

The Burger Court Opinion Writing Database

Anderson v. Celebrezze

460 U.S. 780 (1983)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

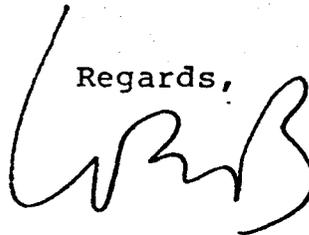
April 12, 1983

RE: 81-1635 - Anderson v. Celebrezze

Dear John:

I now formally join your opinion.

Regards,

A handwritten signature in dark ink, appearing to be 'W. Stevens', written over the typed word 'Regards,'.

Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

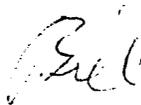
March 8, 1983

RE: No. 81-1635 Anderson v. Celebrezze

Dear John:

I agree.

Sincerely,



Justice Stevens

Copies to the Conference

MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 12, 1983

*See my
reply of 3
to this
letter.*

Re: 81-1635 - Anderson v. Celebreeze

Dear Lewis, Bill and Sandra,

My vote to affirm in this case was tentative, and I am inclined to join John, although very likely with some suggestions. If one of you plans on writing, however, I would rather await that event.

Sincerely,

Byron

Justice Powell

Justice Rehnquist

Justice O'Connor

cpm

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

March 17, 1983

CHAMBERS OF
JUSTICE BYRON R. WHITE

Re: 81-1635 - Anderson v. Celebrezze

Dear John,

I shall await the dissent.

Sincerely yours,



Justice Stevens

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 7, 1983

Re: 81-1635 - Anderson v. Celebrezze

Dear Bill,

Please join me in your dissent in this case.

Sincerely,



Justice Rehnquist

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 31, 1983

Re: No. 81-1635 - Anderson v. Celebrezze

Dear John:

Please join me.

Sincerely,

JM.

T.M.

Justice Stevens

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 11, 1983

Re: No. 81-1635, Anderson v. Celebrezze

Dear John:

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

THE SUPREME COURT OF THE UNITED STATES
COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

March 15, 1983

81-1635 Anderson v. Celebreeze

Dear Byron:

Responding to your note of March 12, I am not presently inclined to write a dissent.

I view the case as close. John has written a strong opinion though I am not yet persuaded to join him.

If Bill or Sandra plan to write I certainly will await their dissents. At this time, however, I have so much on my "plate" that I am not undertaking any writing myself.

Sincerely,

Justice White

lfp/ss

cc: Justice Rehnquist
Justice O'Connor

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 8, 1983

81-1635 Anderson v. Celebrezze

Dear Bill:

Please add my name to your dissenting opinion.

Sincerely,

Lewis

Justice Rehnquist

lfp/ss

cc: The Conference

MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 16, 1983

Re: No. 81-1635 Anderson v. Celebreeze

Dear John:

In due course I will circulate a dissent.

Sincerely,



Justice Stevens

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: **Justice Rehnquist**

Circulated: APR 4 1983

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

JOHN B. ANDERSON, ET AL., PETITIONERS *v.*
ANTHONY J. CELEBREZZE, JR., SECRETARY
OF STATE OF OHIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[April —, 1983]

JUSTICE REHNQUIST, dissenting.

Article II of the Constitution provides that “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors” who shall select the President of the United States. U. S. Const., art. II, § 1, cl. 2. This provision, one of few in the Constitution that grants an express plenary power to the States, conveys “the broadest power of determination” and “[i]t recognizes that [in the election of a President] the people act through their representatives in the legislature, and *leaves it to the legislature exclusively to define the method of effecting the object.*” *McPherson v. Blacker*, 146 U. S. 1, 27 (1892) (emphasis added).

In exercising this power, the Ohio legislature has provided alternative routes to its general election ballot for capture of Ohio’s Presidential electoral votes. *Political parties* can earn the right to field a Presidential candidate in the general election in one of two ways. Parties that obtained at least 5% of the vote in the preceding gubernatorial or Presidential election are automatically entitled to have a candidate on the general election ballot. Other political parties are required to file 120 days before the primary election (in 1980 the date was February 4) a statement of intent to participate in the

STYLISTIC CHANGES THROUGHOUT

pp. 1 + 3

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: APR 8 1983

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

JOHN B. ANDERSON, ET AL., PETITIONERS *v.*
ANTHONY J. CELEBREZZE, JR., SECRETARY
OF STATE OF OHIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[April —, 1983]

JUSTICE REHNQUIST, with whom JUSTICE WHITE and JUSTICE O'CONNOR join, dissenting.

Article II of the Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" who shall select the President of the United States. U. S. Const., art. II, §1, cl. 2. This provision, one of few in the Constitution that grants an express plenary power to the States, conveys "the broadest power of determination" and "[i]t recognizes that [in the election of a President] the people act through their representatives in the legislature, and *leaves it to the legislature exclusively to define the method of effecting the object.*" *McPherson v. Blacker*, 146 U. S. 1, 27 (1892) (emphasis added).

In exercising this power, the Ohio legislature has provided alternative routes to its general election ballot for capture of Ohio's Presidential electoral votes. *Political parties* can earn the right to field a Presidential candidate in the general election in one of two ways. Parties that obtained at least 5% of the vote in the preceding gubernatorial or Presidential election are automatically entitled to have a candidate on the general election ballot. Other political parties are required to file 120 days before the primary election (in 1980 the date

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

p. 1

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: _____ APR 11 1983

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

**JOHN B. ANDERSON, ET AL., PETITIONERS v.
ANTHONY J. CELEBREZZE, JR., SECRETARY
OF STATE OF OHIO**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[April —, 1983]

JUSTICE REHNQUIST, with whom JUSTICE WHITE, JUSTICE POWELL, and JUSTICE O'CONNOR join, dissenting.

Article II of the Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" who shall select the President of the United States. U. S. Const., art. II, § 1, cl. 2. This provision, one of few in the Constitution that grants an express plenary power to the States, conveys "the broadest power of determination" and "[i]t recognizes that [in the election of a President] the people act through their representatives in the legislature, and leaves it to the legislature exclusively to define the method of effecting the object." *McPherson v. Blacker*, 146 U. S. 1, 27 (1892) (emphasis added).

In exercising this power, the Ohio legislature has provided alternative routes to its general election ballot for capture of Ohio's Presidential electoral votes. *Political parties* can earn the right to field a Presidential candidate in the general election in one of two ways. Parties that obtained at least 5% of the vote in the preceding gubernatorial or Presidential election are automatically entitled to have a candidate on the general election ballot. Other political parties are required to file 120 days before the primary election (in 1980 the date

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Pg 3+4

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: APR 15 1983

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

JOHN B. ANDERSON, ET AL., PETITIONERS *v.*
ANTHONY J. CELEBREZZE, JR.,
SECRETARY OF STATE
OF OHIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[April —, 1983]

JUSTICE REHNQUIST, with whom JUSTICE WHITE, JUSTICE POWELL, and JUSTICE O'CONNOR join, dissenting.

Article II of the Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" who shall select the President of the United States. U. S. Const., art. II, § 1, cl. 2. This provision, one of few in the Constitution that grants an express plenary power to the States, conveys "the broadest power of determination" and "[i]t recognizes that [in the election of a President] the people act through their representatives in the legislature, and leaves it to the legislature exclusively to define the method of effecting the object." *McPherson v. Blacker*, 146 U. S. 1, 27 (1892) (emphasis added).

In exercising this power, the Ohio legislature has provided alternative routes to its general election ballot for capture of Ohio's Presidential electoral votes. *Political parties* can earn the right to field a Presidential candidate in the general election in one of two ways. Parties that obtained at least 5% of the vote in the preceding gubernatorial or Presidential election are automatically entitled to have a candidate on the general election ballot. Other political parties are required

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

pp. 3,9

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

Circulated: _____

Recirculated: APR 5 '83

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

**JOHN B. ANDERSON, ET AL., PETITIONERS v.
ANTHONY J. CELEBREZZE, JR., SECRETARY
OF STATE OF OHIO**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT**

[April —, 1983]

JUSTICE STEVENS delivered the opinion of the Court.

On April 24, 1980, petitioner John Anderson announced that he was an independent candidate for the office of President of the United States. Thereafter, his supporters—by gathering the signatures of registered voters, filing required documents, and submitting filing fees—were able to meet the substantive requirements for having his name placed on the ballot for the general election in November 1980 in all 50 States and the District of Columbia. On April 24, however, it was already too late for Anderson to qualify for a position on the ballot in Ohio and certain other states because the statutory deadlines for filing a statement of candidacy had already passed. The question presented by this case is whether Ohio's early filing deadline placed an unconstitutional burden on the voting and associational rights of Anderson's supporters.

The facts are not in dispute. On May 16, 1980, Anderson's supporters tendered a nominating petition containing approximately 14,500 signatures and a statement of candidacy to respondent Celebrezze, the Ohio Secretary of State. These documents would have entitled Anderson to a place on the ballot if they had been filed on or before March 20, 1980. Respondent refused to accept the petition solely because it

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

Circulated: _____

Recirculated: APR 14 '83

stylistic changes

7P. 11, 17

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1635

JOHN B. ANDERSON, ET AL., PETITIONERS *v.*
ANTHONY J. CELEBREZZE, JR., SECRETARY
OF STATE OF OHIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[April —, 1983]

JUSTICE STEVENS delivered the opinion of the Court.

On April 24, 1980, petitioner John Anderson announced that he was an independent candidate for the office of President of the United States. Thereafter, his supporters—by gathering the signatures of registered voters, filing required documents, and submitting filing fees—were able to meet the substantive requirements for having his name placed on the ballot for the general election in November 1980 in all 50 States and the District of Columbia. On April 24, however, it was already too late for Anderson to qualify for a position on the ballot in Ohio and certain other states because the statutory deadlines for filing a statement of candidacy had already passed. The question presented by this case is whether Ohio's early filing deadline placed an unconstitutional burden on the voting and associational rights of Anderson's supporters.

The facts are not in dispute. On May 16, 1980, Anderson's supporters tendered a nominating petition containing approximately 14,500 signatures and a statement of candidacy to respondent Celebrezze, the Ohio Secretary of State. These documents would have entitled Anderson to a place on the ballot if they had been filed on or before March 20, 1980. Respondent refused to accept the petition solely because it

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

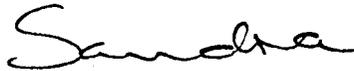
March 17, 1983

No. 81-1635 Anderson v. Celebrezze

Dear John,

I shall await the dissent.

Sincerely,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 4, 1983

No. 81-1635 Anderson v. Celebrezze

Dear Bill,

Please join me in your dissent.

Sincerely,



Justice Rehnquist

Copies to the Conference