



Thursday, October 21, 2010

U.S. Supreme Court Justice Kennedy Gives Bopp Another Shot at an Injunction on Maine's Election Laws

by Alice McFadden and Christine Parrish

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With less than two weeks to go before Maine voters go to the polls, James Bopp, Jr., the attorney in the *Citizens United* case - in which the U.S. Supreme Court started overturning campaign finance laws that go back as far as Teddy Roosevelt's time - and attorney and lead advocate for National Organization for Marriage, is going to get yet another shot, courtesy of the U.S. Supreme Court, at getting an injunction on Maine's campaign finance laws before the Nov. 2 election.

Supreme Court Justice Anthony M. Kennedy is allowing a briefing on Bopp's renewed application for writ of injunction in *Cushing v McKee* - the title of the suit that seeks to declare Maine's clean election laws unconstitutional. Bopp's local counsel in the case is David Crocker of Maine Heritage Policy Center.

After motions for injunction were denied by the District Court, the First Circuit Court of Appeals, and Supreme Court Justice Stephen Breyer, Kennedy was the final option available to Bopp. Supreme Court Justice Breyer denied Bopp's request last week.

Kennedy set tomorrow, Thursday, October 21, at 3 p.m. as the deadline for submission of written briefs for and against the emergency injunction. The Supreme Court is under no deadline to decide.

Maine's Clean Election Act was approved by voters in 1996.

John Brautigam, legal counsel for Maine Citizens for Clean Elections, said it was surprising that Justice Kennedy was approached after Justice Breyer denied the motion for an injunction.

"It's very unusual. If one Supreme Court Justice denied the motion, it is disfavored to have another justice reverse that decision," said Brautigam.

And if the injunction is approved?

"This has never happened before. It's impossible to predict the impact a week and a half before the elections," Brautigam said. "But it's extremely disruptive and tilts the balance toward privately funded candidates."