

14 Charles Lane
New York, N.Y. 10014
January 17, 1979

TO ORGANIZERS AND CAMPAIGN COMMITTEES

Dear Comrades,

Enclosed is a copy of the consent decree exempting SWP campaign committees supporting federal candidates from identifying contributors and recipients of expenditures through 1984.

This victory is important both because it will help us protect our members and contributors and because of the precedent it sets as the first official government admission that our rights are violated by government spying. We should use this decision in our campaigns, just as we have used the victories in the suit against the FBI, to identify the SWP with the fight to defend democratic rights.

As indicated in the Militant, this decision establishes our right to continue withholding this information as we have done in the past. One change in our procedure is that we will no longer identify any recipients of expenditures, even corporations like the phone company or the post office.

In addition to the sentence required on all literature that asks for contributions stating "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C.," we will now be able to add "A federal court order allows us not to disclose the names of our contributors in order to protect their First Amendment rights."

We are presently preparing a guide to compliance with the reporting requirements which will take into account our rights under the decision. Those federal campaign committees which have not yet been terminated can continue to fill out reports as they have in the past.

EFFECT ON STATE AND CITY DISCLOSURE REQUIREMENTS

While this decision is not technically binding on states or those cities with disclosure laws, it should be very influential in convincing local officials to work out a similar arrangement with us. Each area should make a copy of the decision available to the attorneys who represent us in this case. In some areas we have been involved in lawsuits, in others we have arrangements whereby we have not identified contributors pending the outcome of the federal suit. In each case comrades should discuss with the attorneys involved the best way to proceed in convincing the local authorities to grant us an exemption similar to the federal exemption. Each area should report the progress of discussions to the national campaign office.

EVIDENCE OF CONTINUING HARASSMENT

When we make application in 1984 to extend the exemption we will need to document continued government and right-wing harassment. It is thus very important for each area to send in statements by witnesses of any harassment. These should be simple, direct descriptions of the incident, for example, harassing phone calls, police parked conspicuously outside a forum, any vandalism of a headquarters, red-baiting at work or in a union, and, of course, any physical attack or frame-up attempt. Each statement should be typed and should be signed and notarized and sent to the national campaign office. Doing this as incidents occur rather than waiting until we need to use the statements makes collection of this evidence much easier.

Comradely,



Bob Schwarz

Pratt, J.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SOCIALIST WORKERS 1974 NATIONAL)
CAMPAIGN COMMITTEE, et al.,)

Plaintiffs)

v.)

Civil Action No. 74-1338

FEDERAL ELCTION COMMISSION,)

Defendant)

STIPULATION OF SETTLEMENT

and)

COMMON CAUSE,)

Intervenor-)
Defendant)

FILED

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JAMES E. DAVEY, Clerk

WHEREAS, this action was commenced and maintained by plaintiffs Socialist Workers 1974 National Campaign Committee, additional campaign committees supporting political candidates of the Socialist Workers Party [hereinafter "SWP"], the 1974 SWP candidate for United States Senate in Illinois, and the 1976 SWP Presidential candidate, Peter Camejo, against the Federal Election Commission [hereinafter "FEC"], alleging that specific sections of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431, et seq. [hereinafter "FECA" or "the Act"], requiring, inter alia, public disclosure of the names and residential addresses, occupations, and business addresses of contributors of more than \$100, and vendors and payees, operate to deprive them and their supporters of rights guaranteed by the First Amendment to the Constitution; and

WHEREAS Common Cause was permitted to intervene as a party-defendant to defend the constitutionality of the Act; and,

WHEREAS the three-judge district court convened to consider this case ordered the FEC to develop a full factual record regarding the present nature and extent of harassment of the plaintiffs and their supporters resulting from the disclosure provisions.

WHEREAS, after plaintiffs submitted evidentiary materials to defendant, all of the parties moved for summary judgment on all claims; and

WHEREAS, in their motions for summary judgment, both the FEC and Common Cause have agreed that, based on the record in the case, certain of the disclosure provisions of FECA should not be enforced against plaintiffs for a limited period of time, the parties disagreeing only as to various procedural details including the length of time such nonenforcement would last, and the mechanism by which it could be extended;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

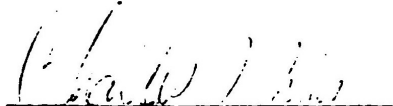
1. Defendants hereby consent to the entry upon approval by the court as set forth below of the Order, Judgment and Decree attached hereto as Exhibit A.
2. In consideration of the foregoing agreement, the plaintiffs and defendants hereby release each other from any and all claims they may have had against each other for declaratory, injunctive or affirmative relief arising from this lawsuit except as may be brought for violation of this Stipulation of Settlement or the Order, Judgment and Decree.
3. In the event the court does not approve the Order, Judgment and Decree as fair and adequate, the foregoing consent of the parties to entry of the Order, Judgment and

Decree shall be deemed withdrawn, and the action shall proceed as if this Stipulation of Settlement had not been entered into.

Respectfully submitted,

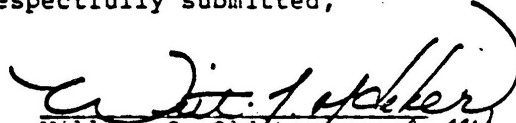


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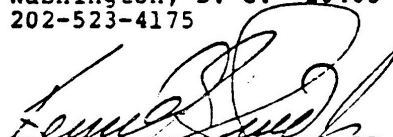


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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SOCIALIST WORKERS 1974 NATIONAL)
CAMPAIGN COMMITTEE, et al.,)
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Plaintiffs)
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v.)
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FEDERAL ELECTION COMMISSION,)
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Defendant)
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and)
)
COMMON CAUSE,)
)
Intervenor-)
Defendant)

Civil Action No. 74-1338

ORDER, JUDGMENT AND DECREE

FILED

JAN - 3 1979

JAMES F. DALEY, CLERK

In accordance with the Stipulation of Settlement agreed to by the parties, it is hereby ORDERED, ADJUDGED and DECREED:

A. INTRODUCTION

1. This court has jurisdiction of the subject matter and of the parties hereto, and the complaint states a claim that enforcement of specific sections of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431, et seq. [hereinafter "FECA" or "the Act"], requiring inter alia public disclosure of the names and residential addresses, occupations, and business addresses of contributors, lenders, guarantors, or endorsers of more than \$100, and recipients of expenditures, operates to deprive plaintiffs and their supporters of rights guaranteed by the First Amendment to the Constitution.

2. The court has previously dismissed each of the named defendants herein except for the Federal Election Commission [hereinafter "FEC" or "the Commission"] and intervenor-defendant Common Cause. The Attorney General was dismissed as a defendant on his representation that no enforcement action under the challenged FECA provisions would be taken against the plaintiffs

except by the FEC. The court denied the FEC's motion to dismiss Plaintiffs' First Supplemental and Amended Complaint.

3. Plaintiffs and defendants have heretofore moved for summary judgment as to all claims for relief, and the defendants have not contested the majority of plaintiffs' proposed findings of fact for the purposes of this case. Without necessarily admitting all of such facts, defendant and intervenor-defendant have each agreed that plaintiffs should not now be required to publicly disclose the names and addresses of contributors of more than \$100 and recipients of expenditures in order to avoid an unconstitutional application of the disclosure provisions of FECA under the rules set forth in Buckley v. Valeo, 424 U.S. 1 (1976).

4. Having waived a hearing, findings of fact, and conclusions of law, the parties have now agreed to entry on consent, without further notice, of this Order, Judgment and Decree [hereinafter "Decree"], specifying steps, standards and procedures necessary to ensure no violation of plaintiffs' constitutional rights of freedom of association.

5. This Decree constitutes a full and final adjudication of all those claims for injunctive and affirmative relief set forth in the amended complaint on behalf of the plaintiffs and on behalf of political committees supporting the candidates of the Socialist Workers Party. It shall be binding on the defendants and their successors, their officers, agents, servants, employees, and attorneys, and upon those in active concert and participation with them who receive actual notice of this judgment by personal service or otherwise.

6. Jurisdiction is retained by the court until further order, for the purpose of enabling any party to apply at any time for an order pursuant to Rule 60 of the Federal Rules of Civil Procedure, or for an order to enforce a subpoena issued

pursuant to either Rule 45 of the Federal Rules of Civil Procedure, or 2 U.S.C. § 437d (a) and (b), or for such further orders as may be necessary and appropriate for the implementation, enforcement, or extension of this Decree or any provisions thereof.

B. RECORD KEEPING AND REPORTING

7. The record discloses that the Socialist Workers Party and persons connected with it have been subjected to systematic harassment and contains "specific evidence of past and present harassment of members," contributors, and recipients of expenditures "due to their associational ties." Buckley v. Valeo, supra, 424 U.S. at 74. The record further contains evidence of "harassment directed at the organization itself." Buckley v. Valeo, supra, 424 U.S. at 74. Accordingly, plaintiffs have demonstrated at least "a reasonable probability that the compelled disclosure" of the names of their members, contributors, and recipients of expenditures "will subject them to threats, harassment, or reprisals from either government officials or private parties." Buckley v. Valeo, supra, 424 U.S. at 74. Therefore, plaintiffs cannot constitutionally be compelled to comply with the reporting requirements of the FECA to the extent that such provisions require the reporting of any identifying information relevant to any contributor, lender, guarantor, endorser, or recipient of any expenditure by plaintiffs, political committees supporting, and candidates of the Socialist Workers Party.

8. Accordingly, in complying with the requirements of the FECA,

- a. Plaintiffs shall keep and maintain all of the records which the FECA obligates them to maintain, in the manner required by law;

b. Plaintiffs shall file reports with the FEC, pursuant to 2 U.S.C. § 434(b), in the manner required by law, except that the names, mailing addresses, occupation, and principal place of business of contributors (2 U.S.C. § 434(b)(2)), political committees or candidates (§ 434(b)(4)), lenders, endorsers, or guarantors (§ 434(b)(5), and persons to whom expenditures have been made (§ 434(b)(9 & 10)), [all hereinafter referred to as contributors and recipients of expenditures] need not be reported.

c. Plaintiffs shall maintain the records required by law with sufficient accuracy so that they shall be able to provide the information which otherwise would have been reported, if and when required under the procedures described in paragraph C. 10. of this Decree.

d. The amount and nature of expenditures reported pursuant to § 434(b)(9) & (10) shall not be consolidated but shall be reported for each person to whom expenditures have been made, broken down by category, e.g., postage, office supplies, printing, salary, and per diem and travel expenses.

9. In addition to the notice on all literature and advertisements required by 2 U.S.C. § 435(b), plaintiffs may add the following sentence to the notice required by 2 U.S.C. § 435(b):

A federal court ruling allows us not to disclose the names of contributors in order to protect their First Amendment rights.

C. ACCESS

10. If, pursuant to 2 U.S.C. § 437g(a)(2), the defendant FEC finds reason to believe that any of the plaintiffs have violated a statutory provision of FECA other than those specified in paragraph 8.b. of this Decree and further finds that the information being withheld by plaintiffs pursuant to paragraph 8.b. of this Decree is necessary for an investigation of that alleged violation, then the defendant FEC may apply to this court for an order requiring the production of such information pursuant to its power under 2 U.S.C. § 437d(b). The court, after a hearing, shall enforce such subpoenas only upon a finding that the FEC has demonstrated that it has reason to believe that the plaintiffs have violated a provision of the Act other than those specified in paragraph 8.b. of this Decree and further demonstrated that the investigation in question cannot properly proceed without the information subpoenaed. The court may condition such production on such protective orders as the court deems necessary to protect plaintiffs' rights secured by the First Amendment to the Constitution.

11. Nothing in this Decree shall prevent the FEC from conducting an investigation of plaintiffs pursuant to the powers granted it under the FECA for violations of FECA provisions other than those specified in paragraph 8.b. of this Decree, or from inspecting the names of contributors and recipients of expenditures under the procedures set forth in paragraph C. 10., supra. However, defendants shall not conduct any audits of plaintiffs' records, pursuant to its powers under 2 U.S.C. § 438(a)(8).

D. RETENTION OF JURISDICTION

12. a. Nine months prior to the date set forth in paragraph 13 of this Decree, the parties may engage

in civil discovery relevant to the subject matter of the extension of this Decree, as authorized by the Federal Rules of Civil Procedure.

b. Six months prior to the date, set forth in paragraph 13, plaintiffs may file for extension of said exemption from the reporting requirements herein described, in the form of a motion for summary judgment pursuant to Rule 56, Fed. R. Civ. P.

c. Defendants shall respond to plaintiffs motion for summary judgment three months prior to the date set forth in paragraph 13.a. of this Decree.

d. Should the parties be unable to agree as to the extension of the present exemption from reporting, the court shall rule on plaintiffs' motion for summary judgment in accordance with Rule 56, Fed. R. Civ. P., in whole or in part, or shall make such other orders as it deems necessary and appropriate.

e. The defendants shall not enforce any of the provisions specified in paragraph 8.b. of this Decree until the resolution of any motion filed under this provision.

E. DURATION

13. The provisions of this Decree shall extend to and include the closing date of the FEC's reporting period for 1984.


UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT JUDGE


UNITED STATES DISTRICT JUDGE

DATE: 2 June 79