



STATE BOARD OF ELECTIONS
6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

June 22, 2010

Mr. Daren Bakst
Director of Legal and Regulatory Studies
John Locke Foundation
200 West Morgan Street
Raleigh, North Carolina 27601

Dear Mr. Bakst:

You request that the State Board of Elections ignore North Carolina statutory and case law and “decline to release matching funds in the upcoming appellate court races.” You base this request on a stay entered by the United States Supreme Court in a case involving Arizona’s public financing system. As you noted, the Supreme Court has not yet decided whether to hear the Arizona case, much less decided it on the merits.

The State Board of Elections is created by the General Assembly and must act according to the statutes adopted by that body. The constitutionality of North Carolina’s program for public funding of judicial appellate races, specifically the matching fund provision, was challenged in *North Carolina Right to Life Comm. Fund for Independent Political Expenditures v. Leake*, 524 F.3d 427 (4th Cir.), *cert. denied sub nom. Duke v. Leake*, 129 S. Ct. 490, 172 L.Ed.2d 357 (2008). The constitutionality of the program was upheld by a unanimous panel of the United States Court of Appeals for the Fourth Circuit and certiorari was denied by the Supreme Court after the parties filed written arguments about the implications of its ruling in *Davis v. FEC*, 128 S.Ct. 2759 (2008). Thus, unless and until the Supreme Court rules in a way that calls into question North Carolina’s statutes, they will be administered as written by the General Assembly and upheld by the federal courts.

Sincerely,

A handwritten signature in blue ink that reads "Gary O. Bartlett".

Gary O. Bartlett, Executive Director

Cc: The Honorable Paul Stam
The Honorable Phil Berger
The Honorable Joe Hackney
The Honorable Marc Basnight
The Honorable Roy Cooper
Kim Westbrook Strach, Deputy Director, Campaign Finance