

SUPREME COURT OF ILLINOIS

Sigcho-Lopez v. Illinois State Board of Elections

2022 IL 127253 (Ill. 2022) · No. 127253 · Decided March 24, 2022

SUMMARY

The Illinois Supreme Court reviewed the dismissal of Byron Sigcho-Lopez’s campaign-finance complaint against the Illinois State Board of Elections. The complaint alleged that a political committee improperly used campaign funds to pay \$220,000 in legal fees for Daniel Solis, a former Chicago alderman. The court affirmed the dismissal, holding that whether legal-defense fees constitute prohibited personal debt under the Illinois Election Code must be evaluated case by case, and rejecting application of the federal “irrespective test.”

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Overstreet; Justice Garman; Justice Michael J. Burke; Justice Carter
JURISDICTION	Illinois
DECIDED	March 24, 2022
DOCKET	127253
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an appellate-court judgment affirming the Illinois State Board of Elections' dismissal of a campaign-finance complaint on administrative review.
STANDARD OF REVIEW	The Board's determination whether a complaint was filed on justifiable grounds presents a mixed question of fact and law and is reviewed for clear error. The court reviews the Board's decision, not the appellate court's decision.
PRECEDENTIAL VALUE	Published, precedential Illinois Supreme Court opinion
PARTIES	Byron Sigcho-Lopez v. Illinois State Board of Elections, other appellees

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QUESTIONS PRESENTED

1. Whether section 9-8.10(a)(3) of the Illinois Election Code prohibits campaign-fund expenditures for all personal legal debts or only those debts that do not defray customary and reasonable expenses connected with an officeholder's governmental and public-service functions.
2. Whether the appellate court properly adopted the federal 'irrespective test' to determine whether legal fees are personal expenses under the Illinois Election Code.
3. Whether the Board clearly erred in finding that the complaint was not filed on justifiable grounds and dismissing it without a public hearing.
4. Whether legal defense fees arising from allegations of criminal misconduct by a public official are categorically prohibited campaign expenditures.

HOLDINGS

1. Section 9-8.10(a)(3) prohibits campaign expenditures for satisfaction or repayment of a personal debt that does not defray the customary and reasonable expenses of an officeholder in connection with governmental and public-service functions. Whether legal defense fees constitute such a prohibited personal debt must be determined case by case.
2. The federal 'irrespective test' does not govern interpretation of the Illinois Election Code because the Illinois statute contains no corresponding 'irrespective' language. The Illinois provisions must instead be applied according to their plain language.
3. Campaign funds may not be used to subsidize legal fees incurred to defend against proven official misconduct or public corruption merely because the alleged conduct was possible only because of the officeholder's position. Such fees are not customary and reasonable expenses connected with governmental or public-service functions.
4. Legal fees incurred to defend against investigations or charges of public corruption are not per se prohibited campaign expenditures. In limited circumstances, such as baseless allegations asserted because of an official's public capacity, the Board may determine case by case that campaign funds may be used.
5. The Board did not clearly err in finding that Sigcho-Lopez's complaint was not factually and legally justified and dismissing it at the preliminary-hearing stage.

KEY QUOTATIONS

“Whether legal defense fees amount to a personal debt that does not defray the customary and reasonable expenses of an officeholder in connection with the performance of governmental and public service functions

must be evaluated on a case-by-case basis.” (¶ 35)

“Accordingly, although we adopt the appellate court’s plain-language construction of section 9-8.10(a)(3) and 9-8.10(c) of the Election Code, we reject the appellate court’s adoption of the federal “irrespective test” as applied to federal election law.” (¶ 39)

“Until the General Assembly amends the statute to, for example, specifically prohibit payment from campaign funds for legal fees incurred in defense of criminal allegations against a public official or candidate, the issue requires the Board’s consideration on a case-by-case basis, applying the plain language of the applicable statutory provisions.” (¶ 46)

FACTUAL BACKGROUND

The 25th Ward Regular Democratic Organization was a political committee supporting the candidacy of Daniel Solis, former alderman of Chicago's 25th Ward. While serving as alderman and Democratic committeeman, Solis cooperated with the FBI and Department of Justice in an investigation of political corruption and retained Foley & Lardner LLP. After Sigcho-Lopez succeeded Solis as alderman, the Committee paid Foley & Lardner \$220,000 and reported the payment as legal fees. Sigcho-Lopez alleged that the payment was a prohibited use of campaign funds to satisfy a personal debt, but the record showed that Solis had not been indicted and was cooperating with federal investigators.

PROCEDURAL HISTORY

Sigcho-Lopez filed a complaint with the Illinois State Board of Elections alleging that a political committee unlawfully used campaign funds to pay former alderman Daniel Solis's legal fees. After a closed preliminary hearing, the Board found that the complaint was not filed on justifiable grounds and dismissed it. The Illinois Appellate Court, First District, affirmed on administrative review. The Illinois Supreme Court granted leave to appeal and affirmed the appellate court and Board, on reasoning different from that used below.

DISPOSITION

affirmed

CASES CITED

- *Cooke v. Illinois State Board of Elections*, 2021 IL 125386, ¶¶ 48, 51-52
- *Cook County Republican Party v. Illinois State Board of Elections*, 232 Ill. 2d 231, 245 (2009)
- *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 211 (2008)
- *Jackson-Hicks v. East St. Louis Board of Election Commissioners*, 2015 IL 118929, ¶ 21
- *Maksym v. Board of Election Commissioners*, 242 Ill. 2d 303, 318 (2011)
- *County of Du Page v. Illinois Labor Relations Board*, 231 Ill. 2d 593, 603-04 (2008)
- *In re Christopher K.*, 217 Ill. 2d 348, 364 (2005)
- *Standard Mutual Insurance Co. v. Lay*, 2013 IL 114617, ¶ 26
- *Bank of New York Mellon v. Laskowski*, 2018 IL 121995, ¶ 12

- Sorock v. Illinois State Board of Elections, 2012 IL App (1st) 112740, ¶ 2
- Schultz v. Performance Lighting, Inc., 2013 IL 115738, ¶ 17
- Bridgestone/Firestone, Inc. v. Aldridge, 179 Ill. 2d 141, 153-54 (1997)
- Federal Election Comm'n v. Craig for U.S. Senate, 816 F.3d 829, 832, 834, 838-39 (D.C. Cir. 2016)
- Wright v. City of Danville, 174 Ill. 2d 391, 404, 406-07 (1996)
- In re Toney, 145 So. 3d 1043, 1049-50 (La. App. 1 Cir. 2014)
- In re Election Law Enforcement Comm'n Advisory Opinion No. 01-2008, 989 A.2d 1254, 1259-60 (N.J. 2010)
- State v. Ferguson, 709 N.E.2d 887 (Ohio 1998)

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