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Citizens United v. Federal Elections Commission, 558 U.S. ____ (2010).

Argued: March 24, 2009; Reargued: September 9, 2009

Decided: January 21, 2010

FACTS: Citizens United is a non-profit corporation that pays for the production and broadcast of political messages and ads. It is funded mostly by individuals. In January 2008, Citizens United released a film entitled, *Hillary: The Movie*. This film was a 90-minute documentary about then-Senator Hillary Clinton, who was a candidate for the Democratic presidential nomination and was running in various state primaries. The film featured political commentators and other people who were critical of Senator Clinton. The film was released in theaters and on DVDs. Citizens United wanted to increase the distribution and impact of the film. It sought to have the film broadcast on a video-on-demand cable network.

To promote the film, it produced two 10-second ads and one 30-second ad. Each ad included a critical statement about Senator Clinton that was followed by the name of the movie. Citizens United wanted to promote the video-on-demand by running advertisements on broadcast and cable television.

The Federal Elections Commission (FEC) is a US government agency that oversees compliance with federal election laws and regulations. Here, the FEC was interpreting the Bipartisan Campaign Reform Act (BCRA), which prevents corporations or labor unions from making direct contributions to candidates. It also bans independent expenditures that expressly advocate the election or defeat of a candidate, through any form of media, in connection with certain federal elections. The intent of the BCRA was to regulate the amount and impact of “big money” campaign contributions. Corporations and unions are permitted to establish political action committees (PACs) for express advocacy or election communication purposes.

Citizens United filed a lawsuit against the FEC to allow it to advertise and broadcast the film. The corporation claimed the BCRA’s limitations violated its First Amendment right to support a particular cause, and restricted its right to protected “political speech.”

The lower court ruled against Citizens United.

ISSUE: Were Citizens United’s First Amendment rights unconstitutionally limited under the provisions of the BCRA?

ARGUMENTS FOR CITIZENS UNITED: Citizens United argued that corporations such as itself have constitutional rights just like people do, and that blocking its advertisements was violating its free speech rights under the First Amendment.

ARGUMENTS FOR THE FEC: The FEC argued that allowing unlimited corporate spending on ads for particular candidates would allow “vast sums” of corporate spending on politics and unfairly tip the election playing field in favor of corporate interests.

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DECISION: On a 5-4 vote, the Supreme Court decided that provisions of the BCRA that restricted use of corporations' general treasury funds to expressly advocate the election of, or defeat of, any candidate were unconstitutional. The Court was concerned that the effect of such a ban would chill – that is, discourage or deter – political speech. Political speech is central to the First Amendment's meaning and purpose.

The Court reasoned that because speech is very important to the integrity of the election process, any speech that might be within the reach of rules created for regulating political speech could be chilled. The effect of these restrictions would be like giving the FEC the power to stop political advocacy, giving the FEC powers that the First Amendment was drafted to prohibit. The Court concluded that the BCRA's limits on "corporate independent expenditures" were invalid because the law limited the corporation's freedom of speech. The Court concluded that because speech is an essential part of democracy, that political speech must not be overly limited.

The Supreme Court explained that laws limiting political speech are subject to "strict scrutiny," which requires the government to prove that the restriction "furthers a compelling interest and is narrowly tailored to achieve that interest." The Court found the BCRA limits on corporate expenditures for political speech did not meet that standard.

The Court did uphold the BCRA's disclosure requirement that donors to such political ads must be identified. It also upheld the ban on direct contributions by corporations and unions to candidates.

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