

Federal judge approves most of Maine's campaign law Group opposed to same-sex marriage optimistic about appeal

Kennebec Journal Staff

A U.S. District Court judge on Thursday delivered a ruling that protected the core of Maine's campaign finance laws against a challenge from a national marriage advocacy group regarding their constitutionality.

U.S. District Judge D. Brock Hornby, however, did find parts of state's campaign finance laws as "unconstitutionally vague."

Thursday's decision is viewed as critical, as it sets the possible statutory parameters by which the National Organization Marriage will become involved in politicking for, or against, candidates for statewide office this fall.

Judge Hornby struck down rules requiring 24-hour disclosure of independent expenditures over \$250 -- not just before an election, but whenever they occur -- saying the rule "has not been justified ... is impermissibly burdensome and cannot be enforced."

He also declared "Maine's use of the words 'influence' and 'influence in any way' ... are unconstitutionally vague."

"Otherwise," Hornby wrote, "Maine's laws governing PACs, independent campaign expenditures, and attribution and disclaimer requirements are constitutional, and survive NOM's challenges that they are unconstitutionally vague and overbroad."

The National Organization for Marriage had contested the constitutionality of Maine's campaign finance laws, prior to perhaps engaging in activity to influence outcomes of upcoming legislative elections.

The group, which supported the repeal of same-sex marriage legislation in Maine in 2009, has said it would work against the re-election efforts of Maine lawmakers who voted to support same-sex marriage in the Legislature.

Attorney General Janet Mills applauded the ruling on Thursday, saying it upholds the state's campaign reporting and disclosure law.

Jonathan Wayne, executive director of the Maine Commission on Governmental Ethics and Election Practices, called the ruling mostly positive.

"Mostly, the decision appears to be very good news from the standpoint of the public understanding of who is raising and spending money to influence elections," Wayne said. "There are a couple of aspects of the disclosure law that the judge found to be vague and have been severed from our statutes. Mostly it's a clean bill of health for the disclosure laws."

Brian Brown, president of the National Organization for Marriage, said Thursday his group is disappointed in the ruling, but feels its arguments will hold sway with an appeals court.

NOM will pursue an expedited appeal to the U.S. First Circuit Court in Boston, he said, because of the short time before the upcoming election season.

Though Thursday's decision will delay NOM's plans for political activity in Maine, Brown said, the group is reviewing the decision to gauge a potential timeline for action.

NOM plans activity in Maine both on behalf of candidates that support "redefining marriage," said Brown, and on candidates that support traditional marriage. He declined to say whether NOM would be active in the state's governor's race, as well as the legislative races.

Brown also expressed frustration at the legal hurdles spurred by what he called "frivolous" lawsuits filed by their political opponents, one of which, Californians Against Hate, asked the Maine ethics commission to investigate NOM.

That group, one of the primary advocates for preserving California's gay marriage law that was repealed by voters there in 2009, questioned whether NOM raised more than \$5,000 to directly repeal Maine's same-sex marriage law.

If it had, it would have been required to file campaign finance reports with the state and disclose who donated the money.

The state is seeking a list of donors so it can determine whether the group asked for money specifically to help repeal gay marriage in Maine. The group filed suit in state and federal court to try to stop the investigation, saying it fears disclosure would lead to harassment of donors.

In response, the group has said that although it donated nearly \$2 million to Stand for Marriage Maine, the political action committee that worked to repeal Maine's same-sex marriage law in 2009, it did not ask donors to give specifically to help in Maine.

That case remains pending.

Staff Writer Betty Adams and The Associated Press contributed to this report.