

No. 06M58

In the Supreme Court of the United States

FEDERAL ELECTION COMMISSION, *Appellant*
and
SEN. JOHN MCCAIN, ET AL., *Intervenor-Appellants*
v.
WISCONSIN RIGHT TO LIFE, INC., *Appellee*

Appeal from Civil No. 04-1260 (DBS, RWR, RJL) (Three-Judge Court)
in the United States District Court for the District of Columbia

**Intervenor-Appellants Response To Motion To Expedite And To Advance On
The Docket**

Wisconsin Right to Life, Inc. (“WRTL”) has moved that this Court accelerate the submission and consideration of jurisdictional statements in the appeals that have been filed from the three-judge district court’s grant of WRTL’s motion for summary judgment.¹ Under the Bipartisan Campaign Reform Act of 2002 (“BCRA”), which already provides for an accelerated schedule for filing an appeal, jurisdictional statements must be filed on or before January 22, 2007. *See* BCRA § 403(a), Pub. L. No. 107-155, 116 Stat. 81, 113-114. Under WRTL’s proposed schedule, jurisdictional statements would be filed within the next week—on or before

¹ Before the three-judge district court, WRTL also challenged the constitutionality of BCRA as applied to “materially similar grass-roots lobbying ads falling within . . . the electioneering communication prohibition period[s],” Compl. ¶ 16, but the court “reject[ed] WRTL’s generalized lobbying claim as unripe.” *Wisconsin Right to Life, Inc. v. FEC*, No. 04-1260, 2006 WL 3746669, at *5 (D.D.C. Dec. 21, 2006). WRTL has not appealed that decision.

January 9, 2007.² Intervenor-Appellants, appreciating the need to expedite constitutional challenges to BCRA, will of course comply with any schedule the Court deems appropriate and offer this submission only to fill out the record before the Court.

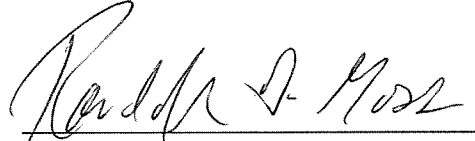
WRTL contends that there is a particular need for increased expedition in this case given the upcoming presidential primaries and caucuses, the first of which is scheduled to take place more than a year from now. Motion to Expedite 5-6 & n.2. But BCRA's "electioneering communications" provision prohibits corporations from using general treasury funds to pay for "electioneering communications" only during the periods within 60 days of general elections and 30 days of primaries (or nominating conventions or caucuses). 2 U.S.C. §§ 434(f)(3), 441b(a)-(b)(2). The provision therefore will be inoperative for the next eleven months and will come into effect again only on December 14, 2000, 30 days prior to the Iowa caucus scheduled for January 14, 2008. It is worth noting, moreover, that WRTL has no plans to run advertisements in Iowa or any of the other early primaries that would fall within the blackout periods.³ Instead, WRTL posits that other "groups wishing to affect legislators' votes" might seek to run advertisements "similar to those proposed by WRTL in 2004." Motion to Expedite 5. Even assuming that is true, it is not clear that expediting these appeals is necessary to ensure that the issue is resolved before the blackout periods begin.

² If the Court grants expedited review, it presumably would schedule argument for its April sitting, which would leave the Court approximately two months to decide the case before the summer adjournment. If, on the other hand, the Court hears the case in October, it would have a roughly equivalent time period to decide the case before the "electioneering communications" provision would have any application.

³ Wisconsin's primary is currently scheduled to take place on February 19, 2008, but WRTL does not say that it has plans to run advertisements even in its home state.

Dated this 3rd day of January, 2007.

Respectfully submitted,



Seth P. Waxman
Counsel of Record

Randolph D. Moss
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000

Roger M. Witten
WILMER CUTLER PICKERING
HALE AND DORR LLP
399 Park Avenue
New York, N.Y. 10022
(212) 230-8800

Donald J. Simon
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLC
1425 K Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 682-0240

Fred Wertheimer
DEMOCRACY 21
1875 I Street, N.W.
Suite 500
Washington, D.C. 20006
(202) 429-2008

Scott L. Nelson
PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street, N.W.
Washington, D.C. 20009
(202) 588-1000

Trevor Potter
J. Gerald Hebert
CAMPAIGN LEGAL CENTER
1640 Rhode Island Avenue, N.W.
Suite 650
Washington, D.C. 20036
(202) 736-2200

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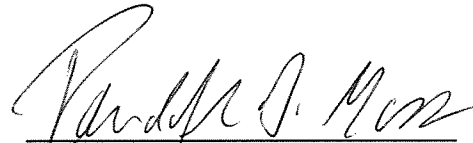
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CERTIFICATE OF SERVICE

I, Randolph D. Moss, a member of the bar of this Court, hereby certify that, on this 3rd day of January, 2007, all parties required to be served have been served copies of Intervenor-Appellants Response To Motion To Expedite And To Advance On The Docket in this matter by first class mail to the addresses listed below:

JAMES BOPP JR.
BOPP, COLESON & BOSTROM
THE JAMES MADISON CENTER
FOR FREE SPEECH
1 South Sixth Street
Terre Haute, IN 47807-3510
(812) 232-2434

PAUL D. CLEMENT
SOLICITOR GENERAL
UNITED STATES DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, N.W., Room 5614
Washington, D.C. 20530-0001
(202) 514-2217



RANDOLPH D. MOSS
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000