

Judicial Election Oversight Committee

2022 Judicial Elections

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The Judicial Election Oversight Committee (“Oversight Committee”) has received a request for an opinion as to whether the limits on donations to judicial campaigns, Miss. Code Ann. § 23-15-1021 (Rev. 2018), apply to donations that a candidate makes to his or her own campaign. In general, section 23-15-1021 makes it unlawful for an individual or a political action committee to donate more than \$2,500 to the campaign for a candidate for judge of a circuit, chancery, or county court or more than \$5,000 to the campaign for a candidate for judge of an appellate court.¹

However, in *Buckley v. Valeo*, 424 U.S. 1, 54 (1976), the United States Supreme Court held that limitations on candidates’ personal expenditures on behalf of their own campaigns are unconstitutional because they violate a candidate’s First Amendment right “to speak without legislative limit on behalf of his own candidacy.” The Court held that such a limitation “clearly and directly interferes with [candidates’] constitutionally protected freedoms.” *Id.* at 52. The Court further held that the governmental interest in “the prevention of actual or apparent corruption does not support the limitation on the candidate’s expenditure of his own personal funds.” *Id.* at 53. Finally, the Court held that any “ancillary interest in equalizing the relative financial resources of candidates competing for elective office” could not justify a restriction on the candidate’s freedom to speak on his or her own behalf. *Id.* at 54. Although *Buckley* dealt with spending limits for candidates for federal office, its reasoning and holding apply to judicial elections as well.²

In light of the United States Supreme Court’s holding in *Buckley*, the Oversight Committee concludes that a candidate for judicial office has a First Amendment right “to speak without legislative limit on behalf of his own candidacy.” *Buckley*, 424 U.S. at 54. Therefore, the Oversight Committee further concludes that the limits in section 23-15-

¹ In addition, the Canon 5C(3) of the Mississippi Code of Judicial Conduct provides that all “[c]andidates shall instruct their campaign committees at the start of the campaign not to accept campaign contributions for any election that exceed those limitations placed on contributions by individuals, political action committees and corporations by law.”

² See *Suster v. Marshall*, 149 F.3d 523, 529, 532 (6th Cir. 1998) (concluding that *Buckley*’s reasoning and holdings regarding spending limits were not limited to federal campaigns and would apply equally to state judicial elections), *cert. denied*, 525 U.S. 1114 (1999).

1021 cannot be applied to expenditures by a judicial candidate in support of his or her own campaign or to contributions that a judicial candidate makes to his or her own campaign committee. A judicial candidate may spend his own personal funds in support of his or her own campaign without limitation.

This opinion is limited to the scope and authority of the Oversight Committee under the Mississippi Code of Judicial Conduct. Candidates are reminded that opinions of the Oversight Committee are advisory in nature. *See* Miss. Code Jud. Conduct 5F(1), (7)(a), & (7)(b)(4). Candidates may also request guidance from the Secretary of State regarding issues related to campaign finance or reporting requirements. Candidates are reminded that expenditures in support of their own campaigns and contributions and loans to their own campaign committees must be disclosed and reported as required by law.