

SUPREME COURT OF LOUISIANA

No. 02-CA-0265

CASINO ASSOCIATION OF LOUISIANA & INDIVIDUAL MEMBERS

Versus

STATE OF LOUISIANA,
THROUGH THE HONORABLE MURPHY J. FOSTER, GOVERNOR,
THE HONORABLE RICHARD P. IEYOUB, ATTORNEY GENERAL

JOHNSON, J., dissenting

In *Penn v. State*, 99-2337 (La. 10/29/99), 751 So.2d 823,¹ this court declared unconstitutional certain provisions of LSA-R.S. 18:1505.2(L) which precluded campaign contributions by *video poker* licensees. Today, the majority has upheld the constitutionality of laws which prohibit *casino* licensees from making campaign contributions. For the reasons expressed in my concurrence in *Penn*, I respectfully dissent.

In *Buckley v. Valeo*, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed. 2d 659 (1976), and more recently in *Nixon v. Shrink Missouri Gov't PAC*, 528 U.S. 377, 120 S.Ct. 897 (2000), the United States Supreme Court dealt with the issue of *limitations* on campaign contributions and expenditures. In *Buckley*, the Court stated:

The [Federal Election Campaign] Act's contribution and expenditure limitations operate in an area of the most fundamental First Amendment activities. Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order "to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Roth v. United States*, 354 U.S. 476, 484, 77 S.Ct. 1304, 1308, 1 L.Ed. 2d 1498 (1957). . . . As the Court observed in *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272, 91 S.Ct. 621, 625, 28 L.Ed. 2d 35 (1971), "it can hardly be doubted that the constitutional guarantee has its

¹*Cert. denied*, 529 U.S. 1109, 120 S.Ct. 1962, 146 L.Ed. 2d 793 (2000).

fullest and most urgent application precisely to the conduct of campaigns for political office.”

Buckley, 424 U.S. at 14-15, 96 S.Ct. at 632.

As I stated in my concurring opinion in *Penn*, the “acceptance of a [gaming] license does not require the relinquishment of First Amendment rights to free speech and association.” 751 So.2d 823, 831 (Johnson, J. concurring). Moreover, under *Buckley* and its progeny, an absolute ban on political contributions by any targeted group should not be allowed. In my mind, such prohibitions are clearly violative of the First and Fourteenth Amendments to the United States Constitution.