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SUPREME COURT OF THE UNITED STATES

Syllabus

MCINTYRE, EXECUTOR OF ESTATE OF MCINTYRE,
DECEASED v. OHIO ELECTIONS COMMISSION

CERTIORARI TO THE SUPREME COURT OF OHIO

No. 93-986. Argued October 12, 1994—Decided April 19, 1995

After petitioner's decedent distributed leaflets purporting to express the views of "CONCERNED PARENTS AND TAX PAYERS" opposing a proposed school tax levy, she was fined by respondent for violating §3599.09(A) of the Ohio Code, which prohibits the distribution of campaign literature that does not contain the name and address of the person or campaign official issuing the literature. The Court of Common Pleas reversed, but the Ohio Court of Appeals reinstated the fine. In affirming, the State Supreme Court held that the burdens §3599.09(A) imposed on voters' First Amendment rights were "reasonable" and "nondiscriminatory" and therefore valid. Declaring that §3599.09(A) is intended to identify persons who distribute campaign materials containing fraud, libel, or false advertising and to provide voters with a mechanism for evaluating such materials, the court distinguished *Talley v. California*, 362 U. S. 60, in which this Court invalidated an ordinance prohibiting all anonymous leafletting.

Held: Section 3599.09(A)'s prohibition of the distribution of anonymous campaign literature abridges the freedom of speech in violation of the First Amendment. Pp. 7-24.

(a) The freedom to publish anonymously is protected by the First Amendment, and, as *Talley* indicates, extends beyond the literary realm to the advocacy of political causes. Pp. 7-9.

(b) This Court's precedents make abundantly clear that the Ohio Supreme Court's reasonableness standard is significantly more lenient than is appropriate in a case of this kind. Although *Talley* concerned a different limitation than §3599.09(A) and thus does not necessarily control here, the First Amendment's protection of anonymity nevertheless applies. Section 3599.09(A) is not simply an election code provision subject to

the "ordinary litigation" test set forth in *Anderson v. Celebrezze*, 460 U. S. 780, and similar cases. Rather, it is a regulation of core political speech. Moreover, the category of documents it covers is defined by their content—only those publications containing speech designed to influence the voters in an election need bear the required information. See, e.g., *First Nat. Bank of Boston v. Bellotti*, 435 U. S. 765, 776-777. When a law burdens such speech, the Court applies "exacting scrutiny," upholding the restriction only if it is narrowly tailored to serve an overriding state interest. See, e.g., *id.*, at 786. Pp. 9-14.

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(c) Section 3599.09(A)'s anonymous speech ban is not justified by Ohio's asserted interests in preventing fraudulent and libelous statements and in providing the electorate with relevant information. The claimed informational interest is plainly insufficient to support the statute's disclosure requirement, since the speaker's identity is no different from other components of a document's contents that the author is free to include or exclude, and the author's name and address add little to the reader's ability to evaluate the document in the case of a handbill written by a private citizen unknown to the reader. Moreover, the state interest in preventing fraud and libel (which Ohio vindicates by means of other, more direct prohibitions) does not justify §3599.09(A)'s extremely broad prohibition of anonymous leaflets. The statute encompasses all documents, regardless of whether they are arguably false or misleading. Although a State might somehow demonstrate that its enforcement interests justify a more limited identification requirement, Ohio has not met that burden here. Pp. 14–20.

(d) This Court's opinions in *Bellotti*, 435 U. S., at 792, n. 32—which commented in dicta on the prophylactic effect of requiring identification of the source of corporate campaign advertising—and *Buckley v. Valeo*, 424 U. S. 1, 75–76—which approved mandatory disclosure of campaign-related expenditures—do not establish the constitutionality of §3599.09(A), since neither case involved a prohibition of anonymous campaign literature. Pp. 20–23.

67 Ohio St. 3d 391, 618 N. E. 2d 152, reversed.

STEVENS, J., delivered the opinion of the Court, in which O'CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. GINSBURG, J., filed a concurring opinion. THOMAS, J., filed an opinion concurring in the judgment. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., joined.