

Republican Party of Minnesota v. White

122 S. Ct. 2528 (2002).

Justice Scalia delivered the opinion of the Court:

The question presented in this case is whether the First Amendment permits the Minnesota Supreme Court to prohibit candidates for judicial election in that State from announcing their views on disputed legal and political issues.

Since Minnesota's admission to the Union in 1858, the State's Constitution has provided for the selection of all state judges by popular election. Since 1974, [the elections] have been subject to [the “announce clause”], which states that a “candidate for a judicial office, including an incumbent judge,” shall not “announce his or her views on disputed legal or political issues.” Incumbent judges who violate it are subject to discipline, including removal, censure, civil penalties, and suspension without pay.

In 1996, Gregory Wersal ran for associate justice of the Minnesota Supreme Court; he distributed literature criticizing several Minnesota Supreme Court decisions on issues such as crime, welfare, and abortion. A complaint was filed [but dismissed]. Nonetheless, fearing that further ethical complaints would jeopardize his ability to practice law, Wersal withdrew from the election. In 1998, Wersal ran again for the same office. Early in that race, he sought an advisory opinion from the Lawyers Board with regard to whether it planned to enforce the announce clause. the Board was unable to answer his question because he had not submitted a list of the announcements he wished to make.

Shortly thereafter, Wersal filed this lawsuit seeking a declaration that the announce clause violates the First Amendment and an injunction against its enforcement. The District Court found that the announce clause did not violate the First Amendment; the United States Court of Appeals for the Eighth Circuit affirmed. We granted certiorari.