

McCutcheon, et al. v. FEC
Case Summary
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On April 2, 2014, the Supreme Court issued a ruling in *McCutcheon v. FEC* that struck down the aggregate limits on the amount an individual may contribute during a two-year period to all federal candidates, parties and political action committees combined. By a vote of 5-4, the Court ruled that the biennial aggregate limits are unconstitutional under the First Amendment.

Background

The Act imposes separate limits on the amounts that individuals may contribute to federal candidates and other political committees. Some of these limits are indexed for inflation. Currently, an individual may contribute up to \$2,500 per election to federal candidates, up to \$30,800 per calendar year to a national party committee and up to \$5,000 per calendar year to any non-party political committee.

Additionally, the Act imposes an overall limit on the aggregate amount individuals may contribute in a two-year period. Under the inflation-adjusted limits effective January 1, 2011, through December 31, 2012, an individual may contribute no more than a total of \$46,200 to all federal candidates, and no more than \$70,800 to federal political action committees and political party committees. Combining those amounts, the aggregate biennial limit in 2011-2012 for an individual is \$117,000.

Alabama resident Shaun McCutcheon would like to contribute more than the current biennial limit permits, and the RNC would like to receive contributions from individuals like Mr. McCutcheon that would exceed the aggregate limits.

The plaintiffs challenge both the \$46,200 aggregate limit on candidate contributions and the \$70,800 aggregate limit on other contributions as violating the First Amendment. They ask for a preliminary injunction to enjoin the FEC from enforcing the aggregate limits.

District Court Decision

Previously, in [Buckley v. Valeo \(1976\)](#), the Supreme Court held that limits on contributions implicate fundamental First Amendment interests, but that such limits may be imposed as long as they are closely drawn to match a sufficiently important governmental interest. The plaintiffs argue in this case that the biennial limits are effectively limitations on expenditures, which are subject to a higher “strict scrutiny” standard of review.

The court rejected this assertion, instead stating that “the difference between contributions and expenditures is the difference between giving money to an entity and spending that money directly on advocacy. Contribution limits are subject to lower scrutiny because they primarily implicate the First Amendment rights of association, not expression, and contributors remain able to vindicate their associational interest in other ways.” As such, the court held that aggregate limits do not regulate

money spent to influence the national political discourse; instead, “the regulated money goes into a pool from which another entity draws to fund its advocacy.”

The court further stated that the government may justify aggregate contribution limits as a means of preventing corruption or the appearance of corruption, or as a means of preventing circumvention of contribution limits imposed to further the government’s anti-corruption interest. The aggregate limits are able to prevent evasion of the base contribution limits.

The court rejected the plaintiffs’ claims that the contribution limits were unconstitutionally low and overbroad, writing, “...it is not the judicial role to parse legislative judgment about what limits to impose.” The court noted that there are no “danger signs” that the contribution limits were not narrowly tailored to achieve the governmental interest in preventing corruption or the appearance of corruption. The aggregate contribution limits affect what an individual may contribute directly to committees; those individuals still remain free to volunteer, join political associations and engage in independent expenditures.

Accordingly, the court denied the plaintiffs’ motion for preliminary injunction and granted the FEC’s motion to dismiss. On October 9, 2012, the Plaintiffs filed their Notice of Appeal to the U.S. Supreme Court.

Supreme Court Decision

In the Court’s plurality opinion, Chief Justice John Roberts wrote, “The right to participate in democracy through political contributions is protected by the First Amendment, but that right is not absolute. Our cases have held that Congress may regulate campaign contributions to protect against corruption or the appearance of corruption. See, *e.g.*, *Buckley v. Valeo*, 424 U.S. 1, 26-27 (1976) (*per curiam*).”

Roberts went on to write, “Congress may target only a specific type of corruption—‘*quid pro quo*’ corruption . . . Spending large sums of money in connection with elections, but not in connection with an effort to control the exercise of an officeholder’s official duties, does not give rise to *quid pro quo* corruption. Nor does the possibility that an individual who spends large sums may garner ‘influence over or access to’ elected officials or political parties.”

As a result, the Court concluded that “the aggregate limits on contributions do not further the only governmental interest this Court accepted as legitimate in *Buckley*. They instead intrude without justification on a citizen’s ability to exercise ‘the most fundamental First Amendment activities.’”

While the Court’s decision removes the overall cap on individual contributions, it does not affect the Act’s base limits on individual contributions to federal candidate campaigns, PACs or party committees. Currently, individuals may contribute up to \$2,600 per election to a federal candidate, \$10,000 per calendar year to a state party committee, \$32,400 per calendar year to a national party committee and \$5,000 per calendar year to a PAC.

Source: FEC Record -- [May 2014](#); [November 2012](#); [August 2012](#)