

Federal Court Strikes Down Montana Candidate Contribution Limits as Unconstitutional; Commissioner Reinstates Higher Limits Pending Appeal

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On May 17, the United States District Court for the District of Montana struck down Montana's limits on contributions to candidates for public office. In *Lair v. Motl*, No. CV 12-12-H-CCL, 2016 WL 2894861 (D. Mont. May 17, 2016), the court concluded that the contribution limits did not serve a valid anti-corruption purpose and that, even if they did, the contribution limits were not closely drawn to that interest. In response, the Commissioner of Political Practices reinstated the higher contribution limits that were in place before the adoption of the lower contribution limits.

The *Lair* case was originally filed in 2011. After a bench trial, the court held that the contribution limits were unconstitutional, but the Ninth Circuit reversed and remanded. The Ninth Circuit held that the district court was required to apply the Circuit's "closely drawn" analytical framework to determine whether the contribution limits were constitutional. Under this framework, a court must assess whether contribution limits serve a sufficiently important state interest and, if so, whether the limits are "closely drawn." Limits are closely drawn if "they (a) focus narrowly on the state's interest, (b) leave the contributor free to affiliate with a candidate, and (c) allow the candidate to amass sufficient resources to wage an effective campaign." The district court had declined to apply this precedent, asserting it was inconsistent with more recent Supreme Court case law. The Ninth Circuit disagreed, holding this standard was still good

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The Ninth Circuit also held, however, that what constitutes a “sufficiently important state interest” has changed in light of *Citizens United v. FEC*, 558 U.S. 310 (2010). After *Citizens United*, the court explained, the state’s interest is limited to the prevention of *quid pro quo* corruption or its appearance, as opposed to a broader interest in reducing influence or leveling the playing field. The Ninth Circuit remanded for the district court to assess Montana’s contribution limits under the correct standard.

On remand, the district court again held that the contribution limits were unconstitutional. The court first held that Montana failed to prove that the contribution limits furthered its interest in combating *quid pro quo* corruption or its appearance. The state relied on several incidents of alleged *quid pro quo* corruption to demonstrate the existence of an important state interest. The district court concluded, however, “that the quids in each one of the cited instances were either rejected by, or were unlikely to have any behavioral effect upon, the individuals toward whom they were directed.” The public, the court continued, “would more reasonably conclude that corruption is nearly absent from Montana’s electoral system—the evidence shows that despite a hand-full of opportunities, legislators chose to keep their noses clean.” Because Montana could not prove the contribution limits furthered an important state interest, the court held them unconstitutional.

The court further held that, even if the contribution limits did serve an important state interest, they were not “closely drawn.” First, the limits do not “narrowly focus” on Montana’s interest in combating *quid pro quo* corruption because they were expressly enacted to combat the impermissible interest in equalizing political speech. Second, the limits were too low to allow candidates to amass sufficient resources to wage an effective campaign.

Montana has filed a notice of appeal, giving the Ninth Circuit and potentially the Supreme Court the opportunity to assess what evidence a state needs to offer in defense of its contribution limits. In the meantime, the state’s Commissioner of Political Practices has issued a notice that the contribution limits in effect prior to the adoption of those the court struck down are reinstated. The notice can be found here. (Note that the court has stayed its holding as to political party contribution limits.)