06-713 WASHINGTON STATE GRANGE V. WA REPUBLICAN PARTY

DECISION BELOW: 460 F.3d 1108

LOWER COURT CASE NUMBER: 05-35774, 05-35780

QUESTION PRESENTED:

In California Democratic Party v. Jones, 530 U.S. 567, 585-586 (2000), this Court specified how States could structure a top-two primary system that does not violate the associational rights of a political party. Pursuant to the Initiative power which the People of the State of Washington reserved to themselves in their State Constitution, the voters of the State of Washington enacted a top-two primary law that the Washington State Grange had drafted to comply with Jones. That law makes the State primary a contest to select the two most popular candidates for the November ballot - regardless of party nominations or party selection. That law also allows candidates for certain offices to disclose on the ballot the name of the party (if any) which that candidate personally prefers. The Ninth Circuit invalidated this top-two primary system in its entirety, holding that the First Amendment (applied to the States through the 14th Amendment) prohibits a State from so allowing a candidate to disclose the name of the party he or she personally prefers on the ballot. Does the First Amendment prohibit top-two election systems that allow a candidate to disclose on the ballot the name of the party he or she personally prefers?

CONSOLIDATED WITH 06-730 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 2/26/2007