

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,



Mr. Justice White

Copies to the Conference

To : Mrs. (Mrs.) John
Mr. John John
Mr. John
Mr. John
Mr. John

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 72-887 AND 72-942

2-15

American Party of Texas et al.,
Appellants,
72-887 *v.*
Mark White, Jr., Secretary of
State of Texas.
C

Robert Hainsworth, Appellant,
72-942 *v.*
Mark White, Jr., Secretary of
State of Texas.

Received 1964

[December --, 1973]

MR. JUSTICE DOUGLAS, dissenting in part.

While I agree with the Court on the absentee ballot aspect of this case, I dissent on the main issue. These cases involve appeals from the dismissal consolidated class actions seeking declaratory and injunctive relief against provisions of the Texas Election Code relating to minority parties and independent candidates. The District Court noted that:

"While the Supreme Court of the United States has delineated on the extreme end of the spectrum those combinations of restrictions which unconstitutionally impede the election process [*Williams v. Rhodes*, 393 U. S. 23 (1968)] and those on the other end which do not [*Jenness v. Fortson*, 403 U. S. 431 (1971)] this case presents a new combination which falls squarely in the middle." *Raza Unida Party v. Bullock*, 349 F. Supp. 1272, 1275-1276 (WD Tex. 1972).

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.
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. 72-887 AND 72-942

From: White, J.

Circulated: 2/13/77

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 Hainsworth, 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 gov-
ernor 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 *Starer v. Brown, ante*, at — n. 5.

To: The State of Justice
Mr. Justice Douglas
Mr. Justice Black
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Clark
Mr. Justice Harlan
Mr. Justice Powell
Mr. Justice Marshall

PP 3 11 13 21-22

From: White, J.

Circulated:

Recirculated: 3-4-74

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

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.

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 govern-
or 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. 8.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 10, 1974

73-887

MEMORANDUM FOR THE CONFERENCE

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.

B.R.W.
B.R.W.

comptd by [unclear]

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,



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,

W.W.

Mr. Justice White

Copies to the Conference