

Bond Case Briefs

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BONDS - ARIZONA

Galassini v. Town of Fountain Hills

United States District Court, D. Arizona - September 30, 2013 - Not Reported in F.Supp.2d - 2013 WL 5445483

“Upset over the tax consequences of an upcoming bond proposal by the Town of Fountain Hills, Plaintiff Dina Galassini decided to exercise the rights of an ordinary citizen and organize a protest. Little did she realize that she was about to feel the heavy hand of government regulation in a way she never imagined. At center stage is Plaintiff’s challenge to the constitutionality of a 183-word sentence defining “political committee,” which raises the issue of whether a person of ordinary intelligence can understand the sentence’s meaning.”

Upon hearing that Plaintiff intended to protest against the bond proposal, the Town Clerk sent her a letter informing her that she would be required to register as a political committee prior to proceeding with any form of protest pursuant to Arizona Revised Statutes section 16-901(19).

Plaintiff filed a Complaint for Declaratory and Injunctive Relief against the Town of Fountain Hills, the Town Clerk of Fountain Hills, and the Town Attorney of Fountain Hills. In her Complaint, Plaintiff alleged that Arizona Revised Statutes section 16-901(19) is an unconstitutional burden on her First Amendment rights to freedom of speech and freedom of association. Thereafter, the State of Arizona intervened. Following a preliminary injunction hearing, the Court found that Plaintiff established serious questions going to the merits of her claim. As a result, the Court granted Plaintiff’s Motion for Preliminary Injunction, allowing Plaintiff to hold protests prior to the election on without first registering as a political action committee. The bond proposal was rejected by the Fountain Hills voters.

Thereafter, Plaintiff filed an Amended Complaint pursuant to 42 U.S.C. § 1983 against the Town of Fountain Hills and the State of Arizona. In her Amended Complaint, Plaintiff alleges that (1) Arizona’s campaign-finance laws impose unconstitutional burdens on free speech; (2) Arizona’s campaign finance scheme is overbroad in violation of the First and Fourteenth Amendments of the United States Constitution; and (3) Arizona’s campaign finance scheme is impermissibly vague in violation of the Fourteenth Amendment of the United States Constitution.

The Arizona Legislature then amended the definition of “political committee” as set forth in ARS section 16-901(19). The relevant portions of the current version of Arizona’s statutory scheme are set forth below. ARS section 16-901(19) was amended as follows:

“Political committee” means a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or in any county, city, town, district or precinct in this state, that engages in political activity in behalf of or against a candidate for election or retention or in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number and circulates petitions and, in the case of a candidate for public office except those exempt pursuant to § 16-903, that receives contributions or makes expenditures of more than two hundred fifty dollars in

connection therewith, notwithstanding that the association or combination of persons may be part of a larger association, combination of persons or sponsoring organization not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state. Political committee includes the following types of committees:

Plaintiff, the Town of Fountain Hills, and the State of Arizona then moved for summary judgment on all of Plaintiff's claims.

After concluding that Plaintiff had standing, the court next evaluated her claim that the term "political committee" was unconstitutionally vague. They concluded that it was. The court also found that the definition of "political committee" in Arizona Revised Statutes section 16-901(19) was overbroad because it swept in a substantial amount of protected speech that the State did not have an important interest in regulating.

"Accordingly, the Court is prepared to issue an injunction that is consistent with its holdings in this case. Namely, this Court is prepared to issue an injunction that enjoins the enforcement of any statutes in Title 16, Chapter 6 of the Arizona Revised Statutes to the extent those statutes depend on the definition of political committee as set forth in Arizona Revised Statutes section 16-902.01(19)."