree with that specific portion of the majority’s interpretation of La.R.S. 18:1432 that the contestant must prove that the number of votes cast illegally or fraudulently must be sufficient to change the result of the election. There is no such requirement under our positive law.

The majority’s holding is woefully weak and leaves so many important issues unresolved and unanswered. In an election contest case fraught with voter fraud, as was courageously recognized by the trial court in this case, this court should not ignore the mandates of our positive law, as relied upon by the trial court, without full explanation. By allowing this election to stand, despite the pervasive fraud, irregularity, and illegality overwhelmingly found by the trial court, the majority subverts the laws of this state and creates an incentive to foster the kind of practices the Code and our Legislature sought to eliminate.

Accordingly, I would reverse the court of appeal’s decision and reinstate the trial court’s judgment, finding it is impossible to determine the result of the election, declaring the election void, and ordering a new general election for all the candidates. For these reasons, I respectfully dissent.