



June

27

10:22 AM

Free Speech Wins! IJ & Goldwater Score Major Supreme Court Victory

---



[By Paul Sherman](#)

The U.S. Supreme Court this morning handed down a [5-4 ruling](#) in the consolidated cases *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* and *McComish v. Bennett*, striking down Arizona's speech-squelching "Clean Elections" law. The majority opinion, written by Chief Justice Roberts, concluded:

Arizona's program gives money to a candidate in direct response to the campaign speech of an opposing candidate or an independent group. It does this when the opposing candidate has chosen not to accept public financing, and has engaged in political speech above a level set by the State. The professed purpose of the state law is to cause a sufficient number of candidates to sign up for public financing, which subjects them to the various restrictions on speech that go along with that program. This goes too far; Arizona's matching funds provision substantially burdens the speech of privately financed candidates and independent expenditure groups without serving a compelling state interest.

The Court also strongly rejected the idea that laws like Arizona's could permissibly be used to "level the electoral playing field":

"Leveling the playing field" can sound like a good thing. But in a democracy, campaigning for office is not a game. It is a critically important form of speech. The First Amendment embodies our choice as a Nation that, when it comes to such speech, the guiding principle is freedom—the "unfettered interchange of ideas"—not whatever the State may view as fair.

The full opinion is available [here](#).

Here's a brief, three-minute video explaining how Arizona's so-called "Clean Elections" law burdened free speech:

This is IJ's fifth case before the Supreme Court and our fourth victory. IJ's only loss before the Court came in *Kelo v. City of New London*, the infamous 2005 ruling that sparked a nationwide backlash resulting in 43 states enacting legislation to curtail eminent domain abuse.

The Institute for Justice is joined in this victory by the Goldwater Institute, which represented plaintiffs in the consolidated case *McComish v. Bennett*. Goldwater's statements on today's victory is available [here](#).

We will continue updating this post throughout the day with links to early coverage of the Court's ruling.

**UPDATE:**

Additional coverage of Monday's decision:

[ABA Journal](#)

[ABC News](#)

[Arizona Daily Star](#)

[Associated Press](#)

[Balkinization \(Heather K. Gerken\)](#)

[Ballot Access News](#)

[Bloomberg](#)

[Brennan Center for Justice](#)

[Campaign Finance Institute](#)

[Cato @ Liberty](#)

[Center for Competitive Politics](#)

[CNN](#)

[Common Cause & Public Campaign](#)

[Connecticut Mirror](#)

[Democracy 21](#)

[Demos](#)

[Heritage Foundation's Foundry Blog](#)

[The Hill](#)

[Justice at Stake](#)

[Los Angeles Times](#)

[National Journal](#)

[New York Times](#)

[NPR](#)

[People for the American Way](#)

[Phoenix New Times](#)

[Politico](#)

[Portland Press Herald](#)

[Reason: Hit & Run](#)

[Reuters](#)

[Rick Hasen \(in The New Republic\)](#)

[TPMMuckraker](#)

[Tuscon Weekly](#)

[UPI](#)

[Wall Street Journal](#)

[Washington Examiner](#)