



Supreme Court Upholds Conflict of Interest Law Barring Elected Official's Vote

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By **Maria Mazza**

In *Nevada Commission on Ethics v. Carrigan*, the United States Supreme Court upheld a Nevada conflict of interest law prohibiting an elected official from voting on a matter which would materially affect his or her independent judgment due to a “commitment in a private capacity to the interests of others.” Michael Carrigan was an elected member of the City Council of Sparks, Nevada, who had voted to approve a hotel/casino project known as “Lazy 8.” The Commission found that Carrigan had a conflict of interest when he approved the project because his longtime friend and campaign manager worked as a paid consultant for the company which proposed the project and ultimately would benefit from his approval. Carrigan filed suit, arguing that the conflict of interest law violated the First Amendment.

The First Amendment prohibits laws “abridging the freedom of speech.” The government has “no power to restrict expression because of its message, its ideas, its subject matter, or its content.” The Supreme Court, however, noted that the First Amendment has no application if the “speech” in question is not protected. The voting restrictions contained in the Nevada conflict of interest law were not restrictions upon the legislators’ protected speech, the Supreme Court reasoned, because “a legislator’s vote is the commitment of his apportioned share of the legislature’s power to the passage or defeat of a particular proposal.” Thus, an elected official’s vote is not protected speech. Instead, the official’s vote “belongs to the people; the legislator has no personal right to it.”

While the act of voting discloses what the legislator wishes, such an act does not involve communication. Further, the First Amendment “does not confer a right to use governmental mechanics to convey a message.” The Supreme Court, thus, found that the Nevada conflict of interest law did not violate the First Amendment.

The Supreme Court’s ruling in *Carrigan* demonstrates that reasonable state conflict of interest laws or even school district policies that prohibit voting in certain circumstances will likely survive First Amendment challenges.

More Information

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