



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7605
 Chad E. Price)
)
 Judson Hill for Congress and Chris D. Clayton and)
 in his official capacity as treasurer)
)

**STATEMENT OF REASONS OF VICE CHAIR ALLEN DICKERSON AND
 COMMISSIONERS SEAN J. COOKSEY AND JAMES E. “TREY” TRAINOR, III**

This matter presents an issue of first impression: whether a duly authorized legal guardian, in the exercise of his responsibilities, may make a political contribution on behalf of his ward. As the Office of General Counsel (“OGC”) concluded, the Commission has never addressed the issue before, and there is no statute or regulation prohibiting or governing the conduct as such.¹ Because the Federal Election Campaign Act of 1971, as amended (the “Act”) and our regulations provide no applicable rule, we declined to proceed with any enforcement action and instead voted to dismiss the Complaint.

* * *

The Complaint alleges that Chad Price—the brother and legal guardian of Jessica Price—made an excessive contribution in the name of another by causing a contribution to be made in Jessica Price’s name to Judson Hill for Congress (the “Committee”).² According to the Complaint, Jessica is intellectually disabled, and Chad, as her designated guardian, maintains control over funds for her care and carries out other legal responsibilities on Jessica’s behalf.³ Because of Jessica’s intellectual disability, the Complaint claims she lacks the capacity to knowingly and independently make a federal political contribution.⁴ The Complaint further claims that Chad Price caused a number of other contributions to be made on Jessica’s behalf to various state-level campaigns.⁵

¹ First General Counsel’s Report at 7 (May 12, 2021), MUR 7605 (Chad E. Price).

² Complaint at 1–2 (May 6, 2019), MUR 7605 (Chad E. Price).

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.* at 1.

Judson Hill unsuccessfully ran in the 2017 special election for the 16th Congressional District of Georgia.⁶ On March 29, 2017, Chad Price made a \$2,700 contribution to the Committee in his own name. After the special election, Chad caused a \$2,700 special election contribution to be made in the name of Jessica, and he incorrectly informed the Committee that Jessica was an employee of his company, Mako Medical.⁷ The Committee terminated on September 20, 2017.⁸ In his first, uncounseled response, Chad Price concedes that he incorrectly indicated that Jessica was employed at Mako Medical. But he maintains that his own research and the advice of others led him to believe that there was not any law or regulation that prohibited the contribution.⁹

In its First General Counsel’s Report, OGC concludes that Chad E. Price violated 52 U.S.C. §§ 30116(a) and 30122 by making an excessive contribution in the name of another, but nonetheless recommends dismissal as a matter of prosecutorial discretion.¹⁰ It argues that, because Jessica Price is intellectually disabled, the Commission should apply regulations governing the permissibility of contributions by minors.¹¹ Under that regulation, OGC claims that because Jessica Price—like a minor child—could not knowingly make a contribution, therefore Chad Price made the contribution in the name of another.¹²

We rejected OGC’s analysis as incorrect because the legal rules it invokes do not apply. The regulation at 11 C.F.R. § 110.19 implements the Supreme Court’s ruling in *McConnell v. FEC* that the Act’s blanket prohibition on contributions by individuals under 18 years old is unconstitutional.¹³ In response to that holding, the Commission revised its regulation to set out the circumstances under which a minor may make a contribution, including requiring that the contribution be “made knowingly and voluntarily.”¹⁴ By their plain terms, both the regulation and the underlying statute apply based on a contributor’s physical age, not his or her mental capacity or guardianship status.¹⁵ Neither governs contributions by legal adults, and consequently, they are inapposite in the case at hand.

Nor may the Commission use the regulation’s framework “by analogy” to impose an ad hoc, unannounced prohibition against transactions like this one.¹⁶ As OGC recognized: “The

⁶ See April 18, 2017 Special Election Results, Georgia Sec. of State, *available at* <https://results.enr.clarityelections.com/GA/67317/Web02-state>.

⁷ First General Counsel’s Report at 3 (May 12, 2021), MUR 7605 (Chad E. Price).

⁸ *Id.*

⁹ Response of Chad Price at 1–3, Attachments (June 7, 2019), MUR 7605 (Chad E. Price).

¹⁰ First General Counsel’s Report at 3 (May 12, 2021), MUR 7605 (Chad E. Price).

¹¹ *Id.* at 8.

¹² *Id.*

¹³ *McConnell v. FEC*, 540 U.S. 93, 231–32 (2003).

¹⁴ See 11 C.F.R. § 110.19; *see also* Contributions and Donations by Minors, 70 Fed. Reg. 5565, 5566–67 (Feb. 3, 2005) (explanation and justification).

¹⁵ 52 U.S.C. § 30126; 11 C.F.R. § 110.19.

¹⁶ First General Counsel’s Report at 8 (May 12, 2021), MUR 7605 (Chad E. Price).

Commission has not previously addressed the legality of a contribution made by a legal guardian on behalf of an adult who appears to have the mental capacity of a very young minor.”¹⁷ As a matter of legal authority, the Commission may not prohibit or regulate conduct without an enabling provision in the Act.¹⁸ And as a matter of due process, it cannot enforce legal rules it has never before articulated.

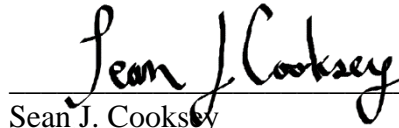
Sure enough, Chad Price’s conduct may raise issues of his authority and responsibilities as a legal guardian under state law. Those questions are suited for state court. Here, the Commission’s task is to interpret and enforce the Act, and a necessary part of interpreting a statute includes determining when it is inapplicable.¹⁹ Because no statutory provision or regulation applies to the conduct at issue here, we declined to adopt OGC’s reasoning and voted to dismiss.



Allen Dickerson
Vice Chair

December 7, 2021

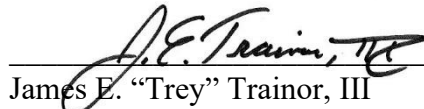
Date



Sean J. Cooksey
Commissioner

December 7, 2021

Date



James E. “Trey” Trainor, III
Commissioner

December 7, 2021

Date

¹⁷ *Id.* at 7.

¹⁸ See Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 5 (Oct. 13, 2021), MUR 7180 (GEO Corrections Holdings, Inc., *et al.*).

¹⁹ Frank H. Easterbrook, *Statutes’ Domain*, 50 U. Chi. L. Rev. 533, 549–51 (1983) (“A principle that statutes are inapplicable unless they either plainly supply a rule of decision or delegate the power to create such a rule is consistent with the liberal principles underlying our political order.”).