

# The Burger Court Opinion Writing Database

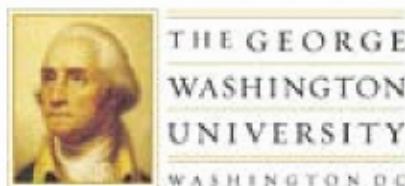
*Storer v. Brown*

415 U.S. 724 (1974)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

March 21, 1974

Re: No. 72-812 - Storer v. Brown  
No. 72-6050 - Frommhagen v. Brown

Dear Byron:

Please join me.

Regards,

Mr. Justice White

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

March 22, 1974

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 28, 1974

MEMORANDUM TO THE CONFERENCE

RE: No. 72-812 - Storer v. Brown  
No. 72-6050 Frommhagen v. Brown

In due course I shall circulate a dissent in  
the above.

W.J.B.Jr.

*Circulated*  
3-21-74

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

Nos. 72-812 AND 72-6050

Thomas Tone Storer et al.  
Appellants

72-812      *v.*

Edmund G. Brown, Jr.,  
et al

Laurence H. Frommagen,  
Appellant

72-6050      *v.*

Edmund G. Brown, Jr.  
et al

On Appeals from the  
United States District  
Court for the Northern  
District of California.

March 22, 1974

MR. JUSTICE BRENNAN, dissenting

The Court's opinion in these cases, and that in *American Party of Texas v. White*, *post*, hold—correctly in my view—that the test of the validity of state legislation regulating candidate access to the ballot is whether we can conclude that the legislation strictly scrutinized, is necessary to further compelling state interests. See *ante*, p. 10, *American Party of Texas v. White*, *post*, pp. 11-12; for, as we recognized in *Williams v. Rhodes*, 393 U. S. 23, 30 (1968), such state laws "place burdens on two different, although overlapping kinds of rights—the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively." The right to vote derives from the right of association that is at the core of the First Amendment, protected from state infringement by the Fourteenth Amendment. *N.A.A.C.P. v. Button* 371 U. S. 415, 430

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

February 19, 1974

Re: No. 72-812 and 72-6050, Storer v. Brown

Dear Byron,

I am glad to join your opinion for the Court in these cases.

Sincerely yours,

C. S.  
P.

Mr. Justice White

Copies to the Conference

To: The Chief Justice  
Mr. Justice Douglas  
~~Mr. Justice~~ Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 72-812 AND 72-6050

From: White, J.

Circulated: 1/13/74

Recirculated: \_\_\_\_\_

Thomas Tone Storer et al.,  
Appellants,

72-812 *v.*

Edmund G. Brown, Jr.,  
et al.

Laurence H. Frommhagen,  
Appellant,

72-6050 *v.*

Edmund G. Brown, Jr.,  
et al.

On Appeals from the  
United States District  
Court for the Northern  
District of California.

[February —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

The California Election Code forbids ballot position to an independent candidate for elective public office if he voted in the immediately preceding primary, § 6030 (c),<sup>1</sup> or if he had a registered affiliation with a qualified political party at any time within one year prior to the immediately preceding primary election, § 6830 (d). The independent candidate must also file nomination papers signed by no less than 5% nor more than 6% of the entire vote cast in the preceding general election in the area for which the candidate seeks to run, § 6831. All of these signatures must be obtained during a 24-day period following the primary and ending 60 days prior to the general election, § 6833, and none of

<sup>1</sup>The relevant provisions of the California Election Code are printed in the appendix to this opinion.

STYLING CHANGES THROUGHOUT.  
SEE PAGES: 10, 18, 22-23, 26

To: The Chief Justice  
Hon. Associate Justices  
✓ Hon. Justice BREWSTER  
Hon. Justice COLE  
Hon. Justice DOUGLASS  
Hon. Justice FRIEDMAN  
Hon. Justice GREENSTEIN  
Hon. Justice HARLAN  
Hon. Justice MARSHALL  
Hon. Justice ROBERTS  
Hon. Justice STEWART  
Hon. Justice THOMAS

From: White, J.

Court Clerk

Enclosure Date: 3-22-

**2nd DRAFT**

**SUPREME COURT OF THE UNITED STATES**

Nos. 72-812 AND 72-6050

Thomas Tone Storer et al., Appellants, 72-812 <i>v.</i> Edmund G. Brown, Jr., et al. Laurence H. Frommagen, Appellant, 72-6050 <i>v.</i> Edmund G. Brown, Jr., et al.	On Appeals from the United States District Court for the Northern District of California.
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[March 26, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

The California Election Code forbids ballot position to an independent candidate for elective public office if he voted in the immediately preceding primary, § 6030 (c),<sup>1</sup> or if he had a registered affiliation with a qualified political party at any time within one year prior to the immediately preceding primary election, § 6830 (d). The independent candidate must also file nomination papers signed by no less than 5% nor more than 6% of the entire vote cast in the preceding general election in the area for which the candidate seeks to run, § 6831. All of these signatures must be obtained during a 24-day period following the primary and ending 60 days prior to the general election, § 6833, and none of

<sup>1</sup> The relevant provisions of the California Election Code are printed in the appendix to this opinion.

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 20, 1974

Re: No. 72-812 -- Storer v. Brown  
No. 72-6050 -- Frommagen v. Brown

Dear Byron:

I am waiting for the dissent in these cases.

Sincerely,



T. M.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 21, 1974

Re: No. 72-812 -- Storer v. Brown  
No. 72-6050 -- Frommhagen v. Brown

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 21, 1974

Re: No. 72-812 - Storer v. Brown  
No. 72-6050 - Frommhagen v. Brown

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 28, 1974

No. 72-812 Storer v. Brown  
No. 72-6050 Brommhagen v. Brown

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

lfp/ss

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20542

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

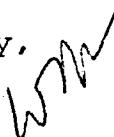
February 26, 1974

Re: No. 72-812 - Storer v. Brown; and No. 72-6050 -  
Frommhagen v. Brown

Dear Byron:

Please join me in your opinion for the Court in these cases.

Sincerely,



Mr. Justice White

Copies to the Conference