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## Interview: Earl Trent

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# 'This Decision Will Be Cited'

*Earl Trent, attorney for the Philadelphia Branch of the National Association for the Advancement of Colored People (NAACP), argued the NAACP's friend of the court (amicus curiae) brief in the suit brought by a group of incarcerated Pennsylvanians in 1999, which argued that all felons should have the right to vote upon release from incarceration. On Sept. 18, 2000, Commonwealth Court of Pennsylvania President Judge Joseph T. Doyle, ruled in their favor, changing the state law. Trent was interviewed by Marianna Wertz on Jan. 10.*

**EIR:** What do you think of this decision?

**Trent:** I would call it a decision of first impression here in Pennsylvania. It is a decision that distinguishes our Commonwealth Court from a lot of other courts, in that they had the courage to rectify a problem for people who have been disenfranchised under Pennsylvania law for many years, people who are not generally perceived to be politically very important or powerful.

So, for the court to recognize this, and to take this action, I think, was very courageous of the justices who voted in favor of finding this unconstitutional under the Pennsylvania Constitution.

Also, I think it shows a lot of courage in that there is so much precedent, under Pennsylvania law, and under U.S. Supreme Court law, which really says that people who have been incarcerated lose almost all of their rights. Certainly, a long litany of U.S. Supreme Court cases, and Pennsylvania Supreme Court cases, have held that it is constitutional for the government to deprive them of the right to vote, as part of their sanction for criminal conduct in the past. They have upheld this repeatedly. So for this court to depart from that long line of precedent, I think, shows a tremendous amount of courage and intellectual independence. I'm extremely happy. I couldn't be more happy about a decision by an appellate court.

**EIR:** Is anyone going to appeal this decision, or is it now law?

**Trent:** There are parts of the decision that may be appealed by the Attorney General of Pennsylvania. However, with respect to being able to register to vote immediately upon release from prison — that part of the opinion, the Attorney Gen-

eral has indicated that they will not appeal. In fact, they have joined with us in entering a stipulation before the court, making the temporary injunction against enforcement of that, permanent. So, on behalf of the Attorney General, that part of the decision, they will not appeal.

**EIR:** That's good news.

**Trent:** That is very good news. Of course, we always have the legislators who believe that punishment should continue for the person convicted of the felony, and there is always the possibility that they will attempt legislatively to reenact this kind of disenfranchisement, taking into consideration the constitutional problem with it, so that it might pass constitutional muster. You never know what the legislature is going to do. But we're hopeful that that will not happen.

**EIR:** Your *amicus* brief makes the point very clearly that the law, as it stood before this decision, really absolutely discriminated against people of color.

**Trent:** Yes. And it's very interesting; of course, you cannot tell by the decision, but the argument, in court, focussed on that, totally.

**EIR:** The written decision doesn't reflect that.

**Trent:** No, but the argument before the court, and the questions of the court, focussed exclusively on that. They did not let anyone argue anything else, other than that issue. And understandably. That was the new issue that was presented to the court. Everything else they had heard and had been decided before.

That part of the issue, came at a time when there was a lot of concern, and there still is, with respect to racial profiling. The compelling statistics that they were presented with, troubled them greatly. They expressed that during their argument.

There's absolutely no question — and of course I can't say for the record, not having spoken with people on exactly why they made their decision — but I can tell you that our decision, the success of this case, hinged upon the justices' concern about the issues that we raised.

**EIR:** Did any of this argument occur during or after the Florida fiasco?

**Trent:** No, this was before.

**EIR:** Because it has bearing on that, where more than one-quarter of the black males in Florida are disenfranchised as felons.

**Trent:** That's right.

**EIR:** So, this will be an important decision for the country.

**Trent:** It will be cited. They have asked for it from places all over the country, and it will certainly be used as persuasive authority in all of those cases.