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# ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER  
"Furthering the Interests of an Informed Citizenry"

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## New Jersey Supreme Court Upholds Restrictions on Use of Campaign Funds

The New Jersey Supreme Court yesterday upheld a decision by the New Jersey Election Law Enforcement Commission (ELEC) to prohibit a former state legislator from using campaign funds to pay for his criminal defense.

In a unanimous 5-0 ruling, the State's high court upheld an appellate court opinion rejecting such a request from former State Senator Wayne Bryant of Camden County.

"The vast majority of elected public officials carry out their duties honestly and honorably and will not, in the course of their long careers, be the target of a criminal prosecution," said a 20-page opinion written by Justice Barry Albin. "Contributors do not expect that their candidate's election will be a stepping stone to a criminal indictment."

ELEC Chairwoman Jerry Fitzgerald English said "The integrity of the electoral process in New Jersey was certainly upheld by this important ruling. The real winners here are the people of New Jersey

whose faith in the system should be enhanced by the court's action."

Bryant served in the New Jersey Senate from 1995 until January 8, 2008. A federal grand jury indicted him with crimes of corruption and fraud in March 2007. Following a trial, Bryant was found guilty in November 2008.

While under indictment, Bryant requested an advisory opinion from ELEC asking whether or not it was acceptable for him to use campaign funds to pay the costs of his criminal defense.

His attorneys contended it was a "payment of ordinary and necessary expenses of holding public office." That is one of six permissible uses of campaign funds under ELEC regulations.

However, on January 2008, ELEC ruled in an advisory opinion that letting him tap his campaign funds to pay for his defense would violate the law.

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In upholding the Appellate Division's decision, the Supreme Court justices agreed that courts should defer to a state agency's interpretation of statutes and implementing regulations unless the interpretation is "plainly unreasonable."

"The [Appellate] panel found nothing 'plainly unreasonable' in ELEC's construction of the Campaign Contributions Act or in the agency's interpretation of its own regulation," said the Supreme Court ruling.

James P. Wyse, Legal Counsel to the Commission, argued on behalf of the Commission's position both before the Appellate Division and the Supreme Court. ELEC Legal Director Carol Hoekje provided invaluable research for the case.

Jeff Brindle, Executive Director of the Commission, said Commission members were pleased by the ruling.

"We had every confidence that our decision was the correct one and would be upheld," he said. "The decision goes far toward restoring confidence in our electoral system."

"As the courts said it was a common sense decision the commission made in issuing its advisory opinion," Brindle said.

"When making contributions the people do not expect campaign funds to be used in criminal defense. They don't expect their public officials to be corrupt when they elect them," he said.

State law limits the use of campaign contributions to six categories: (1) payment of campaign expenses; (2) contributions to [certain] charitable organizations; (3) transfers to other candidates, political or legislative committees; (4) payment of overhead and administration expenses related to candidate committees; (5) pro rata repayment of contributors; and (6) payment of ordinary and necessary expenses of holding public office.

These changes were added as part of 1993 legislative amendments to the Campaign Act. The State Supreme Court yesterday noted that the "overriding objective" of those amendments was to "restore public confidence in the collection, reporting and use of campaign funds, and to ensure that campaign funds were not expended for purposes unrelated to an election or holding office."

The State Supreme Court's ruling can be viewed at the following website:

<http://www.judiciary.state.nj.us/opinions/supreme/A8308ElectionLawEnforcement.pdf>