

The Burger Court Opinion Writing Database

American Party of Texas v. White

415 U.S. 767 (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 5, 1974

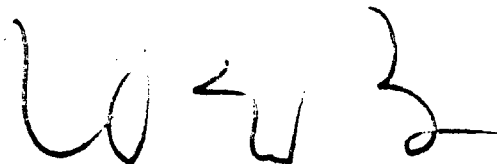
Re: No. 72-887 - American Party of Texas, et al v.
Mark White, Jr., et al

No. 72-942 - Robert Hainsworth v. Mark White,
Jr., et al

Dear Byron:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'W E B', written in a cursive, stylized manner.

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 19, 1974

Re: No. 72-887 and 72-942, American Party of
Texas v. White

Dear Byron,

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

Sincerely yours,

P.S.
/

Mr. Justice White

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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 72-887 AND 72-942

Recirculated: _____

American Party of Texas et al.
 Appellants.

72-887 v.

Mark White, Jr., Secretary of
 State of Texas.

On Appeals from the
 United States District
 Court for the Western
 District of Texas.

Robert Hamsworth, Appellant.

72-942 v.

Mark White, Jr., Secretary of
 State of Texas.

[February —, 1974]

MR. JUSTICE WHITE delivered the opinion of the
 Court.

These cases began when appellants, minority political parties and their candidates, qualified voters supporting the minority party candidates, and independent unaffiliated candidates, brought four separate actions in the United States District Court for the Western District of Texas against respondent Secretary of State seeking declaratory and injunctive relief against the enforcement of various sections of the Texas Election Code.

The American Party of Texas sought ballot position at the general election in 1972 for a slate of candidates for various statewide and local officers, including governor and county commissioner.¹ The New Party of

¹ Although the November 1972 election has been completed and this Court may not grant retrospective relief that would affect the outcome, this case is not moot. See *Rosario v. Rockefeller*, 410 U.S. 752, 756 n. 5 (1973); see also *Storer v. Brown*, ante, at — n. 3.

pp 3, 11, 13, 21-22

To: The Chief Justice
Mr. Justice Douglas
✓ Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Burger
Mr. Justice White
Mr. Justice Marshall

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____
Recirculated: 3-4-74

Nos. 72-887 AND 72-942

American Party of Texas et al.,
Appellants,
72-887 v.
Mark White, Jr., Secretary of
State of Texas.
Robert Hainsworth, Appellant.
72-942 v.
Mark White, Jr., Secretary of
State of Texas.

On Appeals from the
United States District
Court for the Western
District of Texas.

[February —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

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ch. Am. Party

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 10, 1974

73-887 *ju*

MEMORANDUM FOR THE CONFERENCE *X*

Re: No. 73-893, Communist Party v. Austin

This case was held for American Party of Texas v. White, No. 73-887.

Appellants challenge the constitutionality of the Michigan statute granting automatic general election ballot status to a political party only if its "principle candidate" received 1% of the total vote cast for the successful candidate for the office of Secretary of State. Appellants qualified for ballot position in the November 1972 election by petition, but their candidate for President received less than the required 1% of the specified vote. The Party, therefore, was not entitled to automatic ballot position in the next election even though their candidates for local office lower on the ticket received the necessary percentage. In the same election the Conservative Party ran only local candidates and its "principle candidate" received more than the required 1%.

The three-judge court sustained the statute, applying the rational basis standard and rejecting the argument that a compelling state interest was required to be shown.

It may be that the Michigan statute would satisfy the more stringent standard, and if this were a petition for certiorari, I would probably deny. But because the District Court's approach was contrary to that taken in American Party, I am inclined to remand for reconsideration in light of American Party and perhaps Storer also.

compelling state interest

B.R.W.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 21, 1974

Re: No. 72-887 - American Party of Texas v. White
No. 72-942 - Hainsworth v. White

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. 72-887 American Party of Texas v. White
No. 72-942 Hainsworth v. White

Dear Byron:

Please join me.

Sincerely,

Lewis

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. 72-887 - American Party of Texas v. White; and
No. 72-942 - Hainsworth v. White

Dear Byron:

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

Sincerely,



Mr. Justice White

Copies to the Conference

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