

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES,)
)
 v.)
)
 WILLIAM DANIELCZYK, Jr., &) 1:11cr85 (JCC)
 EUGENE BIAGI,)
)
 Defendants.)

O R D E R

Keeping in mind that "this Court owes no deference to itself"¹ and can correct its own opinions, this Court sought briefing and argument as to whether it should reconsider its dismissal of Indictment Count Four and Paragraph 10(b) in light of the Supreme Court's decisions in *FEC v. Beaumont*² and *Agostini v. Felton*³ [63]. The Government contemporaneously moved to reconsider [68]. For the reasons more fully explained in the accompanying Memorandum Opinion, this Court maintains its ruling that, following *Citizens United*,⁴ the flat ban on corporate contributions⁵ is unconstitutional, but clarifies that its holding is limited to this case.

¹ *Vosdingh v. Qwest Dex, Inc.*, No. Civ. 03-4284, 2005 WL 1323007, at *1 (D. Minn. Jun. 2, 2005).

² 539 U.S. 146 (2003).

³ 521 U.S. 203 (1997).

⁴ *Citizens United v. FEC*, 130 S. Ct. 876 (2010).

⁵ 2 U.S.C. § 441b(a).

In short, this Court will not reinstate the dismissed counts first because *Beaumont's holding* applies only to nonprofit advocacy corporations, meaning that it does not "directly control" this case for *Agostini* purposes, and second because *Beaumont's reasoning* was supplanted by *Citizens United*.

On the first point, only the Supreme Court can overrule its own cases, and this Court must follow any Supreme Court case that "directly controls" the question before it.⁶ *Beaumont* remains good law, but its "hold[ing,] that applying the prohibition to nonprofit advocacy corporations is consistent with the First Amendment,"⁷ does not directly control this case because Defendants' corporation is not a "nonprofit advocacy corporation."

Second, *Beaumont's reasoning* can still inform this Court's analysis, but only as far as this Court can square it with the more recent *Citizens United* decision, which this Court cannot. The Supreme Court reasoned in *Citizens United* that because individuals can make independent political expenditures without risking corruption, corporations must be allowed to do so as well because "the First Amendment does not allow political speech restrictions based on a speaker's corporate identity."⁸ It follows that, because individuals can make direct donations within limits without risking corruption, and because the

⁶ *Agostini*, 521 U.S. at 237.

⁷ 539 U.S. at 149.

⁸ *Citizens United*, 130 S. Ct. at 903

government cannot restrict political speech based on a speaker's corporate identity, corporations must be allowed to donate subject to the same limits.⁹

This is a straightforward application of *Citizens United's* logic. Absent directly controlling precedent to the contrary (which *Beaumont* is not here), if corporations and individuals have equal political speech rights, then they must have equal direct donation rights.

It is therefore hereby ORDERED that:

(1) the Government's Motion to Reconsider [68] is DENIED, except that this Court clarifies its May 26, 2011 ruling to state that 2 U.S.C. § 441b(a)'s flat ban on direct corporate contributions to political campaigns is unconstitutional as applied to *this case*, as opposed to being unconstitutional as applied to *all corporate donations*;

(2) Count Four and Paragraph 10(b) of Count One of the Indictment shall remain DISMISSED; and

(3) the Clerk of the Court shall forward copies of this Order and the accompanying Memorandum Opinion to all counsel of record.

June 7, 2011
Alexandria, Virginia

/s/
James C. Cacheris
UNITED STATES DISTRICT COURT JUDGE

⁹See 2 U.S.C. § 431(11), which defines the term "person" as used in the Federal Election Campaign Act of 1971's personal contribution limits as "includ[ing] . . . corporation[s]."