

Federal election commission 558 u.s

Law



Citizens United v. Federal Election Commission 558 U. S. 310 Rule of law The federal law, as amended by §203 of the Bipartisan Campaign Reform Act of 2002 (BCRA) disallows both “ corporations and unions” in utilizing “ their general treasury funds” to independently spend for speech considered as an “ electioneering communication” or for a speech that explicitly supports “ the election or defeat of a candidate”(2 U. S. C. §441b). Electioneering communication has been defined as “ any broadcast, cable, or satellite communication” referring “ to a clearly identified candidate for Federal office” “ made within 30 days of a primary election,” §434(f)(3)(A), and that is “ publicly distributed,” 11 CFR §100. 29(a)(2), which in case of a Presidential candidate, “ the communication ‘ can be received by 50, 000 or more persons in a State where a primary election ... is being held within 30 days,’” §100. 29(b)(3)(ii). A political action committee (PAC) may also be created by corporations and unions “ for express advocacy or electioneering communications purposes” (2 U. S. C. §441b(b)(2)).

Relevant Facts

“ In January 2008, appellant Citizens United, a nonprofit corporation, released a documentary” called ‘ Hillary’ which was critical of then-Senator Hillary Clinton, a candidate for Presidential nomination (558 U. S. 310 (2010)). Because it expected that such documentary would be “ available on cable television through video-on-demand within 30 days of primary elections,” the Citizens United created “ television ads to run on broadcast and cable television” (558 U. S. 310 (2010)). Apprehensive about the “ possible civil and criminal penalties for violating §441b,” it filed a “ declaratory and injunctive relief,” claiming that §441b is unconstitutional when applied to the said documentary and that the disclaimer, disclosure, <https://assignbuster.com/federal-election-commission-558-us/>

and reporting requirements under BCRA, BCRA §§201 and 311, were unconstitutional when “ applied to Hillary and the ads” (558 U. S. 310 (2010)). With this, “ the District Court denied Citizens United a preliminary injunction and granted appellee Federal Election Commission (FEC) summary judgment” (558 U. S. 310 (2010)).

Decision

The Court reversed in part, affirmed in part, and remanded (558 U. S. 310 (2010)). They considered the “ continuing effect of the speech suppression” in the Austin case since the issue involves the application of §441b to the Hillary (558 U. S. 310 (2010)). The Court overruled the Austin case stating that there is “ no basis for allowing the Government to limit corporate independent expenditures” (558 U. S. 310 (2010)). It ruled that such restrictions on expenditures under §441b “ are invalid and cannot be applied to Hillary” (558 U. S. 310 (2010)). Given this, the Court also overruled the part which “ upheld BCRA §203’s extension of §441b’s restrictions on independent corporate expenditures” (558 U. S. 310 (2010)). However, “ BCRA §§201 and 311 are valid insofar as applied to the ads for Hillary and to the movie itself” (558 U. S. 310 (2010)).

Reasoning

The Court considered §441b’s facial validity claiming that “ any other course would prolong the substantial, nationwide chilling effect caused by §441b’s corporate expenditure ban” (558 U. S. 310 (2010)). It explained that although what the First Amendment states is that “ Congress shall make no law ... abridging the freedom of speech,” the prohibition under §441b “ on corporate independent expenditures is an outright ban on speech, backed by criminal sanctions” (558 U. S. 310 (2010)). The Court has also acknowledged <https://assignbuster.com/federal-election-commission-558-us/>

the application of the First Amendment to corporations (First Nat. Bank of Boston v. Bellotti, 435 U. S. 765, and NAACP v. Button, 371 U. S. 415). Austin’s anti-distortion rationale, purposely to preclude corporations from gaining “ an unfair advantage in the political marketplace” through “ resources amassed in the economic marketplace” 494 U. S., at 659, would allow the banning of political speech by the Government “ because the speaker is an association with a corporate form” (558 U. S. 310 (2010)). Thus, the Court restored the principle in Buckley and Bellotti preventing the Government to “ suppress political speech based on the speaker’s corporate identity” (558 U. S. 310 (2010)). The disclaimer and disclosure requirements under BCRA §§201 and 311, are valid as applied to Citizens United’s ads as “ they impose no ceiling on campaign-related activities,” Buckley v. Valeo, 424 U. S., at 64, or “ prevent anyone from speaking,” (McConnell v. Federal Election Comm’n , 540 U. S. 93). Neither is there evidence as to the “ threats, harassment, or reprisals that might make §201 unconstitutional as applied” (558 U. S. 310 (2010)).

Works Cited

Bipartisan Campaign Reform Act of 2002

Buckley v. Valeo, 424 U. S., at 64

Citizens United v. Federal Election Commission, 558 U. S. 310 (2010).

First Nat. Bank of Boston v. Bellotti , 435 U. S. 765

McConnell v. Federal Election Comm’n , 540 U. S. 93

NAACP v. Button, 371 U. S. 415