



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



ARIZONA STATE DEMOCRATIC PARTY v. STATE OF ARIZONA

1 CA-CV 02-0180 (Opinion); **CV-04-0346-PR**

Parties and Counsel:

Petitioner: Arizona State Democratic Party (“Party”), represented by Rudolph J. Gerber, Marty Harper and Kelly J. Flood, Shugart Thomson & Kilroy, P.C.

Respondent: State of Arizona, by Deputy Mohave County Attorney Jeffrey D. Dollins.

Facts:

The Arizona Constitution, article 14, section 18 provides, “It shall be unlawful for any corporation, organized or doing business in this State, to make any contribution of money or anything of value for the purpose of influencing any election or official action.” The Arizona Legislature enacted Arizona Revised Statutes (“A.R.S.”) section 16-919(A) to implement that section, and section 16-919(B) concerning labor unions.

All events in this case occurred on or before Election Day 1998. The Party solicited and accepted donations from corporations and labor unions to pay operating expenses, such as rent, payroll, taxes, utilities, insurance, supplies, and overhead. Donations from corporations and labor unions to pay for those expenses totaled about \$100,000. The Party accepted monies solicited from the corporations and unions on the idea that if they were applied to uses set out in A.R.S. section 16-901(5)(b)(v), they were not “contributions,” and that such uses were not “for the purpose of influencing an election.” The Party deposited these donations in an administrative checking account, separate from those used to support candidates for election, and used the money to pay administrative expenses. On one occasion, the Party paid out of the account for return postage on requests for vote-at-home applications.

The state attorney general investigated, and then asked the Mohave County Attorney to represent the State to pursue this matter. After the parties to this case could not negotiate settlement, the State entered an administrative order directing the Party to return all these contributions. The Party promised to stop, and appealed the order. The parties stipulated to these facts, and each moved for summary judgment. The trial court entered judgment against the Party, finding it had violated A.R.S. sec. 16-919, and ordering it to deposit all improperly-received contributions into the Citizens Clean Election Fund. The Party appealed. In a published opinion, the Court of Appeals affirmed.

Issues:

Did the Court of Appeals err in concluding, as a matter of law, that all monies contributed by a corporation or labor organization to a political party are for the purpose of influencing an election, within the meaning of A.R.S. section 16-919?

Is a political party prohibited by A.R.S. section 16-919 from accepting contributions from a corporation or labor organization if the contribution is made for the purpose of influencing an election?

Definitions:

A.R.S. section 16-919 (relevant excerpts):

“**A.** It is unlawful for a corporation or a limited liability company to make any contribution of money or anything of value for the purpose of influencing an election, and it is unlawful for the designating individual who formed an exploratory committee, an exploratory committee, a candidate or a candidate’s campaign committee to accept any contribution of money or anything of value from a corporation or a limited liability company for the purpose of influencing an election.”

“**B.** It is unlawful for a labor organization to make any contribution of money or anything of value for the purpose of influencing an election.”

Citizens Clean Elections Fund

state fund used to educate voters and to support campaigns of candidates who qualify under the Clean Elections statutes to receive the money

Contribution under A.R.S. section 16-901(5)(b)(v), “any gift, subscription, loan advance or deposit of money or anything of value made for the purpose of influencing an election including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public office and: * * *

(b) Does not include any of the following: * * *

(v) The payment by a political party for party operating expenses, party staff and personnel, party newsletters and reports, voter registration and efforts to increase voter turnout, party organization building and maintenance and printing and postage expenses for slate cards, sample ballots, other written materials that substantially promote three or more nominees of the party for public office and other election activities not related to a specific candidate, except that this item does not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.”

summary judgment

judgment in a civil case that is reached without trial, based on a motion (formal request supported by legal argument and evidence) asserting that there are no significant facts in dispute, so that the case may be decided as a matter of law.

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