

CONGRESS SHALL MAKE NO LAW
an establishment of religion, or prohibiting
the free exercise thereof; or abridging the freedom of speech
or the right of the people peaceably
to assemble; or the right of the Government for a

Three Myths About...

McCutcheon v. Federal Election Commission

On April 2, 2014, in the significant First Amendment case of *McCutcheon v. Federal Election Commission*, the Supreme Court struck down a federal law limiting the overall amount individuals may contribute in an election cycle to all candidates, parties, and political action committees combined. Here's the reality behind three common myths about the *McCutcheon* decision:

Myth #1: *The McCutcheon decision declared all contribution limits unconstitutional.*

FALSE. In *McCutcheon*, the Supreme Court struck down limits on the overall amount that citizens may contribute to all candidates, parties, and PACs during an election cycle, but **base limits remain** on how much an individual may give to any one candidate or political committee. Due to these base limits, the Court ruled that the aggregate limits were an unnecessary and therefore unconstitutional restriction on free speech and association that failed to serve an anti-corruption rationale.

Myth #2: *The McCutcheon decision will lead to multi-million dollar contributions to candidates and political committees through joint fundraising committees.*

FALSE. While joint fundraising committees representing multiple candidates are able to solicit larger checks as a result of *McCutcheon*, these committees must distribute their funds so that no candidate or group receives more money from any source than the base limits allow.

Myth #3: *The aggregate limits struck down in McCutcheon served as a bulwark against corruption.*

FALSE. The Institute examined corruption rates in all states with aggregate limit or aggregate-like statutes and found **no relationship** between the existence of aggregate limit regulations and corruption levels. In fact, of the 19 states that impose aggregate limits of some type on political giving, 15 are classified as having either "Medium" or "High" corruption. Furthermore, the two most corrupt states, Louisiana and Kentucky, both impose aggregate contribution limits.¹

THE VERDICT: The *McCutcheon* decision was a victory for the First Amendment that put teeth into the requirement that government restrictions on political speech rights have a legitimate anti-corruption purpose. As Chief Justice John Roberts wrote for the majority, "[t]he Government may no more restrict how many candidates or causes a donor may support than it may tell a newspaper how many candidates it may endorse."

*To access the Supreme Court's opinion in McCutcheon v. Federal Election Commission, please refer to the information listed on the back of this brief.*²

Further Reading

- 1 Matt Nese, “Aggregate and Proportional Limits in the States: Have they Reduced Corruption or Promoted Better Government?,” Institute for Free Speech. Available at: http://www.ifs.org/wp-content/uploads/2014/04/2014-07-08_Issue-Analysis-9_Aggregate-And-Proportional-Limits-In-The-States-Have-They-Reduced-Corruption-Or-Promoted-Better-Government.pdf (July 2014).
- 2 *McCutcheon v. Federal Election Commission*, No. 12-536 (2014). Available at: http://www.supremecourt.gov/opinions/13pdf/12-536_e1pf.pdf.



The Institute for Free Speech is a nonpartisan, nonprofit 501(c)(3) organization that promotes and defends the First Amendment rights to freely speak, assemble, publish, and petition the government. Originally known as the Center for Competitive Politics, it was founded in 2005 by Bradley A. Smith, a former Chairman of the Federal Election Commission.