

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BURDICK v. TAKUSHI, DIRECTOR OF ELECTIONS OF HAWAII, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT

No. 91-535. Argued March 24, 1992—Decided June 8, 1992

Petitioner, a registered Honolulu voter, filed suit against respondent state officials, claiming that Hawaii's prohibition on write-in voting violated his rights of expression and association under the First and Fourteenth Amendments. The District Court ultimately granted his motion for summary judgment and injunctive relief, but the Court of Appeals reversed, holding that the prohibition, taken as part of the State's comprehensive election scheme, does not impermissibly burden the right to vote.

Held: Hawaii's prohibition on write-in voting does not unreasonably infringe upon its citizens' rights under the First and Fourteenth Amendments. Pp.4-13.

(a) Petitioner assumes erroneously that a law that imposes any burden on the right to vote must be subject to strict scrutiny. This Court's cases have applied a more flexible standard: A court considering a state election law challenge must weigh the character and magnitude of the asserted injury to the First and Fourteenth Amendment rights that the plaintiff seeks to vindicate against the precise interests put forward by the State as justification for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights. *Anderson v. Celebrezze*, 460 U.S. 780, 788-789. Under this standard, a regulation must be narrowly drawn to advance a state interest of compelling importance only when it subjects the voters' rights to "severe" restrictions. *Norman v. Reed*, 502 U.S. ___, ___. If it imposes only "reasonable, nondiscriminatory restrictions" upon those rights, the State's important regulatory interests are generally sufficient to justify the restrictions. *Anderson, supra*, at 788. Pp.4-6.

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(b)Hawaii's write-in vote prohibition imposes a very limited burden upon voters' rights to associate politically through the vote and to have candidates of their choice placed on the ballot. Because the State's election laws provide easy access to the primary ballot until the cut-off date for the filing of nominating petitions, two months before the primary, any burden on the voters' rights is borne only by those who fail to identify their candidate of choice until shortly before the primary. An interest in making a late rather than an early decision is entitled to little weight. Cf. *Storer v. Brown*, 415 U.S. 724, 736. Pp.6-10.

(c)Hawaii's asserted interests in avoiding the possibility of unrestrained factionalism at the general election and in guarding against "party raiding" during the primaries are legitimate and are sufficient to outweigh the limited burden that the write-in voting ban imposes upon voters. Pp.10-12.

(d)Indeed, the foregoing analysis leads to the conclusion that where, as here, a State's ballot access laws pass constitutional muster as imposing only reasonable burdens on First and Fourteenth Amendment rights, a write-in voting prohibition will be presumptively valid, since any burden on the right to vote for the candidate of one's choice will be light and normally will be counterbalanced by the very state interests supporting the ballot access scheme. Pp.12-13.

937 F.2d 415, affirmed.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, SOUTER, and THOMAS, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which BLACKMUN and STEVENS, JJ., joined.