



FEDERAL ELECTION COMMISSION
1150 FIRST STREET, N.E.
WASHINGTON, D.C. 20463

**STATEMENT OF VICE CHAIR ALLEN DICKERSON CONCERNING
GIFFORDS v. FEC, No. 19-1192 (D.D.C.)
November 1, 2021**

There can be no excuse for refusing to obey lawful judicial process. Yet today the members of this Commission declined to conform to the ruling of a federal court.

Nearly 80 years ago, as the nation faced the grave challenge of a world war, Justice Robert Jackson wrote that “if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.”

These would have been stirring words anywhere. But they had special force in the United States because they accompanied an order requiring particular government action, and because there was no question of disobeying that order.

If any fixed star exists in our constitutional constellation, it is held in place by the gravitational force of deference to judicial authority. Otherwise, the rightly celebrated holdings of our courts are only so many words full of sound and fury, signifying nothing.

For now, the Federal Election Campaign Act’s confidentiality provisions bar a full accounting of the sad history leading to today’s error. Unfortunately, these protections for respondents have been weaponized in the service of complainants and their allies on the Commission. Respondents should seriously consider their right under the Act to waive these flimsy protections.¹ In a world where complaints are the subject of press releases, and where the Commission declines to inform respondents as to actions taken in their matters, our confidentiality rules, in some cases, no longer serve the purpose for which they were crafted by Congress.

No disagreement about the scope and application of campaign finance law can justify our action today. If our highest officers are expected to be bound by the judgment of the courts, only the myopic could believe the FEC’s modest mission justifies an exception.

¹ 52 U.S.C. § 30109(a)(12) (“Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made”).