

20-1029 AUSTIN V. REAGAN NATIONAL ADVERTISING

DECISION BELOW: 972 F.3d 696

LOWER COURT CASE NUMBER: 19-50354

QUESTION PRESENTED:

Austin sign code provisions distinguish between on-premise and off-premise signs based solely on location. From this distinction—and unrelated to *what* message is conveyed—the sign code establishes a technology-based rule about *how* a sign’s message may be conveyed. On-premise signs may be digitized, and off-premise signs may not.

Billboard companies sought permits to digitize 84 billboards—off-premise signs—and sued the city when the permits were denied. The Fifth Circuit ruled that the First Amendment invalidated the challenged provisions, holding that the on-premise/off-premise distinction is content-based under *Reed v. Town of Gilbert* and fails the strict scrutiny test. The question presented is:

Is the city code’s distinction between on- and off-premise signs a facially unconstitutional content- based regulation under *Reed*?

CERT. GRANTED 6/28/2021