



A Synopsis of the Supreme Court's decision in Davis v. Federal Election Commission, 554 U.S. 724 (2008)

Dr. Kenneth Chinedu Okocha

Professor of Political Science, Hillcity University, Benin Republic

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ABSTRACT

The article looks at the Supreme Court's ruling in Davis v. Federal Election Commission, 554 U.S. 724 (2008), with regard to the constitutionality of the "Millionaires' Amendment" to the Bipartisan Campaign Reform Act of 2002. The Court determined that the provision placed an unconstitutional burden on the First Amendment rights of candidates who financed their campaigns out of substantial personal funds. The paper then examines the Court's use of Buckley v. Valeo, its rejection of the idea that financial equality among candidates constitutes a sufficient governmental interest, and the wider implications of the decision for the regulation of campaign finance. It concludes that the Davis decision enhanced the constitutional protection of political speech and candidate self-financing while at the same time restricting Congress's power to regulate campaign finance in order to equalize electoral resources.

Keywords: Davis v. Federal Election Commission; Campaign Finance; First Amendment; Political Speech; Candidate Self-Financing.

INTRODUCTION

The U.S. Supreme Court plays a crucial role in resolving a wide range of legal issues. According to Persily and Rosenberg (2009), the Court has addressed numerous cases related to gerrymandering, voter ID laws, the regulation of political parties, and campaign finance. These decisions are essential as they have influenced the evolution of important constitutional and electoral law principles. This paper will concentrate on the Supreme Court's precedent established in the case of Davis v. Federal Election Commission.

To facilitate analysis, this paper is divided into four sections. The first section summarizes Davis v. Federal Election Commission. The second part examines the Supreme Court's rulings in this case. The third section explores the implications of the Davis decision. Finally, the fourth part provides a critical evaluation of Davis v. Federal Election Commission, concluding with a summary.

Synopsis of Davis v. Federal Election Commission

Jack Davis, a Democratic candidate for Congress in New York's 26th District, filed suit against the Federal Election Commission, arguing that the 'Millionaires Amendment' in the 2002 Campaign Finance Law was unconstitutional. Davis contended that this amendment, which raised contribution limits for opponents of candidates who finance their campaigns, violated the First Amendment and the Equal Protection Clause as implied by the Fifth Amendment (Oyez, 2007). The District Court dismissed Davis's claims, asserting that the law did not infringe upon the First Amendment because it did not limit his ability to use his funds for advocacy; rather, it enhanced political discourse. The court also rejected the Fifth Amendment claims, stating that Davis's financial status differentiated his circumstances from his opponents, making the Equal Protection Clause inapplicable (Oyez, 2007).

Supreme Court Decision in Davis v. Federal Election Commission

On June 26, 2008, the Supreme Court ruled that the Millionaires' Amendment (2 U.S.C. §319(a) and (b)) plac-



ed an unconstitutional burden on the First Amendment rights of candidates who finance their campaigns. This verdict overturned the earlier decision by the U.S. District Court for the District of Columbia, which had found no violation of First Amendment or Equal Protection rights by the amendment (FEC, 2008).

The Court dismissed the Federal Election Commission's arguments regarding Davis's standing and the mootness of the case. In addressing Davis's First Amendment concerns, the Court highlighted that it had never upheld the constitutionality of such a provision. The Court referenced *Buckley v. Valeo*, which invalidated restrictions on a candidate's spending for campaign speech and affirmed their right to support their candidacy (Brennan Center for Justice, 2008).

The Court concluded that even though the Millionaires' Amendment did not impose a spending limit, it effectively penalized candidates who invested significant personal funds in their campaigns by raising contribution limits for their opponents. Thus, the Court determined that the burden on wealthier candidates was unjustifiable by any governmental interest aimed at preventing corruption or its appearance, and that equalizing electoral opportunities among candidates with differing personal wealth was not a legitimate objective for Congressional action (Brennan Center for Justice, 2008).

Implications of Davis v. Federal Election Commission Decision

The Supreme Court's ruling in *Davis v. Federal Election Commission* has several significant implications. Fevurly (2010) argued that the decision severely weakened campaign finance reform by dismissing the Equality Rationale as a compelling state interest. He claimed that the ruling subtly undermined the Campaign Finance Law without clearly articulating this outcome. Fevurly criticized the reasoning behind the Davis decision, suggesting that the Court overlooked how the Millionaires' Amendment could benefit candidates who do not fund their campaigns, or how its practical implications could hinder self-financed candidates from effectively conveying their messages.

Fevurly (2010) also noted that Justice Alito, in the majority opinion, made generalized statements about the Amendment's imposition of sanctions on candidates exercising their First Amendment rights, without adequately demonstrating how the Amendment suppresses speech or penalizes affluent candidates by limiting their campaign expenditures. Additionally, Fevurly asserted that Justice Alito's analysis diverged from previous Court decisions in *Nixon*, *McConnell*, and *Austin*, creating confusion among reform advocates.

Gedge (2009) contended that the Davis ruling weakened the foundational restrictions on corporate political expression. He indicated that the decision reaffirmed the precedent set by *Buckley v. Valeo*, emphasizing that the idea of equalizing interests fundamentally contradicts the First Amendment. The Davis ruling also catalyzed new lawsuits challenging various aspects of the Campaign Finance Law.

It is important to acknowledge the substantial influence of the First Amendment on the Supreme Court's ruling in *Davis v. Federal Election Commission*. The First Amendment of the United States Constitution states that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or the Press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances" (U.S. Const. amend. I).

While the Supreme Court determined that the Millionaires' Amendment violated the First Amendment (Justia, 2008), numerous precedents illustrate the Court's consistent protection of First Amendment rights in relation to individual liberties. For instance, in *Tinker v. Des Moines* (1969), the Supreme Court upheld students' First Amendment rights, including their freedom of speech within school environments, ruling in favor of students suspended for wearing armbands in protest of the Vietnam War. The Court concluded that these armbands represented symbolic speech protected under the First Amendment and deemed the school's actions incorrect (Justia, 1969).

It is crucial to highlight that while Campaign Finance Law seeks to limit the financial resources individuals can use in elections to prevent corruption's influence on the electoral process, regulations that infringe upon individuals' rights to free speech are typically disregarded unless a compelling justification exists. Burke



(1999) argued that, under traditional First Amendment principles, regulations that restrict free speech must be "narrowly tailored" to serve a compelling state interest.

Landa (2008) suggested that the Davis ruling brought to light various issues related to Campaign Finance Law, such as defining corruption in the electoral process, evaluating the government's interest in fostering a level playing field in campaign finance, and addressing the perception that money can effectively buy electoral positions.

The Davis ruling demonstrated an anti-regulatory perspective. The Court reaffirmed the *Buckley v. Valeo* decision by asserting that Congress lacks a compelling interest in creating parity among candidates.

Furthermore, the Court maintained that Congressional efforts to achieve this would limit voter choices (EveryCRSreport, 2010). Legal scholars have indicated that the Davis ruling marks a shift from the Court's position in *McConnell v. FEC* (Justia, 2008). In that case, the Court addressed two primary questions: 1. Did the "soft money" ban of the Bipartisan Campaign Reform Act of 2002 exceed Congress's regulatory authority over elections under Article 1, Section 4 of the United States Constitution, or violate the First Amendment's protection of free speech? 2. Did regulations concerning the source, content, or timing of political advertising in the Campaign Finance Reform Act of 2002 violate the First Amendment's free speech clause? (Oyez, 2003).

In a narrow 5-to-4 decision authored by Justices Sandra Day O'Connor and John Paul Stevens, the Supreme Court answered both questions in the negative. The Court upheld critical provisions of the Bipartisan Campaign Reform Act (BCRA), particularly concerning the regulation of "soft money" and "electioneering communications." It confirmed the BCRA's limitations on unregulated contributions to political parties and the timing of specific political advertisements, deeming these measures essential for addressing corruption or the appearance of corruption in campaign financing (Oyez, 2003).

Critical Evaluation

The strength of democracy and its political processes relies on the judicial system's ability to rectify harms caused by unconstitutional laws and policies. This was the motivation behind Davis's pursuit of his claims before the Supreme Court. The Court agreed with Davis's assertion that the Millionaires' Amendment posed a threat to self-financed candidates and violated his First Amendment rights.

Persily and Rosenberg (2009) identified two primary methods through which a plaintiff can challenge the constitutionality of a statute: facial challenges and as-applied challenges. A facial challenge requires the plaintiff to demonstrate that a statute is unconstitutional in all its applications.

If the Court finds it facially unconstitutional, that provision is invalidated, rendering it unenforceable. Conversely, as-applied challenges tend to be more successful. In this case, the plaintiff argues that specific facts related to the statute's application to them and others are unconstitutional. If the Court deems the plaintiff's claims valid, it protects the plaintiff and similarly situated individuals by ensuring that the unconstitutional aspects of the statute do not apply to them (Persily & Rosenberg, 2009).

Therefore, it can be argued that Davis's case constitutes an as-applied challenge, as the Supreme Court invalidated the part of the law that infringed on his First Amendment rights, thereby protecting Davis and similar individuals from that specific unconstitutional application of the statute.

CONCLUSION

This discussion began with a synopsis of *Davis v. Federal Election Commission* and proceeded to analyze the Supreme Court's ruling, its implications, and a critical evaluation of the decision. Although the Supreme Court determined that the Millionaires' Amendment was unconstitutional based on First Amendment grounds, it was argued that Davis effectively pursued his case as an as-applied challenge, demonstrating that specific elements of the campaign finance law adversely impacted him. Ultimately, the Supreme Court's decision safeguarded Davis and others in similar situations by nullifying the unconstitutional application of the statute.



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ABOUT THE AUTHOR

Dr. Kenneth Okocha is a Professor of Political Science at Hill City University, Benin Republic. He holds a B. A., M.Sc. (Ibadan), D.Sc. (Hawaii) CADC (New Jersey). Former Acting Dean, Faculty of the Social Sciences at Hill City University. Current member, Governing Council, Hill City University of Science and Technology Liberia. Areas of research interest include International Relations, Strategic Studies, Military and Defense, Nuclear Deterrence and Arms Control, Law and Public Policy. He is an accomplished scholar and publisher.