

Bond Case Briefs

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BALLOT INITIATIVES - WASHINGTON

State v. Evergreen Freedom Foundation

Supreme Court of Washington - January 10, 2019 - 432 P.3d 805

State brought regulatory enforcement action against foundation that provided pro bono legal services in support of local initiatives, alleging failure to report independent expenditures as required by Fair Campaign Practices Act (FCPA) and seeking imposition of a civil penalty and injunctive relief.

Foundation moved to dismiss for failure to state a claim. The Superior Court granted the motion. State appealed. The Court of Appeals reversed. Foundation petitioned for review, which was granted.

The Supreme Court of Washington held that:

- A local proposition is a “ballot proposition,” for which certain expenditures are required to be reported under FCPA, but only if the measure is actually filed with an election official;
- Portions of FCPA delineating what constituted a ballot proposition were not unconstitutionally vague; and
- Under exacting scrutiny standard, campaign finance disclosure requirements of FCPA did not violate foundation’s First Amendment right to free speech.

Portions of Fair Campaign Practices Act (FCPA) delineating what constituted a ballot proposition, and thus what expenditures in support of a ballot proposition were required to be reported, were not unconstitutionally vague, despite argument that it was unclear whether definition of “ballot proposition” applied to local initiatives; statutes established clear course of conduct, requiring persons to report any nonexempt independent expenditures in support of a ballot proposition, and statutory language was clear as to when a local initiative became a ballot proposition.

Under exacting scrutiny standard, campaign finance disclosure requirements of Fair Campaign Practices Act (FCPA), requiring the reporting of all independent expenditures totaling \$100 or more during same election campaign and defining independent expenditures to include those made in support or opposition to a ballot proposition, did not violate local initiative supporter’s First Amendment right to free speech; providing information to electorate was vital to advancing democratic objectives, and challenged requirements had substantial relationship with advancing those objectives.