U.S. Supreme Court

McDaniel v. Paty, 435 U.S. 618 (1978)

McDaniel v. Paty

No. 76-1427

Argued December 5, 1977

Decided April 19, 1978

435 U.S. 618

*APPEAL FROM THE SUPREME COURT OF TENNESSEE*

# Syllabus

Appellee Paty, a candidate for delegate to a Tennessee constitutional convention, sued in the State Chancery Court for a declaratory judgment that appellant, an opponent who was a Baptist minister, was disqualified from serving as delegate by a Tennessee statutory provision establishing the qualifications of constitutional convention delegates to be the same as those for membership in the State House of Representatives, thus invoking a Tennessee constitutional provision barring "[m]inister[s] of the Gospel, or priest[s] of any denomination whatever." That court held that the statutory provision violated the First and Fourteenth Amendments. The Tennessee Supreme Court reversed, holding that the clergy disqualification imposed no burden on "religious belief," and restricted

"religious action . . . [only] in the law making process of government -- where religious action is absolutely prohibited by the establishment clause. . . ."

*Held:* The judgment is reversed, and the case is remanded. Pp. 435 U. S. 625-629;435 U. S. 629-642; 435 U. S. 642-643; 435 U. S. 643-646.

547 S.W.2d 897, reversed and remanded.

THE CHIEF JUSTICE, joined by MR. JUSTICE POWELL, MR. JUSTICE REHNQUIST, and MR. JUSTICE STEVENS, concluded:

1. The Tennessee disqualification is directed primarily not at religious belief, but at the status, acts, and conduct of the clergy. Therefore, the Free Exercise Clause's absolute prohibition against infringements on the "freedom to believe" is inapposite here. *Torcaso v. Watkins,* 367 U. S. 488 (which invalidated a state requirement that an appointee to public office declare his belief in the existence of God), distinguished. Pp. 435 U. S. 626-627.

2. Nevertheless, the challenged provision violates appellant's First Amendment right to the free exercise of his religion made applicable to the States by the Fourteenth Amendment, because it conditions his right to the free exercise of his religion on the surrender of his right to seek office. *Sherbert v. Verner,* 374 U. S. 398, 374 U. S. 406. Though justification is asserted under the Establishment Clause for the statutory restriction on the ground that, if elected to public office members of the clergy will necessarily promote the interests of one sect or thwart those of another contrary to the anti-establishment principle of neutrality, Tennessee has failed to demonstrate that its views of the dangers of **[p. 619]** clergy participation in the political process have not lost whatever validity they may once have enjoyed. Accordingly, there is no need to inquire whether the State's legislative goal is permissible. Pp. 435 U. S. 626; 435 U. S. 627-629.

MR. JUSTICE BRENNAN, joined by MR. JUSTICE MARSHALL, concluded:

1. The Free Exercise Clause is violated by the challenged provision. Pp. 435 U. S. 630-635.

(a) Freedom of belief protected by that Clause embraces freedom to profess or practice that belief, even including doing so for a livelihood. The Tennessee disqualification establishes as a condition of office the willingness to eschew certain protected religious practices. The provision therefore establishes a religious classification governing eligibility for office that is absolutely prohibited. *Torcaso v. Watkins, supra.* Pp. 435 U. S. 631-633.

(b) The fact that the law does not directly prohibit religious exercise, but merely conditions eligibility for office on its abandonment, does not alter the protection afforded by the Free Exercise Clause. "Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine . . . ," *Sherbert v. Verner, supra* at 374 U. S. 404, and Tennessee's disqualification provision therefore imposed an unconstitutional penalty on appellant's free exercise. Moreover,

"[t]he fact . . . that a person is not compelled to hold public office cannot possibly be an excuse for barring him from office by state-imposed criteria forbidden by the Constitution."

*Torcaso v. Watkins, supra,* at 367 U. S. 495-496. Pp. 435 U. S. 633-634.

2. The Tennessee disqualification also violates the Establishment Clause. Government generally may not use religion as a basis of classification for the imposition of duties, penalties, privileges, or benefits. Specifically, government may not fence out from political participation people such as ministers whom it regards as overinvolved in religion. The disqualification provision employed by Tennessee here establishes a religious classification that has the primary effect of inhibiting religion. Pp. 435 U. S. 636-642.

MR. JUSTICE STEWART concluded that *Torcaso v. Watkins, supra,* controls this case. Except for the fact that Tennessee bases its disqualification, not on a person's statement of belief, but on his decision to pursue a religious vocation as directed by his belief, the situation in *Torcaso* is indistinguishable from the one here. Pp. 435 U. S. 642-643.

MR. JUSTICE WHITE concluded that the Tennessee disqualification, while not interfering with appellant's right to exercise his religion as he desires, denies him equal protection. Though that disqualification is based on the State's asserted interest in maintaining the required separation **[p. 620]** of church and state, it is not reasonably necessary for that objective, which all States except Tennessee have been able to realize without burdening ministers' rights to candidacy. In addition, the statute is both underinclusive and overinclusive. Pp. 435 U. S. 643-646.

BURGER, C.J., announced the Court's judgment, and delivered an opinion, in which POWELL, REHNQUIST, and STEVENS, JJ., joined. BRENNAN, J., filed an opinion concurring in the judgment, in which MARSHALL, J., joined, *post,* p. 435 U. S. 629. STEWART, J., *post,* p. 435 U. S. 642, and WHITE, J., *post,* p. 435 U. S. 643, filed opinions concurring in the judgment. BLACKMUN, J., took no part in the consideration or decision of the case.