No. 13-60754

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

GORDON VANCE JUSTICE, JR.; SHARON BYNUM; MATTHEW JOHNSON; ALISON KINNAMAN; STANLEY O'DELL,

Plaintiffs-Appellees

v.

DELBERT HOSEMANN, in his official capacity as Mississippi Secretary of State; JAMES M. HOOD, III, in his official capacity as Attorney General of the State of Mississippi

Defendants-Appellants

On Appeal from the United States District Court
for the Northern District of Mississippi, Oxford Division

BRIEF OF *AMICUS CURIAE* CENTER FOR COMPETITIVE POLITICS IN SUPPORT OF PLAINTIFFS-APPELLEES

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CERTIFICATE OF INTERESTED PERSONS

Gordon Justice Jr., et al. v. Delbert Hosemann, et al. No. 13-60754.

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of 5TH CIR. R. 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

1. Gordon Vance Justice, Jr., a resident of Lafayette County, Mississippi, and a named plaintiff in this matter.
2. Sharon Bynum, a resident of Lafayette County, Mississippi and a named plaintiff in this matter.
3. Matthew Johnson, a resident of Lafayette County, Mississippi, and a named plaintiff in this matter.
4. Allison Kinnaman, a resident of Lafayette County, Mississippi, and a named plaintiff in this matter.
5. Stanley O'Dell, a resident of Lafayette County, Mississippi, and a named plaintiff in this matter.
6. Russell Latino, III, counsel for plaintiffs in this matter.
7. Paul V. Avelar, counsel for plaintiffs in this matter.
8. Stephen M. Simpson, counsel for plaintiffs in this matter.
9. Diana Simpson, counsel for plaintiffs in this matter.

10. Defendant Delbert Hosemann, Mississippi Secretary of State.
11. Defendant Jim Hood, Attorney General of the State of Mississippi.
12. Kim Turner, Assistant Secretary of State, Office of the Mississippi Secretary of State.
13. Harold E. Pizzetta, III, Mississippi Assistant Attorney General and counsel for defendants.
14. J. Gerald Herbert, counsel for *amicus curiae* Campaign Legal Center.
15. Paul S. Ryan, counsel for *amicus curiae* Campaign Legal Center.
16. Megan McAllen, counsel for *amicus curiae* Campaign Legal Center.
17. James Bopp, Jr., counsel for *amicus curiae* James Madison Center for Free Speech.
18. Randy Elf, counsel for *amicus curiae* James Madison Center for Free Speech.
19. Allen Dickerson, counsel for *amicus curiae* Center for Competitive Politics.

The Undersigned counsel of record also certifies the following with respect to *amicus curiae* Center for Competitive Politics: the Center for Competitive Politics is a nonprofit, nonpartisan corporation recognized under § 501(c)(3) of the Internal Revenue Code. The Center for Competitive Politics has no parent corporation and no publicly held corporation has any form of ownership interest in the Center for Competitive Politics.

/s/ Allen Dickerson

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STATEMENT OF INTEREST OF *AMICUS CURIAE*[1]

Founded in 2005 by former Federal Election Commission Chairman Bradley A. Smith, the Center for Competitive Politics ("CCP") is a § 501(c)(3) organization engaged in public education about the effects of money in politics and the benefits of increased freedom and competition in the electoral process. CCP works to defend the First Amendment rights of speech, assembly, and petition through academic research and state and federal litigation.

Amicus has participated in many of the notable campaign finance and political speech cases, including *Citizens United v. FEC,* 558 U.S. 310 (2010), *Speechnow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), *Ariz. Free Enter. Club's Freedom Club PAC v. Bennett,* 131 S. Ct. 2806 (2011), and *McCutcheon v. FEC*, 572 U.S. ____ (2014). *Amicus* has an interest in this case because it involves a restriction on political participation that, in its view, violates the First Amendment as applied to the Appellees and those similarly situated.

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[1] No party contributed to the preparation or filing of this brief, which was authored entirely by counsel for *Amicus*. The Appellees consented to the filing of this brief. The Appellants did not respond to a request for consent sent via electronic mail on April 3, 2014. Consequently, a Motion for Leave to File is filed contemporaneously with this brief.

INTRODUCTION

Amicus writes to highlight additional evidence of the burden that Mississippi's formation, registration, record-keeping, and reporting requirements impose upon small groups of individuals wishing to associate together in order to speak about ballot measures. These burdens are important not only for their own tendency to discourage political speech and participation, but also because they demonstrate that Mississippi's regulation of ballot measure committees lacks the careful tailoring required to survive constitutional scrutiny. This burden further underscores the importance of the as-applied challenge in this pre-enforcement context, where speech has been chilled by overly burdensome laws.

The requirements Appellees must bear are similarly burdensome, regardless of whether MISS. CODE ANN. § 23-17 ("Chapter 17"), MISS. CODE ANN. § 23-15 ("Chapter 15"), or both, are applicable. Indeed, under both chapters, a group of individuals must form a political committee once they raise or spend $200 in "contributions" or "expenditures." MISS. CODE ANN. §§ 23-15-801(c), 23-15-49(1), 23-17-51(1). Within ten days of exceeding this $200 threshold, the group must file a statement of organization, to include the names and addresses of the committee and its officers, and designation of a director and treasurer. *Id.* §§ 23-15-803(a)&(b); 23-17-49(1)&(2). Any changes in these requirements must be reported either at

regular intervals (under Chapter 15), or within ten days (under Chapter 17). *Id.* § 23-15-803(c); § 23-17-49.

Under Chapter 17, committees must, at regular intervals, record and report the following information: total contributions received, total expenditures made, cumulative contribution and expenditure totals for each measure, balance of cash and cash equivalents on hand, total contributions less than $200 received from individuals (and cumulative amount of that total for each measure), name and address of each person contributing $200 or more (as well as amount contributed and date, and cumulative amount from that contributor for each measure). *Id.* § 23-17-53(a) & (b).

Under Chapter 15, three types of reports are required: pre-election reports (in years where there is a regularly scheduled election), periodic reports (in 1987 and every fourth year thereafter), and annual reports (in every calendar year not covered by a periodic report). *Id.* § 23-15-807(b). This requires recording and reporting of total cumulative contributions and expenditures; name, mailing address, occupation, and employer of each person contributing an aggregate of $200 or more (including the date and amount of such contribution); name, mailing address, occupation, and employer of anyone who receives such an expenditure, payment or other transfer from the committee of $200 or more in the aggregate (including the date and amount of such expenditure), and cash on hand. *Id.* § 23-15-807(d)(i)-(iii).

Thus, despite the Parties' arguments concerning the applicability of these provisions, and whether the statutes themselves are clear on this point, there is a demonstrable burden upon groups of individuals wishing to speak together about a ballot measure, provided they spend the small amount of $200 doing so.[2] In light of Supreme Court precedent, this burden is unconstitutional as applied to Appellees and those similarly situated.

ARGUMENT

I. The Supreme Court has emphasized that exacting scrutiny requires meaningful review of statutes subject to constitutional challenge.

There is dispute regarding whether *Citizens United v. FEC*, 558 U.S. 310 (2010), requires strict or exacting scrutiny of formation, registration, record-keeping, and reporting requirements like Mississippi's. But, as Appellees note, this Court need not determine whether the level of scrutiny applicable in this case is exacting or strict to uphold the decision below. Appellee Br. at 20-21.

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[2] This $200 threshold includes in-kind goods and services. MISS. CODE ANN. §§ 23-15-801(e)&(f), 23-17-47(a)&(d). As Appellees note, however, these definitions vary. Appellee Br. at 9-10 (noting that Chapter 15 exempts volunteered professional services from its definition of contribution, MISS. CODE ANN. § 23-15-801(e)(ii), and Chapter 17 does not, *Id.* § 23-17-47(a); also noting that Chapter 15 provides for a media exemption from its definition of expenditures, *Id.* at §23-15-801(f)(ii), while Chapter 17 does not. This confusion is alone sufficient to demonstrate Appellee's point).

Just last week, after the Parties had filed their briefs in this case, the Supreme Court took pains to emphasize that even an exacting standard of scrutiny requires rigorous review of laws that burden First Amendment freedoms. In its highly anticipated ruling in *McCutcheon v. FEC*, 572 U.S. ____ (2014), the Court reiterated that "[u]nder exacting scrutiny, the Government may regulate protected speech only if such regulation promotes a compelling interest and is the least restrictive means to further the articulated interest." *McCutcheon* at *8 (citing *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989)). This searching review is essential because "[e]ven when dealing with freedoms lying further from the core of the First Amendment than political ones, th[e] Court has demanded that the government demonstrate that the harms it recites are real and that its restriction will in fact alleviate them to some degree." *Greater New Orleans Broadcasting Ass'n. v. United States,* 527 U.S. 173, 188 (1999) (internal citations and quotation marks omitted). In order to determine whether this is so, a through exploration of the burden imposed by laws implicating First Amendment freedoms is required.

II. Requiring sophisticated corporations to form new entities before engaging in political speech has been found unconstitutionally burdensome. Thus, it is certainly unconstitutionally burdensome to require Appellees to do the same.

The Supreme Court recently held that requiring a corporation to form a separate entity before engaging in political speech unconstitutionally burdened that corporation's First Amendment rights. *Citizens United v. FEC*, 558 U.S. 310. The

law at issue there prohibited corporations from making independent expenditures using general treasury funds, and instead required formation of a PAC. The Court reviewed the burdens attendant to PAC status under federal law, which are similar to those imposed by Mississippi (under either Chapter 15 or Chapter 17). Indeed, under federal law, "[e]very PAC must appoint a treasurer, forward donations to the treasurer promptly, keep detailed records of the identities of the persons making donations, preserve receipts for three years, [] file an organization statement and report changes to this information within 10 days[, and]…file detailed monthly reports with the FEC, which are due at different times depending on the type of election that is about to occur." *Id.* at 337-38 (citations omitted).

The Supreme Court recognized that speech by an entity and speech by that entity's PAC are distinct; allowing for the latter still constitutes a ban on the former. That is, the requirement that a corporation form a PAC to speak "is a ban on corporate speech notwithstanding the fact that a PAC created by a corporation can still speak. A PAC is a separate association from the corporation. So the PAC exemption from [the challenged law's] expenditure ban [], does not allow corporations to speak." *Id.* at 337 (citing *McConnell v. FEC*, 540 U.S. 93, 330-33 (opinion of Kennedy, J.)).

Consequently, the Court in *Citizens United* concluded that the PAC formation requirement operated as a ban on speech, even in the context of a preexisting

corporation already endowed with the corporate form, counsel, and regularized governance. The Court further clarified that "[e]ven if a PAC could somehow allow a corporation to speak—and it does not—the option to form PACs does not alleviate the First Amendment problems with [the law]. *PACs are burdensome alternatives; they are expensive to administer and subject to extensive regulations*." *Id.* (citations omitted) (emphasis supplied). That is, regardless of the distinction between a speaker and the PAC through which that speaker is forced to communicate, the *burdens* attendant to PAC status still render such formation, registration, record-keeping and reporting requirements unconstitutional.

In this regard, *Citizens United* was born of *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238 (1986) ("*MCFL*"). There, the Supreme Court recognized an exception to the federal prohibition on corporate independent expenditures in the context of "nonprofit corporations that were formed for the sole purpose of promoting political ideas, did not engage in business activities, and did not accept contributions from for-profit corporations or labor unions." *Citizens United,* 558 U.S. at 327 (citing *MCFL*, 479 U.S. at 263-64).[3]

The *MCFL* Court rejected the notion that such organizations must establish and register a separate segregated fund—subject to record-keeping and reporting

[3] Citizens United did not qualify for this exception since it accepted donations from for-profit corporations to produce the communication at issue in that case.

requirements—in order to make independent expenditures. The Court considered that "the administrative costs of complying with such increased responsibilities may create a disincentive for the organization itself to speak." *MCFL* at 254, n. 7 (Brennan, J., plurality). This was because "[d]etailed record-keeping and disclosure obligations, along with the duty to appoint a treasurer and custodian of the records, impose administrative costs that many small entities may be unable to bear." *Id.*

As a result of this burden, "it would not be surprising if at least some groups decided that the contemplated political activity was simply not worth it." *Id*. at 255. And "[t]he fact that [a] statute's practical effect may be to discourage protected speech is sufficient to characterize [that statute] as an infringement on First Amendment activities." *Id.* (citing *Freedman v. Maryland*, 380 U.S. 51 (1965); *Speiser v. Randall*, 357 U.S. 513 (1958)). Thus, the Court established an exception to the prohibition on corporate independent expenditures.

Justice O'Connor, concurring in the judgment, also recognized this burden, invoking the seminal campaign finance case of *Buckley v. Valeo*, 424 U.S. 1 (1976). "In *Buckley*," she noted, "the Court was concerned not only with the chilling effect of reporting and disclosure requirements on an organization's contributors, but also with the potential *burden* of disclosure requirements on a group's own speech." *MCFL* at 265 (O'Connor, J., concurring) (citing *Buckley*, 424 U.S. at 66-68; 74-82) (emphasis supplied). She took pains to emphasize that it was the requirement to

organize a separate entity before speaking—rather than speech-related disclosure in and of itself—which rendered the PAC requirement unconstitutionally burdensome for groups like MCFL. She noted:

> [T]he significant burden on MCFL in this case comes not from the disclosure requirements that it must satisfy, but from the additional *organizational restraints* imposed upon it….[E]ngaging in campaign speech requires MCFL to assume a more formalized organizational form and significantly reduces or eliminates [its] sources of funding…These additional requirements do not further the Government's informational interest in campaign disclosure.

Id. at 266 (emphasis supplied).

Appellees wish to wish to pool their money and make collective decisions about how to spend it on radio ads, posters, and the like. SJ Op. at 28 (ROA.2318). Indeed, the district court struggled to classify Appellees as anything other than a group of individuals with common views on an issue.[4] In any event, they are certainly not a PAC or a corporation. Yet, Mississippi would force them to create a

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[4] *See, e.g.,* SJ Op. at 25 (ROA.2315) ("[t]he Court finds it extraordinarily significant, and frankly disconcerting, that the requirements Plaintiffs are indeed subjected to cannot be simply ascertained from a plain reading of the respective statutes, or even from the State's published guidance."); *Id.* at 26 (ROA.2316) ("[w]here, as here potential speakers might well require legal counsel to determine which regulations even apply, above and beyond how to comport with those requirements, the burdens imposed by the State's regulations are simply too great to be borne by the State's interest in groups raising or expending as little as $200."); *Id.* at 27 (ROA.2317) ("Mississippi's requirements are such that a prudent person might have extraordinary difficulty merely determining what is required. The Plaintiff's averments here indeed confirm that possibility as a reality.").

separate entity in order to pool (modest) resources for ballot measure speech. That is, they cannot, as five individuals, speak together, but must instead take on a separate form (whether the form governed by Chapter 15, Chapter 17, or both).

While the funds Appellees wish to spend are their own—and not corporate funds, as in *Citizens United* and *MCFL*—these cases highlight the constitutional problems with Mississippi's law. Indeed, under either Chapter 15 or 17, Appellees must comply with PAC requirements similar to those at issue in those corporate cases. Imposition of such "organizational restraints" converts a group of friends who wish to engage in a modest quantity of ballot measure speech into an entity requiring corporate governance, a treasurer, record-keeping infrastructure, and the like. If such requirements unconstitutionally burden the speech of corporations—which already exist in a more sophisticated organizational form than do Appellees—certainly no such requirements is justified here.

III. Academic research highlighted by Appellees in the district court underscores the burden that PAC requirements impose upon those wishing to discuss ballot measures.

Justice O'Connor's *MCFL* concurrence is also helpful here insofar as it reiterated what is axiomatic in this constitutional context: that it is incumbent upon the government—not the speaker—to demonstrate that burdensome laws are justified. While acknowledging that "organizational and solicitation restrictions are not invariably an insurmountable burden on speech," Justice O'Connor nevertheless

concluded that "*the Government ha[d] failed to show* that groups such as MCFL pose any danger that would justify infringement of [their] core political expression." *Id.* (citing *FEC v. Nat'l Right to Work Comm.*, 459 U.S. 197 (1982)) (emphasis supplied)).

In the district court, Appellees highlighted academic research that further demonstrates the practical burden imposed upon them, and Appellants' failure to justify that burden. While this research is in the record, the court below did not consider it in ruling on this case, which is why *Amicus* believes that it should specifically be brought to this Court's attention.

Importantly, "[p]olitical economy research consistently reveals that the conventional wisdom about the role of moneyed interests in American politics is greatly exaggerated." DR. JEFFREY MILYO, CAMPAIGN FINANCE RED TAPE: STRANGLING FREE SPEECH AND POLITICAL DEBATE, 20 (Institute for Justice, 2007). (citations omitted). This is especially so in this context: "[i]n particular, there is little evidence that special interests are able to exploit the existence of ballot measure elections to adopt policies that do not otherwise enjoy broad popular support." *Id.* (citing JOHN MATSUSAKA, FOR THE MANY OR THE FEW: THE INITIATIVE, PUBLIC POLICY AND DEMOCRACY (University of Chicago Press, 2004)).

Dr. Milyo, a political scientist specializing in campaign finance, conducted an experiment to study how burdensome ballot measure committee reporting status is

for ordinary citizens, and to assess the quality of the information reported on actual forms states require from such entities. The study's 250 subjects earned $20 each to complete ballot measure committee disclosure forms based upon a simple factual scenario Dr. Milyo provided. Subjects could earn up to an additional $20 based upon how correctly they completed the forms. Subjects were primarily graduate students and non-student adults, as well as a few undergraduate students, and used the actual forms and instructions from California, Colorado, and Missouri. Dr. Milyo then scored the forms.

The results are striking. The overall average was 41% correct, and not one participant out of 250 completed everything correctly. Furthermore, "more than 60 percent of respondents [to the experiment's debriefing survey] indicated this red tape alone would probably deter many people from engaging in independent political activity, while almost 90 percent suggested that fear of civil and criminal penalties for making even a single mistake on the forms would deter many people from getting involved with independent groups." DR. JEFFREY MILYO, HOW STATE CAMPAIGN FINANCE LAWS ERECT BARRIERS TO ENTRY FOR POLITICAL ENTREPRENEURS, 28 (Institute for Justice, 2010).

Again, Appellees far more strongly resemble the participants in Dr. Milyo's study than they do the stand-alone ideological corporations in *MCFL* and *Citizens United.* And as the district court correctly noted, "Mississippi's requirements are

such that a prudent person might have extraordinary difficulty merely determining what is required." SJ Op. at 27 (ROA.2317). Thus, the lower court's conclusion about the burdensome nature of Mississippi's requirements for groups like Appellees is particularly striking in light of this research.

IV. As-applied challenges are an essential method of constitutional adjudication, and the ruling below was a proper use of this important tool.

Appellants contend that the Eleventh Circuit's decision in *Worley v. Fla. Sec'y of State*, 717 F.3d 1238 (11th Cir. 2013), forecloses the district court's consideration of this case as an as-applied challenge. In support of this contention, they argue that "plaintiffs [Appellees] cannot maintain an as-applied challenge based on speculative hypothetical allegations." Appellant Br. at 43. This argument fails for several reasons.

First, *Worley* did not stand for the proposition that, where there exists an unsubstantiated set of facts under which a statute *might* be constitutional, a litigant is bound by those facts—rather than those established on the record—in seeking vindication of his constitutional rights. Instead, the Eleventh Circuit's decision turned on its finding that "*the record before us* is not sufficient to establish the nature and scope of Challengers' activity.'" *Worley*, 717 F.3d at 1242 (citation omitted) (emphasis supplied). Thus, "because the record does not tell us enough about what Challengers are doing…we consider this challenge to the Florida PAC regulations

to be a facial challenge. This means that Challengers cannot prevail unless they can prove 'that no set of circumstances exists under which the [regulations] would be valid.'" *Id.* (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). The Court concluded that, on the record before it, the challengers had not met that weighty burden.

This case presents the *opposite* scenario. The District Court considered Mississippi's PAC regulations *only* as applied to the Appellants. SJ Op. at 9 (ROA.2299) ("Based on the briefing of the parties, the Court considers the Plaintiff's challenge only under an as-applied framework, and deems the facial challenge abandoned." (citing *Intl' Women's Day March Planning Comm. v. City of San Antonio*, 619 F.3d 346, 356 (5th Cir. 2010) (quoting *Keelan v. Majesco Software, Inc.*, 407 F.3d 332, 340 (5th Cir. 2005))). Unlike the Eleventh Circuit in *Worley*, the district court here found sufficient specificity in the record before it to evaluate the constitutionality of the challenged laws as applied to Appellants.[5] In so doing, it underscored the narrow nature of such a holding:

> Significantly, the Court does not hold that Mississippi may not regulate individuals and groups attempting to influence constitutional ballot measures. Instead, the Court holds only that under the current regulatory scheme, which is convoluted and exacting, the requirements are too burdensome for the State's $200 threshold. The Court finds that

[5] "[Appellees] aver that they sought to purchase posters, buy advertising in a local newspaper, and distribute flyers" supporting a ballot measure. SJ Order at 10 (ROA.2300).

> the $200 threshold is simply too low for the substantial burdens that the statute imposes on groups and individuals.

SJ Op. at 32-33 (ROA.2322-23).

Moreover, to the extent that *Worley* did hold that the existence of a hypothetical factual scenario under which a statute *might* be constitutional binds an as-applied litigant to those facts, it is wrongly decided. Indeed, *Worley* focused heavily on one hypothetical, posited by the court at oral argument, where "counsel would not limit the extent of Challengers' proposed election spending, at one point admitting that 'well, if someone gave them a million dollars, they would be happy to spend that.'" *Id.* (citation omitted). Reading *Worley* to require consideration of such outlandish, unsubstantiated hypotheticals violates the Supreme Court's clear precedent requiring meaningful review of as-applied challenges.

Indeed, the Supreme Court has recognized that as-applied challenges are often the preferred method of constitutional adjudication, because "[a] statute may be invalid as applied to one state of facts and yet valid as applied to another. Accordingly, the normal rule is that partial, rather than facial, invalidation is the required course, such that a statute may be declared invalid to the extent that it reaches too far." *Ayotte v. Planned Parenthood*, 546 U.S. 320, 329-30 (2006) (internal citations and quotation marks omitted). As-applied challenges allow aggrieved parties to address gravely flawed statutes in light of the fact that "[a] facial challenge to a legislative Act is…the most difficult challenge to mount successfully,

since the challenger must establish that no set of circumstances exists under which the Act would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987).

The as-applied path is particularly important in the campaign finance and political issue speech context. For example, in *Wis. Right to Life, Inc. v. FEC*, 546 U.S. 410 (2006), plaintiffs raised an as-applied challenge to a statute previously upheld on its face. The lower court dismissed the action. The Supreme Court vacated and remanded the case for consideration on the merits of the as-applied challenge, noting that in upholding a statute facially, the Court "did not purport to resolve future as-applied challenges." *Id.* at 411-12. *See also*, *Doe v. Reed*, 130 S. Ct. 2811, 2821 (2010) ("we note—as we have in other election law disclosure cases—that upholding the law against a broad-based challenge does not foreclose a litigant's success in a narrower one").

Because of the important role of as-applied litigation in vindicating constitutional rights, it is essential that this avenue for review be preserved. Overturning the lower court's finding here—whether under the guise of an improper reading of *Worley* or otherwise—would undermine this end.

Finally, Appellants' arguments regarding the factual record in this case are inconsistent, and indulging them would further insulate burdensome PAC requirements from the meaningful review the Constitution requires. Appellants argue that, "the actual hypothetical facts alleged do not support a conclusion that the

disclosure requirements are unconstitutional as-applied to Plaintiffs." Appellant Br. at 46. Thus, they fault the sufficiency of the factual record. Appellants then assert in a footnote, however, that "[r]emanding to the district court for a trial is not warranted. Plaintiffs never sought to collect and spend over $200 as group [SIC] or individually so there would be no facts to determine." *Id.* at n. 21.

In this important constitutional context, Appellants cannot have it both ways. There is clear precedent requiring consideration of challenged statutes on an as-applied basis, based upon the record that is indeed before this Court. Thus, this Court should consider the same facts put before the district court, and affirm that Mississippi's PAC requirements are unconstitutional as applied to Appellees.

CONCLUSION

For the forgoing reasons, this Court should, at minimum, affirm the holding of the district court and rule that Mississippi's requirements for ballot measure committee formation, registration, record-keeping, and reporting are unconstitutional as applied to Appellees.

Respectfully submitted this 7th day of April, 2014,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 3,977 words, excluding parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally styled typeface using Microsoft Office Word 2013 in Times New Roman 14 point font.

/s/ Allen Dickerson
Allen Dickerson

Counsel for Amicus Curiae

Dated: April 7, 2014

CERTIFICATE OF SERVICE

I certify that on April 7, 2014, I electronically filed the foregoing **Amicus Brief of the Center for Competitive Politics in Support of Plaintiffs-Appellees Gordon Vance Justice, Jr., Sharon Bynum, Matthew Johnson, Allison Kinnaman, and Stanley O'Dell** with the clerk of court using the CM/ECF system, which will notify:

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I also certify that the Center for Competitive Politics sent seven paper copies of this *amicus* brief to the Court, pursuant to 5TH CIR. R. 31.1, via Federal Express.

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Dated: April 7, 2014

CERTIFICATE OF ELECTRONIC COMPLIANCE

I certify that "1) required privacy redactions have been made, 5TH CIR. R. 25.2.13; 2) the electronic submission is an exact copy of the paper document, 5TH CIR. R. 25.2.1; and 3) the document has been scanned for viruses with the most recent version of a commercial virus scanning program and is free of viruses." 5TH CIR. ECF FILING STANDARDS Part A.6 (.pdf page 3) (2010).

/s/ Allen Dickerson
Allen Dickerson

Counsel for Amicus Curiae

Dated: April 7, 2014