Campaign Contribution Limits for Recall-Petition Signatures

Citizens for Clean Government v. San Diego
(Napoleon A. Jones, Jr., S.D. Cal. 3:03-cv-1215)

A June 20, 2003, federal complaint challenged contribution limits for a city council recall effort. In an interlocutory appeal, the court of appeals affirmed the denial of immediate relief. The recall effort did not qualify for the ballot, and the incumbent was reelected. On appeal from the final judgment, the court of appeals ruled in 2007 that the district court had not required sufficient justification for the contribution limits.

Subject: Recall elections. Topics: Campaign finance; intervention; interlocutory appeal; case assignment.

On Thursday, June 19, 2003, a committee of concerned citizens published a notice of intent to circulate recall petitions against a member of San Diego's city council.[1] On June 20, the committee filed a federal complaint in the Southern District of California challenging as a First Amendment violation San Diego's individual contribution limits for the recall effort.[2] With its complaint, the committee filed an application for a temporary restraining order.[3]

On behalf of District Judge Napoleon A. Jones, Jr., Magistrate Judge Roger C. McKee issued a briefing order on June 23 setting argument for July 1.[4] At the hearing, Judge Jones granted a June 30 motion to intervene by supporters of the incumbent.[5]

On July 3, Judge Jones denied the committee immediate injunctive relief.[6] Concluding that "the recall process must be treated as a candidate campaign," Judge Jones observed that "it is well-established under federal law that governments may enact candidate campaign contribution limits such that First Amendment freedoms remain intact."[7] The recall campaign did not obtain

---

1. Citizens for Clean Gov't v. San Diego, 474 F.3d 647, 649 (9th Cir. 2007); Opinion at 2, Citizens for Clean Gov't v. San Diego, No. 3:03-cv-1215 (S.D. Cal. July 7, 2003), D.E. 22 [hereinafter S.D. Cal. Opinion]; *see* Complaint at 2–3, *id.* (June 20, 2013), D.E. 1.

2. Complaint, *supra* note 1; *Citizens for Clean Gov't*, 474 F.3d at 649.

3. Temporary Restraining Order Application, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. June 20, 2003), D.E. 3.

4. Order, *id.* (June 24, 2003), D.E. 8.

Judge Jones died on December 12, 2009. Federal Judicial Center Biographical Directory of Article III Federal Judges [hereinafter FJC Biographical Directory], www.fjc.gov/history/judges. Judge McKee retired in 2006 and died on May 29, 2020. Judge Roger Curtis McKee, www.legacy.com/us/obituaries/sandiegouniontribune/name/roger-mckee-obituary?id=7990615.

5. Order, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. July 3, 2003), D.E. 21; Minutes, *id.* (July 1, 2003), D.E. 20; *see* Intervention Motion, *id.* (June 30, 2003), D.E. 12.

6. S.D. Cal. Opinion, *supra* note 1 (noting, "Because Defendant was notified of Plaintiff's motion and afforded an opportunity to respond, the Court will treat the TRO application as a motion for a preliminary injunction."); *Citizens for Clean Gov't*, 474 F.3d at 649–50.

7. S.D. Cal. Opinion, *supra* note 1, at 6–7.

enough signatures for the ballot.[8] On November 14, the court of appeals, in an interlocutory appeal, affirmed Judge Jones's ruling.[9]

On July 23, 2004, one month after District Judge Roger T. Benitez joined the bench, the case was transferred to him.[10] On October 5, 2004, Judge Benitez approved a stipulated and appealable final judgment.[11] The incumbent was reelected in 2004.[12]

On January 19, 2007, the court of appeals decided that Judge Jones

erred by deciding, apparently as a matter of law, that the City had a sufficient interest justifying the application of its contribution limits to the signature-gathering phase of a recall election. We hold that the City must provide evidence demonstrating a sufficiently important government interest, such as the risk of corruption, in this context.[13]

Judge Benitez granted a stipulated dismissal on October 15, 2008.[14]

---

8. *Citizens for Clean Gov't*, 474 F.3d at 650.

9. Citizens for Clean Gov't v. San Diego, 81 F. App'x 240 (9th Cir. 2003); *Citizens for Clean Gov't*, 474 F.3d at 650.

10. Transfer Order, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. July 23, 2004), D.E. 40; FJC Biographical Directory, *supra* note 4 (noting Judge Benitez's commission on June 21, 2004).

11. Stipulated Judgment, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. Oct. 6, 2004), D.E. 45; *Citizens for Clean Gov't*, 474 F.3d at 650.

12. *Citizens for Clean Gov't*, 474 F.3d at 650.

13. *Id.*

14. Order, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. Oct. 16, 2008), D.E. 88 (noting that the parties agreed to the "payment of certain sums by the City to Plaintiff").