



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

June 9, 1988

The Honorable Gary Giordano
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I88-063 (R88-051)

Dear Representative Giordano:

You asked for an opinion whether a foreign citizen can contribute to Arizona candidates or campaign committees, specifically in connection with campaigns for statewide office or the Arizona legislature. There is no prohibition against campaign contributions from a person who is not a citizen of the United States, as long as all other limitations or requirements of the Arizona contributions and expenses statutes are complied with.

The right to make political campaign contributions is at the core of political speech and is protected by the First Amendment. See Buckley v. Valeo, 424 U.S. 1, 15-19, 96 S.Ct. 612, 633-635, 46 L.Ed.2d 659, 685-688 (1976). While the size of contributions may be limited,^{1/} individuals who are entitled to the protections of the First Amendment cannot be prohibited from engaging in this form of speech and association.

Foreign citizens who reside in the United States or within American territory have full First Amendment rights.

^{1/}In Buckley v. Valeo, the United States Supreme Court recognized that restrictions on the amounts that may be contributed to candidates, while entailing a marginal restriction on First Amendment freedoms, were nonetheless justified because of the weighty interests served. 424 U.S. at 20, 29, 96 S.Ct. at 635, 640, 46 L.Ed.2d at 688, 693-694.

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Bridges v. Wixon, 326 U.S. 135, 148, 65 S.Ct. 1443, 1449, 39 L.Ed. 2103, 2112 (1945). It clearly would be an unconstitutional abridgement of First Amendment freedoms to prohibit campaign contributions by such aliens and Arizona has not done so.

In contrast, foreign citizens who reside outside the United States possess no such First Amendment rights. United States ex rel. Turner v. Williams, 194 U.S. 279, 292, 24 S.Ct. 719, 723, 48 L.Ed. 979, 984 (1904);^{2/} See also Kleindienst v. Mandel, 408 U.S. 753, 92 S.Ct. 2576, 33 L.Ed.2d 683 (1972). Arizona, however, has not enacted any laws to prohibit contributions by foreign citizens who reside outside the United States.

We conclude that Arizona candidates may accept contributions from any foreign citizens providing there is compliance with the provisions of A.R.S. §§ 16-901 to -920.^{3/}

Sincerely,



BOB CORBIN
Attorney General

BC:LTH:kmp

^{2/}In Turner v. Williams, the Court rejected the argument that a nonresident alien could not constitutionally be excluded from entry into the United States because of the political ideas he advocates. In rejecting this argument, the Court noted that a person does not become a person to whom rights, such as those secured by the First Amendment, are secured solely by an attempt to enter this country stating that "those who are excluded cannot assert the rights in general obtaining in a land to which they do not belong as citizens or otherwise." 194 U.S. at 292, 24 S.Ct. at 723, 48 L.Ed. at 985.

^{3/}Corporations and labor organizations are precluded from contributing to candidates pursuant to A.R.S. § 16-919, and all contributions must be within the limitations of A.R.S. § 16-905.



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Phoenix, Arizona 85007

Robert E. Corbin

October 31, 1989

The Honorable Jane Dee Hull
Speaker
Arizona House of Representatives
1700 West Washington
Phoenix, AZ 85007

RE: I88-063 (R88-051)
ADDENDUM

Dear Speaker Hull:

On June 9, 1988, we issued Ariz. Att'y Gen. Op. I88-063 to the Honorable Gary Giordano, who is no longer a member of the Arizona House of Representatives. We are, therefore, directing our clarification of that opinion to you.

In that opinion we concluded that Arizona law does not prohibit candidates from accepting contributions from foreign citizens as long as all other limitations or requirements of the Arizona contributions and expenses statutes are complied with. We clarify that opinion by noting that federal law prohibits foreign nationals¹ from making campaign contributions to Arizona candidates.

The primary federal provision on contributions by foreign nationals is found in 2 U.S.C. § 441e which provides:

¹The term "foreign national" includes a foreign principal, as defined in 22 U.S.C. § 611(b) or an individual not lawfully admitted for permanent residence in the United States, but it does not include any individual who is a citizen of the United States. 11 C.F.R. § 110.4(a)(3).

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(Emphasis added). The term "election" is defined in 2 U.S.C. § 431(a) to mean, in part, "a general, special, primary, or runoff election" without limitation to elections for federal offices only. Further, 11 C.F.R. § 110.4(a)(1) clarifies this prohibition by stating:

A foreign national shall not directly or through any other person make a contribution, or expressly or impliedly promise to make a contribution, in connection with a convention, caucus, primary, general, special, or runoff election in connection with any local, state or federal public office.

(Emphasis added).

While it remains correct that Arizona law does not restrict contributions from foreign citizens and the State of Arizona has no authority to enforce these federal provisions, it would be a violation of federal law² for foreign nationals to make contributions to Arizona candidates or for these candidates to accept such contributions.

Sincerely,



BOB CORBIN
Attorney General

RKC:LTH:chp

²Any person who knowingly and wilfully violates this prohibition with a contribution of \$1,000 or more shall be fined an amount not to exceed the greater of \$25,000 or three times the amount of the illegal contribution, imprisoned for not more than one year, or both. 2 U.S.C. § 441j.