



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Debbie Wasserman Schultz for Congress and) MUR 7125
 Lawrence Wasserman in his official capacity)
 as treasurer, *et al.*)
)

STATEMENT OF REASONS OF COMMISSIONER SEAN J. COOKSEY

The Complaint in this matter claims that Congresswoman Debbie Wasserman Schultz misused Democratic National Committee resources while serving as its Chair to aid her 2016 reelection campaign to the House of Representatives in Florida’s 23rd Congressional District. It further alleges that this resulted in excessive and illegal in-kind contributions to Wasserman Schultz’s campaign, in violation of 52 U.S.C. §§ 30104 and 30116.¹ After considering the matter in executive session, the Commission voted 4-2 to dismiss the Complaint as an exercise of prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).²

I joined my colleagues in voting to dismiss under *Heckler* foremost because the statute of limitations has expired on the alleged violations. The Office of General Counsel stated in its First General Counsel’s Report that all the relevant conduct at issue took place in May 2016 or earlier.³ As I have explained more thoroughly in another Statement of Reasons, I believe the Commission lacks the legal authority to pursue violations outside of the five-year limitations period.⁴

Dismissal under *Heckler* is also appropriate in light of the Commission’s other enforcement priorities, and “it would be imprudent to expend limited agency resources to investigate such outdated conduct at a time when the agency faces a severe backlog of cases.”⁵ There is little value

¹ First General Counsel’s Report at 2 (May 7, 2019), MUR 7125 (Debbie Wasserman Schultz for Congress, *et al.*).


² Certification (July 13, 2021), MUR 7125 (Debbie Wasserman Schultz for Congress, *et al.*).

³ First General Counsel’s Report at 1, 4 (May 7, 2019), MUR 7125 (Debbie Wasserman Schultz for Congress, *et al.*).

⁴ See Supplemental Statement of Reasons of Commissioner Sean J. Cooksey (April 29, 2021), MURs 6917 and 6929 (Scott Walker, *et al.*) and MURs 6955 and 6983 (John R. Kasich, *et al.*).

⁵ Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor, III at 3 (March 18, 2021), MUR 7181 (Independent Women’s Voice).

to the public in mandating—more than five years later—disclosure of any in-kind contributions, whose value would be entirely speculative.⁶ Pursuing such cases is wholly unfair to the Respondents, who are entitled to rely on the statute of limitations and not to be required to defend themselves for historical conduct.⁷ For these prudential reasons, and not because of the provenance of the Complaint, I voted to dismiss this matter.



 Sean J. Cooksey
 Commissioner

August 26, 2021

 Date

⁶ See Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor, III at 3 (April 16, 2021), MUR 7284 (AB PAC, *et al.*) (“The marginal value of further defining these transactions five years and two presidential elections after the fact is therefore low, especially as it relates to a defunct organization.”); *see also* Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor, III at 2 n.9 (April 27, 2021), MUR 7395 (Heller for Senate, *et al.*) (reasoning that “we do not believe the Commission could calculate the true market rate for the type of services” alleged to be an in-kind contribution).

⁷ See Supplemental Statement of Reasons of Commissioner Sean J. Cooksey at 3–4 (April 29, 2021), MURs 6917 and 6929 (Scott Walker, *et al.*) and MURs 6955 and 6983 (John R. Kasich, *et al.*).