

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**

**OCT 03 2012**

PATRICK E. DUFFY, CLERK  
By DEPUTY CLERK, HELENA

DOUG LAIR, STEVE DOGIAKOS, )  
AMERICAN TRADITION )  
PARTNERSHIP, AMERICAN )  
TRADITION PARTNERSHIP PAC, )  
MONTANA RIGHT TO LIFE )  
ASSOCIATION PAC, SWEET GRASS )  
COUNCIL FOR COMMUNITY )  
INTEGRITY, LAKE COUNTY )  
REPUBLICAN CENTRAL )  
COMMITTEE, BEAVERHEAD )  
COUNTY REPUBLICAN CENTRAL )  
COMMITTEE, JAKE OIL LLC, JL )  
OIL LLC, CHAMPION PAINTING INC, )  
and JOHN MILANOVICH, )

Plaintiffs, )

vs. )

JAMES MURRY, in his official capacity )  
as Commissioner of Political Practices; )  
STEVE BULLOCK, in his official capacity )  
as Attorney General of the State of )  
Montana; and LEO GALLAGHER, in his )  
official capacity as Lewis and Clark )  
County Attorney; )

Defendants. )

CV 12-12-H-CCL

ORDER

The remainder of this case—the constitutionality of Montana’s election limits set out in Montana Code Annotated § 13–37–216—came on regularly for trial before the undersigned sitting without a jury from September 12, 2012, to September 14, 2012. Plaintiffs were represented by James Bopp, Jr., and the defendants were represented by Michael Black and Andrew Huff.

Plaintiffs filed this case in the Billings Division for the District of Montana on September 6, 2011, claiming that several of Montana’s campaign finance and election laws are unconstitutional under the First Amendment. The statutes that they challenged are:

Montana Code Annotated § 13–35–225(3)(a), which requires authors of political election materials to disclose another candidate’s voting record;

Montana Code Annotated § 13–37–131, which makes it unlawful for a person to misrepresent a candidate’s public voting record or any other matter relevant to the issues of the campaign with knowledge that the assertion is false or with a reckless disregard of whether it is false;

Montana Code Annotated § 13–37–216(1), (5), which limits contributions that individuals and political committees may make to candidates;

Montana Code Annotated § 13–37–216(3), (5), which imposes an aggregate contribution limit on all political parties; and

Montana Code Annotated § 13–35–227, which prevents corporations from making either direct contributions to candidates or independent expenditures on behalf of a candidate.

Plaintiffs moved for a preliminary injunction on September 7, 2011, seeking to enjoin the defendants from enforcing each of these statutes. Before any action was taken on the motion, defendants moved to change venue. That motion was granted on January 31, 2012, and the case was transferred to the undersigned and the Helena Division of the Court.

On February 16, 2012, this Court held a hearing on the motion for a preliminary injunction and enjoined enforcement of Montana's vote-reporting requirement and political-civil libel statute. (*See* doc. 66); Mont. Code Ann. §§ 13-35-225(3)(a), 13-37-131. The Court denied the motion as to the remaining statutes. (*Id.*) Status conferences with the parties were held.

The Court issued its scheduling order on March 9, 2012. The parties agreed that all of the issues regarding the contribution limits in Montana Code Annotated § 13-37-216(1), (3), and (5) would be resolved through a bench trial and that all other matters would be adjudicated by summary judgment. The Court accepted the stipulation. (*See* doc. 73.)

The Court and the parties all agreed to place this matter on an expedited schedule so that it will be resolved prior to this year's election.

The parties filed cross-motions for summary judgment, and the Court held a hearing on May 12, 2012. The Court granted both motions in part and denied them

in part. (*See* doc. 90.) The Court *inter alia* permanently enjoined: (1) Montana's vote-reporting requirement, (2) political-civil libel statute, and (3) ban on corporate contributions to political committees that the committees use for independent expenditures. *See* Mont. Code Ann. §§ 13-35-225(3)(a), 13-37-131, 13-35-227.

The Court held a bench trial from September 12, 2012, to September 14, 2012, in order to resolve the remainder of the case—i.e. plaintiffs' claims related to Montana's campaign contribution limits in Montana Code Annotated § 13-37-216.

Briefing by the parties was completed September 26, 2012. The transcript of testimony and record of proceedings was filed September 28, 2012 and October 1, 2012.

Having reviewed and considered the entire record and the parties' arguments and evidence, the Court concludes that Montana's contribution limits in Montana Code Annotated § 13-37-216 are unconstitutional under the First Amendment.<sup>1</sup> *Randall v. Sorrell*, 548 U.S. 230 (2006). The contribution limits

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<sup>1</sup> The plaintiffs do not challenge the constitutionality of Montana Code Annotated § 13-37-218, which imposes an aggregate contribution limit on political committees. The plaintiffs make no mention of that statute in their complaint, and they did not argue at the bench trial that the statute is unconstitutional. The Court, therefore, makes no determination as to the constitutionality of this statute, and this decision does not impact the defendants' ability to enforce Montana Code Annotated § 13-37-218.

prevent candidates from “amassing the resources necessary for effective campaign advocacy.” *Id.* at 249 (citations and internal quotation marks omitted). The defendants are therefore permanently enjoined from enforcing these limits.


The Court will in due course issue complete and extensive findings of fact and conclusions of law that support this order. They will be filed separately, though, so that this order can be issued before voting begins in the upcoming election.

IT IS ORDERED that the contribution limits in Montana Code Annotated § 13–37–216 are declared unconstitutional. The defendants are permanently enjoined from enforcing those limits.

IT IS FURTHER ORDERED that the defendants’ renewed motion for summary judgment is DENIED.

IT IS FURTHER ORDERED the Clerk of Court is directed to enter judgment in favor of the plaintiffs.

Dated this 3<sup>rd</sup> day of October 2012. 1:50 p.m.

  
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CHARLES C. LOVELL  
SENIOR UNITED STATES DISTRICT JUDGE