

04-37 CLINGMAN V. BEAVER

DECISION BELOW: 363 F3d 1048

LOWER COURT CASE NUMBER: 03-6058

QUESTION PRESENTED:

I. Whether Oklahoma's semi-closed primary election law -- which allows a political party to invite non-affiliated voters but not voters registered with another political party to vote in its partisan primary but prevents a voter registered with another political party from voting in that primary -- violates the First Amendment rights of a political party and its members to associate.

II. Whether the decision in *California Democratic Party v. Jones*, 530 U.S. 567 (2000) requires that a State allow a political party, at its option, to open its political party primary election to any registered voter regardless of that registered voter's political affiliation.

III. Whether the Tenth Circuit Court of Appeals erred in finding that the State of Oklahoma's restrictions constituted a severe burden on the right of association of the political party thereby requiring the regulation to be narrowly tailored to meet a compelling state interest or whether the appropriate standard is the balancing test which has been applied in election cases before this Court.

CERT. GRANTED 9/28/2004