

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

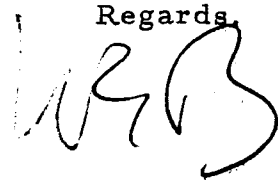
March 21, 1974

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

Dear Byron:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'W. H. B.', written over the typed word '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 21, 1964

Dear Sir:

Please join me in your dissent to

70-113, Young v. Israel and the companion

case.

W. O. Douglas
William O. Douglas

W. O. Douglas, President

and Vice President

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 Frommshagen v. Brown

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

W.J.B.Jr.

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. 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.

March 11, 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. *NAACP 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,

P.S.
/

Mr. Justice White

Copies to the Conference

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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

From: White, J.

Circulated: 2/13/74

Nos. 72-812 AND 72-6050

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),¹ 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

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

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

To: The Chief Justice
Mr. Justice Douglas
✓ Mr. Justice Brennan
Mr. Justice White
Mr. Justice Rehnquist
Mr. Justice Stevens
Mr. Justice Souter
Mr. Justice Ginsburg
Mr. Justice Breyer

From: White, J.

2nd 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. Frommshagen,
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 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),¹ 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

¹ 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 -- Frommshagen 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 -- Frommshagen 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 - Frommshagen 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. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

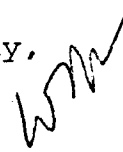
February 26, 1974

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

Dear Byron:

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

Sincerely,



Mr. Justice White

Copies to the Conference