

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

**CRAWFORD ET AL. v. MARION COUNTY ELECTION
BOARD ET AL.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT**

No. 07–21. Argued January 9, 2008—Decided April 28, 2008*

After Indiana enacted an election law (SEA 483) requiring citizens voting in person to present government-issued photo identification, petitioners filed separate suits challenging the law’s constitutionality. Following discovery, the District Court granted respondents summary judgment, finding the evidence in the record insufficient to support a facial attack on the statute’s validity. In affirming, the Seventh Circuit declined to judge the law by the strict standard set for poll taxes in *Harper v. Virginia Bd. of Elections*, 383 U. S. 663, finding the burden on voters offset by the benefit of reducing the risk of fraud.

Held: The judgment is affirmed.

472 F. 3d 949, affirmed.

JUSTICE STEVENS, joined by THE CHIEF JUSTICE and JUSTICE KENNEDY, concluded that the evidence in the record does not support a facial attack on SEA 483’s validity. Pp. 5–20.

(a) Under *Harper*, even rational restrictions on the right to vote are invidious if they are unrelated to voter qualifications. However, “even handed restrictions” protecting the “integrity and reliability of the electoral process itself” satisfy *Harper*’s standard. *Anderson v. Celebrezze*, 460 U. S. 780, 788, n. 9. A state law’s burden on a political party, an individual voter, or a discrete class of voters must be justified by relevant and legitimate state interests “sufficiently weighty to justify the limitation.” *Norman v. Reed*, 502 U. S. 279,

*Together with No. 07–25, *Indiana Democratic Party et al. v. Rokita, Secretary of State of Indiana, et al.*, also on certiorari to the same court.

Syllabus

288–289. Pp. 5–7.

(b) Each of Indiana’s asserted interests is unquestionably relevant to its interest in protecting the integrity and reliability of the electoral process. The first is the interest in deterring and detecting voter fraud. Indiana has a valid interest in participating in a nationwide effort to improve and modernize election procedures criticized as antiquated and inefficient. Indiana also claims a particular interest in preventing voter fraud in response to the problem of voter registration rolls with a large number of names of persons who are either deceased or no longer live in Indiana. While the record contains no evidence that the fraud SEA 483 addresses—in-person voter impersonation at polling places—has actually occurred in Indiana, such fraud has occurred in other parts of the country, and Indiana’s own experience with voter fraud in a 2003 mayoral primary demonstrates a real risk that voter fraud could affect a close election’s outcome. There is no question about the legitimacy or importance of a State’s interest in counting only eligible voters’ votes. Finally, Indiana’s interest in protecting public confidence in elections, while closely related to its interest in preventing voter fraud, has independent significance, because such confidence encourages citizen participation in the democratic process. Pp. 7–13.

(c) The relevant burdens here are those imposed on eligible voters who lack photo identification cards that comply with SEA 483. Because Indiana’s cards are free, the inconvenience of going to the Bureau of Motor Vehicles, gathering required documents, and posing for a photograph does not qualify as a substantial burden on most voters’ right to vote, or represent a significant increase over the usual burdens of voting. The severity of the somewhat heavier burden that may be placed on a limited number of persons—*e.g.*, elderly persons born out-of-state, who may have difficulty obtaining a birth certificate—is mitigated by the fact that eligible voters without photo identification may cast provisional ballots that will be counted if they execute the required affidavit at the circuit court clerk’s office. Even assuming that the burden may not be justified as to a few voters, that conclusion is by no means sufficient to establish petitioners’ right to the relief they seek. Pp. 13–16.

(d) Petitioners bear a heavy burden of persuasion in seeking to invalidate SEA 483 in all its applications. This Court’s reasoning in *Washington State Grange v. Washington State Republican Party*, 552 U. S. ___, applies with added force here. Petitioners argue that Indiana’s interests do not justify the burden imposed on voters who cannot afford or obtain a birth certificate and who must make a second trip to the circuit court clerk’s office, but it is not possible to quantify, based on the evidence in the record, either that burden’s magnitude

Syllabus

or the portion of the burden that is fully justified. A facial challenge must fail where the statute has a “plainly legitimate sweep.” *Id.*, at _____. When considering SEA 483’s broad application to all Indiana voters, it “imposes only a limited burden on voters’ rights.” *Burdick v. Takushi*, 504 U. S. 428, 439. The “precise interests” advanced by Indiana are therefore sufficient to defeat petitioners’ facial challenge. *Id.*, at 434. Pp. 16–20.

(e) Valid neutral justifications for a nondiscriminatory law, such as SEA 483, should not be disregarded simply because partisan interests may have provided one motivation for the votes of individual legislators. P. 20.

JUSTICE SCALIA, joined by JUSTICE THOMAS and JUSTICE ALITO, was of the view that petitioners’ premise that the voter-identification law might have imposed a special burden on some voters is irrelevant. The law should be upheld because its overall burden is minimal and justified. A law respecting the right to vote should be evaluated under the approach in *Burdick v. Takushi*, 504 U. S. 428, which calls for application of a deferential, “important regulatory interests” standard for nonsevere, nondiscriminatory restrictions, reserving strict scrutiny for laws that severely restrict the right to vote, *id.*, at 433–434. The different ways in which Indiana’s law affects different voters are no more than different impacts of the single burden that the law uniformly imposes on all voters: To vote in person, everyone must have and present a photo identification that can be obtained for free. This is a generally applicable, nondiscriminatory voting regulation. The law’s universally applicable requirements are eminently reasonable because the burden of acquiring, possessing, and showing a free photo identification is not a significant increase over the usual voting burdens, and the State’s stated interests are sufficient to sustain that minimal burden. Pp. 1–6.

STEVENS, J., announced the judgment of the Court and delivered an opinion, in which ROBERTS, C. J., and KENNEDY, J., joined. SCALIA, J., filed an opinion concurring in the judgment, in which THOMAS and ALITO, JJ., joined. SOUTER, J., filed a dissenting opinion, in which GINSBURG, J., joined. BREYER, J., filed a dissenting opinion.