McCutcheon v. Federal Elections Commission

Argued: October 8, 2013

Decided: April 2, 2014

Background

The First Amendment to the Constitution protects the right to freely express information and ideas. Political speech is at the core of the First Amendment because it is fundamental to our democracy. Political speech provides the means for debating public issues and making educated decisions about who will represent us in government.

Modern political campaigns are expensive—it costs money for candidates to effectively communicate with voters. People show their support for a candidate or viewpoint when they donate money to a campaign, political party, or political organization. Parties, candidates, and organizations spend that money to run advertisements and manage campaigns. The Supreme Court has ruled that spending money—whether by donating to a campaign or by spending to get a message out—is a form of speech. Although speech is a guaranteed right, it can be limited if the government needs to protect an important interest. The government has an important interest in preventing corruption among elected officials. The tension between preventing corruption and protecting campaign speech is at the heart of many disputes over campaign finance laws.

The Supreme Court has ruled that the government cannot limit how much candidates and campaigns spend on elections, but it can limit how much people and corporations are allowed to donate directly to candidates and political parties. Federal election laws limit the amount of money someone can donate to campaigns in two ways. The first is a “base limit,” which limits the amount an individual can donate to *one* specific candidate. The second is an “aggregate limit,” which limits the total amount an individual can donate to *all* candidates combined during an election. This case is about freedom of speech and limits on the total, or “aggregate,” amount of money individuals can contribute to political campaigns.

Facts

Federal campaign finance laws—including the Federal Election Campaign Act of the 1970s and the Bipartisan Campaign Reform Act of 2002—set limits on campaign contributions. In 2014, under the Bipartisan Campaign Reform Act, the base limit for a donation to a candidate for a two-year election cycle was $5,200. The aggregate limits for a two-year election cycle were $48,600 to federal candidates and $74,600 to political parties and political action committees.

Contribution limits were developed to prevent both direct corruption of elected officials and the appearance of corruption among elected officials. Historically, individuals would sometimes donate money and, in return, the official would do something for the individual. This is called *quid pro quo*, and it is illegal. Even if *quid pro quo* corruption is not happening, very large campaign donations can create the appearance of corruption. Both cause people to mistrust government and our elections.

Shaun McCutcheon and the Republican National Committee challenged the constitutionality of aggregate contribution limits. McCutcheon challenged the limits because he wants to be able to make contributions to more candidates (not to exceed the base limits, though). The Republican National Committee (RNC) challenged the limits because it wants to be able to receive contributions within the base limits from more donors. The district court upheld the aggregate limits. McCutcheon and the RNC appealed to the Supreme Court.

Issue

Do federal limits on aggregate contributions to political committees and candidates violate the First Amendment?

Constitutional Amendment and Precedents

* **The First Amendment**

“Congress shall make no law … abridging the freedom of speech …”

* **Buckley v. Valeo (1976)**

The Court decided that the base and aggregate contribution limits in the *Federal Election Campaign Act* were constitutional. The Court said that contribution limits did affect donors’ First Amendment rights. However, the government can limit these rights if the laws specifically address a very important government interest without restricting First Amendment activity too much. The Court decided that preventing corruption was a very important government interest, and that preventing corruption was the only permissible reason for the limits. The decision focused mostly on base limits, but upheld both base and aggregate limits.

* **Citizens United v. FEC (2010)**

In a landmark case, the Court limited regulation of corporate election spending. Under federal law, corporations, unions, and organizations had been limited in the ways they could spend money to support or denounce candidates in elections. In this case, the Court said that spending money to convey a viewpoint and donating money for political campaigns are different. While donations to campaigns can be limited, the government cannot keep corporations from spending money in support of a candidate, so long as that money is spent independently. Here, “independently” means that the corporation or union cannot coordinate their spending with a candidate or campaign. This decision was controversial. People who support the ruling believe that more spending is simply more speech, which is a good thing. People opposed to it worry that if wealthier individuals and corporations can spend more, they may have more influence among politicians, and that corrupting influence might put democracy at risk.

Arguments for McCutcheon

* Aggregate contribution limits violate McCutcheon’s freedom of speech because he is unable to make contributions to as many candidates as he wants to support.
* Because base limits already prevent donors from making large contributions to any one candidate, an aggregate limit does nothing to prevent corruption—it only limits a donor’s ability to support as many candidates as he chooses. Giving less money to each candidate, in order to stay under the aggregate cap, would weaken the impact of a donor’s speech.
* The entire election system has changed since *Buckley*. The government greatly expanded anti-corruption laws. These laws track where and how money is spent, making it much harder to use money for corruption, and thus making aggregate limits unnecessary.
* In *Citizens United,* the Court said that preventing *quid pro quo* corruption is the only reason the government can limit contributions. The government cannot limit contributions to try to prevent some people from spending more money than others, or to prevent the appearance of greater access to or influence over elected officials. Aggregate limits are designed more to address those two issues than to target actual *quid pro quo* corruption.
* The government can only limit constitutional rights to free speech when there is a very important purpose *and* the law addresses that purpose in a way that limits peoples’ rights the least. While corruption is a very important interest, there are less restrictive ways to prevent corruption. Therefore, this law is not a sufficiently narrow way to limit corruption.

Arguments for the Government

* In *Buckley*, the Court decided that aggregate limits on campaign contributions are constitutional. In the 37 years since *Buckley*, nothing has changed to suddenly make these limits unconstitutional. The Court should not overturn that longstanding decision.
* Aggregate limits are a longstanding part of campaign finance laws. Even with other laws in place to prevent corruption, corruption problems persist, and aggregate limits are a way to prevent that corruption.
* Campaign contributions risk the potential for buying favors and access to politicians. Base limits are not enough to address this problem, because politicians know who donates a lot of money to the party and other candidates. The more money that is involved, the greater the risk that political favors will be exchanged.
* Aggregate limits prevent the appearance of corruption. Even if lots of money does not lead to actual corruption, the public might think there is corruption. If people think government officials are corrupt, then they will be less likely to take part in the political process.
* Individuals are still free to support as many candidates and organizations as they want; they would simply have to donate smaller amounts, or support candidates in other ways. This prevents the election process from being flooded with so much money and from giving the very wealthy more access and louder voices than most Americans.

Decision

The Supreme Court ruled for McCutcheon. Five justices agreed that aggregate limits are unconstitutional, but only four justices agreed on the reasoning. This is called a plurality opinion. Chief Justice Roberts wrote the plurality opinion of the Court, which Justices Scalia, Kennedy, and Alito joined. Justice Thomas filed an opinion concurring in the judgment. Justice Breyer wrote a dissenting opinion, which Justices Ginsburg, Sotomayor, and Kagan joined.

**Plurality**

The Court ruled that aggregate contribution limits are invalid under the First Amendment. The First Amendment protects an individual’s right to express his views and values. Aggregate limits restrict participation in the democratic process by limiting the ability to contribute and limiting the amount individuals can associate with candidates.

The Court determined that aggregate limits do not further the government interest of preventing *quid pro quo* corruption. First, *quid pro quo* is the only legitimate interest the Court has approved for contribution limits; the government may not try to target access or influence. Second, the effects of aggregate limits extend beyond *quid pro quo* because they prevent contributions that are within the base limits, which Congress has decided are low enough to address corruption concerns. Third, many other existing laws, like disclosure requirements and tracking, effectively prevent *quid pro quo* corruption already by increasing transparency. Finally, since the limit is not specific enough to *quid pro quo*, it restricts more protected activity than necessary.

Concurrence

Justice Thomas’s concurring opinion agreed with the outcome of the plurality decision. He agreed that aggregate limits are unconstitutional. He further argued that all contribution limits are unconstitutional and *Buckley* should be overturned.

Dissent

The dissenting opinion said that the elimination of aggregate limits takes away from the purpose of campaign finance laws. These laws are not just concerned with *quid pro quo* corruption, but also with political access and pressure. Taking away aggregate limits increases the risk that individuals will channel millions of dollars to parties and individual candidates. This would give very wealthy people more voice and access than less wealthy people. This decision, combined with several other cases decided in the previous decade, completely changes the protections that Congress created.