

SUPREME COURT OF COLORADO

Colorado Education Ass'n v. Rutt

184 P.3d 65 (Colo. 2008) · Decided May 19, 2008

SUMMARY

The Colorado Supreme Court reviewed whether the Colorado Education Association and Poudre Education Association violated article XXVIII of the Colorado Constitution by coordinating campaign-related volunteer activities supporting a state senate candidate. The court construed the membership communication exception broadly and held that the unions' challenged activities did not constitute prohibited expenditures or contributions. It reversed the court of appeals and remanded for further proceedings concerning attorney fees.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Bender; Justice Coats; Justice Eid
JURISDICTION	Colorado
DECIDED	May 19, 2008
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Colorado Supreme Court granted certiorari to review the court of appeals' reversal of an administrative law judge's dismissal of a campaign-finance complaint against the unions.
STANDARD OF REVIEW	The court accepted the ALJ's factual findings unless clearly erroneous or unsupported by evidence in the record; legal interpretation of article XXVIII was reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Colorado
PARTIES	Colorado Education Association, Poudre Education Association v. Wayne Rutt, Paul Marrick

TOPICS

- campaign finance
- first amendment
- election law
- statutory interpretation
- administrative law

PRACTICE AREAS

- campaign finance
- constitutional law
- election law
- administrative law
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the membership communication exception in article XXVIII broadly exempted the unions' challenged activities from regulation as expenditures.
2. Whether the unions' staff salaries, supplies, and campaign-related activities constituted prohibited contributions under article XXVIII.
3. Whether the court needed to define or impose a legal requirement of coordination under article XXVIII's contribution provisions.
4. Whether the ALJ's factual findings were supported by the record.

HOLDINGS

1. The membership communication exception in article XXVIII must be construed broadly to cover payments by a membership organization for any communication solely to members and their families, including the unions' communications and activities directed toward recruiting members to participate in the walks.
2. The unions did not make prohibited expenditures in violation of article XXVIII, section 3(4)(a). Payments for staff salaries, materials, and supplies associated with communications to union members were protected by the membership communication exception, and Rutt failed to prove that certain nonmember communications involved an expenditure.
3. Conduct protected by the membership communication exception to expenditures may not simultaneously be treated as a prohibited contribution under article XXVIII.
4. On the facts of this case, the unions' payment of staff salaries, purchase of supplies, and overall course of conduct did not constitute prohibited contributions under article XXVIII, sections 2(5)(a)(II) or 2(5)(a)(IV).
5. The court did not need to define "coordination" under article XXVIII or impose coordination as a requirement for proving the contribution claims presented by Rutt.

KEY QUOTATIONS

"We hold that the membership communication exception to expenditures must be construed broadly to reflect the plain language of this constitutional provision and to satisfy the demands of the First Amendment." (70)

"Hence, we hold that the ALJ appropriately concluded that Rutt failed to establish that these activities constituted expenditures as defined in section 2(8)." (78)

"The same conduct that formed the basis of Rutt's expenditure claims forms the basis for his contribution claims." (79)

"Hence, applying the Court's mandate, we conclude that neither the unions' payments of staff salaries to organize the walks to distribute Bacon literature, payments for supplies and materials for the walks, nor the unions' course of conduct taken as a whole constitute prohibited contributions under either section 2(5)(a)(II) or section 2(5)(a)(IV)." (81)

FACTUAL BACKGROUND

The Colorado Education Association and Poudre Education Association voted to support Bob Bacon's campaign for state senate and organized two volunteer walks in which more than 125 union members distributed Bacon campaign literature. Union staff prepared maps, voter lists, instructions, supplies, and recruitment communications, while Bacon's campaign supplied the literature and yard signs and Bacon briefly appeared at the walks. The administrative law judge found that the union activities were directed to and for the benefit of union members, that there was insufficient evidence of costs for certain communications, and that the unions had not coordinated their activities with Bacon's campaign.

PROCEDURAL HISTORY

Rutt filed a complaint with the Colorado Secretary of State alleging that the unions violated article XXVIII of the Colorado Constitution by making prohibited expenditures and contributions in support of Bob Bacon's state senate campaign. After a hearing, the administrative law judge dismissed the complaint, finding that the membership communication exception applied and that Rutt had not proved expenditures or contributions. The court of appeals reversed, holding that the unions coordinated their activities with Bacon's campaign and gave something of value to the campaign. The Colorado Supreme Court reversed the court of appeals and remanded for further proceedings on attorney fees.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The court of appeals was directed to return the case to the administrative law judge for further proceedings on the remaining issue of attorney fees.

CASES CITED

- Rutt v. Poudre Education Ass'n, 151 P.3d 585 (Colo. App. 2006)
- Fed. Election Comm'n v. Wis. Right to Life, Inc., 127 S. Ct. 2652 (2007)
- Colo. State Bd. of Accountancy v. Zaverl Boosalis Raisch, 960 P.2d 102 (Colo. 1998)
- McClellan v. Meyer, 900 P.2d 24 (Colo. 1995)
- Lee v. State Bd. of Dental Exam'rs, 654 P.2d 839 (Colo. 1982)
- Buckley v. Valeo, 424 U.S. 1 (1976)
- NAACP v. Alabama, 357 U.S. 449 (1958)
- Eu v. S.F. County Democratic Cent. Comm., 489 U.S. 214 (1989)
- Citizens Against Rent Control/Coal. for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981)
- Fed. Election Comm'n v. Mass. Citizens for Life, 479 U.S. 238 (1986)
- McConnell v. Fed. Election Comm'n, 540 U.S. 93 (2003)
- Davidson v. Sandstrom, 83 P.3d 648 (Colo. 2004)

- Indus. Claim Appeals Office v. Orth, 965 P.2d 1246 (Colo. 1998)
- Bruce v. City of Colo. Springs, 129 P.3d 988 (Colo. 2006)
- Bickel v. City of Boulder, 885 P.2d 215 (Colo. 1994)
- First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765 (1978)
- Austin v. Mich. Chamber of Commerce, 494 U.S. 652 (1990)
- United States v. CIO, 335 U.S. 106 (1948)
- Tattered Cover, Inc. v. City of Thornton, 44 P.3d 1044 (Colo. 2002)

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