

Jeff Brindle: N.J. campaign finance laws could be affected by SpeechNow.org case

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BY JEFF BRINDLE

COMMENTARY

A public hearing held recently suggested that the U.S. Supreme Court decision in Citizens United will have no impact on New Jersey's campaign finance laws. The consensus opinion was offered by those testifying recently before the Assembly

Judiciary Committee.

But, just when it seemed safe to breathe a collective sigh of relief, a new case appears on the horizon that could potentially affect at least one aspect of the State's campaign finance law.

SpeechNow.org, an anti-tax group known as Club for Growth, is taking the Federal Election Commission (FEC) to court. This case involves rules pertaining to political committees.

Requirements that groups like these must register as political committees and disclose their donors and spending are being challenged.

SpeechNow.org is also challenging limits on amounts they are allowed to collect from individual donors.

The thrust of the lawsuit involves independent spending in support or defeat of a candidate. SpeechNow.org believes that it is unconstitutional for it to be regulated as a political committee and to be subject to a cap on contributions.

The FEC required SpeechNow.org to register as a political committee and be limited to a \$5,000 per year donation from individual contributors.

SpeechNow.org maintains that "these limits and red tape make it virtually impossible for new independent citizens groups . . . to raise start-up funding and effectively reach voters."

SpeechNow.org aims to have First Amendment rights extended to non-profit groups in terms of independent expenditures and the elimination of contribution limits.

This January 27, the U.S. Court of Appeals for the District of Columbia heard the case. In a preliminary hearing, a three-judge panel voted to lift contribution limits. Associated Press reporter Mark Sherman wrote: "Three others on the nine-judge court indicated in their questioning Wednesday they would also do the same."

Unlike Citizens United, this case potentially poses a challenge to the provision in the State's "Campaign Contributions and Expenditures Reporting Act" that regulates political committees.

The law requires two or more people who join together for the purpose of supporting or opposing candidates, and who raise \$2,100 or more, to register with ELEC as a political committee.

New Jersey law also places a limit of \$7,200 per election on contributions made to political committees. It limits how much a political committee can give to candidates, \$8,200 per election, and requires pre- and post-election disclosure.

These requirements are similar to federal law.

The case does not appear to threaten disclosure given the U.S. Supreme Court's strong endorsement of disclosure in Citizens United. But it potentially endangers the cap placed on contributions made to political committees.

And, that's where the challenge to New Jersey law lies. Given the similarity of the State's statutory and regulatory scheme to that of federal rules, some vulnerability may exist.

Certainly, there are no absolutes in the field of campaign financing. Lawsuits abound throughout the country and it's a wait-and-see game in terms of how they will be decided.

But with SpeechNow.org it is important for New Jerseyans to keep careful watch. The very real possibility of impacting the State's regulatory scheme exists.

Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission.

The opinions presented here are his own and not necessarily those of the Commission.