JUDICIAL CAMPAIGNS COST MONEY, JUST DON'T ASK FOR ANY: ANALYSIS OF WILLIAMS-YULEE V. THE FLORIDA BAR

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I. INTRODUCTION

The President of the United States appoints federal judges to the bench on condition that the appointee achieves a successful confirmation from the Senate.[1] The Constitution allows the states to choose election over appointment for trial and appellate judges.[2] Florida is one of thirty-nine states that hold public elections for these judicial positions.[3] To "preserve public confidence in the integrity of their judiciary", many of these states, including Florida, have rules barring a candidate from personally soliciting money for their campaign.[4] Florida allows candidates to employ committees to help them raise capital.[5]

The First Amendment declares that "Congress shall make no law . . . abridging the freedom of speech."[6] The Supreme Court applies strict scrutiny, the most stringent standard of judicial review, to test challenges to the First Amendment.[7] Through the lens of strict scrutiny, laws must serve a compelling governmental interest, be narrowly tailored to achieve the desired result, and not be underinclusive as to single out a small group or a single person.[8] This case arises from a judicial candidate personally soliciting money for a campaign and the ethical questions that arise from such a request.[9] The request itself is speech, speech that falls under the protection of the First

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[1] Williams-Yulee v. Fla. Bar, 135 S. Ct. 1656, 1662 (2015).
[2] U.S. CONST. amend. X.
[3] *Williams-Yulee*, 135 S. Ct. at 1662.
[4] *Id.*
[5] Fla. Code Jud. Conduct, Canon7C(1).
[6] *Williams-Yulee*, 135 S. Ct. at 1664.
[7] *Id.* at 1662.
[8] *Id.*
[9] *Id.* at 1663.

Amendment.[10] The restrictions that the Florida Bar places upon this speech is the hinge pin of this litigation.[11]

This Note will address the historical development judicial appointment from the point Florida succeeded from the Union to present, which defines the need for election regulations specific to fundraising, corruption, and public trust of the bench.[12] Next, a summation of the facts of the Yulee case are presented with emphasis on the infraction of the judicial code that the Florida bar raised[13] as well as a compilation of the interested parties in the proceedings.[14] The Note then analyzes the majority opinion with respect to the three main elements of strict scrutiny; compelling interest, underinclusiveness, and narrowly tailored.[15] After that analysis, the strict scrutiny construct is applied to Florida judicial elections.[16] A summary of the dissents and concurrences to the majority opinion are explained with weight given to how the justices interpret the strict scrutiny application to the case at bar.[17] Lastly, a conclusion follows proffering commentary on the outcome of the case with respect to fairness for elections, and the rebuilding of public confidence in the judiciary.[18]

II. BACKGROUND

The history of Florida judicial voting changed over the course of state history to reflect the concerns of succession from the United States of America, foreign influence during the Civil War years, and the fine-tuning of the Florida Constitution to reflect the growing population.[19] A

[10] *Id.* at 1676.
[11] *Id.* at 1662.
[12] *See infra* Part II.A.
[13] *See infra* Part II.B.
[14] *See infra* Part II.C.
[15] *See infra* Part III.A.
[16] *See infra* Part III.B.
[17] *See infra* Part III.C.
[18] *See infra* Part IV.
[19] *See* Joseph W. Little, *An Overview of the Historical Development of the Judicial Article of the Florida Constitution,* 19 STETSON L. REV. 1, 07-09 (1990).

corruption scandal rocked the Florida Supreme Court in 1970, which resulted in changes to the rules for judicial elections.[20] These judicial rules are the basis for the charge leveled against Yulee.[21] Additional restrictions exist in these Canons including caps on donation amounts of $1,000 for trial level judges, and $3,000 for the retention of a Florida Supreme Court Justice.[22] A candidate can serve as treasurer on their own campaign committee but a committee must be in place to solicit donations.[23]

A. Florida Judicial Voting History

Florida has elected trial and appellate judges since it entered the union in 1845, first by a General Assembly, then by popular vote.[24] The state abandoned this process at the beginning of the Civil War and reverted to selection of judges by the political branch.[25] The 1868 Florida Constitution repudiated the notion of electing the judiciary for fear of the influence of foreign interest.[26] Election of some judges resumed with the 1885 Constitution, many with political appointments that required vote for continued service, and by 1942, the voting public elected all Florida judges.[27]

Four Florida Supreme Court justices resigned in 1970 in response to corruption scandals.[28] Some justices were fixing cases on behalf of constituents; one justice was filmed on a Las Vegas vacation paid for by a dog track he was ruling on.[29] Justices allowed lobbyist of the public utilities

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[20] *Williams-Yulee*, 135 S. Ct. at 1662.
[21] *Id.* at 1662-63.
[22] *Id.* at 1663.
[23] *Id.*
[24] *Id.* at 1662.
[25] *Id.*
[26] Joseph W. Little, *An Overview of the Historical Development of the Judicial Article of the Florida Constitution*, 19 STETSON L. REV. 1, 14 (1990).
[27] *Id.*at 23.
[28] *Williams-Yulee*, 135 S. Ct. at 1662.
[29] Anthony Man, Fort Lauderdale lawyer lays out case for preventing judges from soliciting campaign cash, Sun Sentinel (Jan. 20, 2015), http://www.sun-sentinel.com/local/broward/broward-politics-blog/sfl-fort-lauderdale-lawyer-judicial-campaign-money-20150120-story.html.

industry to influence their votes on rate-hike legislation and even allowed the lobbyist to ghostwrite their opinion.[30]

After the corruption scandal, the Florida Constitution's new amendment required the Governor appoint appellate judges from a list provided by a nominating committee.[31] The people would then vote to retain them or not after six years.[32] Popular vote determines all trial judges, unless a specific jurisdiction prefers the merit selection process.[33] Additionally, The Florida Supreme Court created a new Code of Judicial Conduct to address the lack of morality and the fall of public confidence.[34] The Canons listed in the Judicial Code of Conduct set guidelines on all aspects of judicial duties, including election campaigning and fundraising.[35]

B. Yulee Case Procedural History

In the September 2009 judicial elections of Hillsborough County, Lanell Williams-Yulee ("Yulee") ran for a county court position in a jurisdiction that includes Tampa, Florida.[36] Yulee composed a signed letter announcing her candidacy, providing a summary of her beliefs, and requesting monetary contributions in various amounts.[37] Yulee mailed that letter to county voters and placed a copy of it on her website. The Florida Bar filed a complaint against Yulee for failing to comply with the states Code of Judicial Conduct, which contains Canon 7C(1) prohibiting personal solicitation of money for judicial election campaigns.[38] Yulee contest that the First

[30] *Id.*
[31] FLA. CONST. ART. V. § 10.
[32] *Id.*
[33] *Id.*
[34] *Williams-Yulee,* 135 S. Ct. at 1662.
[35] Fla. Code Jud. Conduct, Canon7C(1).
[36] *Williams-Yulee,* 135 S. Ct. at 1663.
[37] *Id.*
[38] *Id.*

Amendment of the Constitution protects the right to solicit funds for an election, and Canon 7C(1) provides an illegal restriction of speech.[39]

The Florida Bar contends Yulee's signed letter was a violation of Canon 7C(1) prohibiting personal solicitation of campaign funds.[40] The Florida Supreme court assigned a court referee to hold a hearing on the matter.[41] The referee held Yulee had violated the Cannon recommending a reprimand and payment of court cost of $1,860; the Florida Supreme Court accepted this decision.[42] The court reasoned that Canon 7C(1) "clearly restricts a judicial candidates speech" and must be "narrowly tailored to serve a compelling state interest."[43] The Florida Supreme Court found persuasive that all state Supreme Courts had upheld challenges against the First Amendment for campaign provisions.[44] Yulee appeals and the United States Supreme Court granted certiorari October 02, 2014.[45]

C. Additional Briefs of Amicus Curiae and Decision Splits

Yulee's case drew attention from many aspects of politics, economics, and law shown by the seventeen Amici Curiae briefs filed to the Supreme Court.[46] The list of interested parties includes free speech proponents, former judges and politicians from many states including Florida and Texas, and professors of law and politics.[47] The Supreme Court was split in the holding garnering a five to four decision affirming in favor of the Florida Bar.[48] Justice Breyer concurred independently, Justice Ginsburg, with whom Justice Breyer joins as to Part II, concurring in part

[39] *Id.* at 1664.
[40] *Id.* at 1663.
[41] *Id.* at 1664.
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] Williams-Yulee v. The Fla. Bar, 135 S. Ct. 44 (2014) (mem.).
[46] Williams-Yulee v. The Fla. Bar, 135 S. Ct. 1656 (2015).
[47] *Id.*
[48] *Id.* at 1675-87.

also concurring in the judgment.[49] Justice Scalia dissented, with whom Justice Thomas joins in part.[50] Justice Thomas and Justice Alito dissented independently.[51]

III. ANALYSIS

Justice Roberts delivered the opinion of the Court.[52] The single issue at bar is whether the First Amendment allows the restriction of speech that Canon 7C(1) encompasses.[53] The First Amendment declares that "Congress shall make no law . . . abridging the freedom of speech."[54] The Fourteenth Amendment commands that these laws apply to the states.[55] The Court must analyze the impact of Canon 7C(1) against the First Amendment using strict scrutiny to determine constitutionality of the Florida law.[56] The Florida Bar believes the "closely drawn" standard is more applicable and challenges the standard of review.[57]

A. Strict Scrutiny

The Court has applied strict scrutiny to laws written limiting solicitation of charitable donations to ensure they are narrowly tailored to serve an underlying compelling interest.[58] The Court applies this standard to ensure the rights to maintain democratic institutions.[59] The underlying principal to the charitable foundations apply to the case at bar because Yulee's reasoning for asking for donation was to spread her message of qualification and direction of her

[49] *Id.* at 1673.
[50] *Id.* at 1675-82.
[51] *Id.* at 1682-86.
[52] *Id.* at 1662.
[53] *Id.*
[54] *Id.* at 1664.
[55] *Id.*
[56] *Id.*
[57] *Id.* at 1665.
[58] *Id.* at 1664-65 (citing Riley v. Nat'l Fed'n of Blind, 487 U.S. 781 (1988)).
[59] *Id.* at 1665.

judicial experience.[60] The Court has long held that speech defining qualifications of elected candidates require the highest protect the First Amendment allows.[61]

The Florida Bar and several *amici* contest that "closely drawn", a more permissive standard of review, is applicable to proffer a "sufficiently important interest."[62] The Court used that standard in a case involving campaign contribution limits where a contributor desired "freedom of political association."[63] The "closely drawn" standard is not the preferred standard for the case at bar because free association is not at issue; free speech is.[64] Acknowledging the Canon does infringe on Yulee's speech, the Florida Bar's call for the more permissive standard, is a poor fit.[65] The Court applies the "closely drawn" standard to cases where circumvention of the campaign limit rules is at issue, contrary to this case where the Florida Bar drafted this Canon to retain public confident in the judiciary, not as a measure preventing limit circumvention.[66] The Court therefore applies strict scrutiny and holds this case survives such a judicial review when analyzed against the First Amendment.[67]

1. Compelling Interest

Compelling interest is a specific governmental need like preserving public confidence in the judiciary as held by the Supreme Court.[68] Several precedents exist offering that "safeguarding confidence in the fairness and integrity of the nation's elected judges" is a vital state interest.[69] The confidence in elected judges is important because unlike the executive or legislative branches,

[60] *Id.* (referencing Appl. to Pet. for Cert. 32a).
[61] *Id.* (citing Eu v. San Francisco County Democratic Cent. Comm., 489 U.S. 214 (U.S. 1989)).
[62] *Id.* (citing Buckley v. Valeo, 424 U.S. 1 (U.S. 1976)).
[63] *Id.*
[64] *Williams-Yulee*, 135 S. Ct. at 1662.
[65] *Id.*
[66] *Id.* at 1665.
[67] *Id.*
[68] *Id.* at 1664.
[69] Caperton v. A. T. Massey Coal Co., 556 U.S. 868, 883 (2009).

the judiciary has no control of sword nor purse.[70] The judiciary's power resides with the public following the decisions of the bench.[71] Public perception of the integrity of the judiciary is "a state interest of highest order."[72] Both parties agree that solicitation of campaign funds for judicial position is a unprotected by the Free Speech doctrine, the First Amendment applies to Yulee; at issue is whether the First Amendment permits this type of speech in this case.[73]

The majority opinion notes that both parties analyze campaign restrictions in political elections as compared to judicial elections.[74] The majority opinion states that this fact has no merit here because the Court reasoned in *White* that states could place different rules on judicial elections than they do for executive and legislative because there are glaring differences in the roles of the elected official.[75] Politicians provide deference to their constituents as an act of preserving campaign promises, and judges are to be fair to any party.[76] Judges must strive to be "perfectly and completely independent, with nothing to influence or controul him but God and his conscience." [77] The holdings of the Supreme Court with reference to political campaign fundraising hold no weight in this case.[78]

If judges maintain fairness and integrity in states that do not have restrictions on personal donation solicitation, the public could perceive an interest for a particular party if they were a major contributor to the judge's campaign.[79] The appearance of a desire to "pay back" would undermine public confidence in decisions and the bench in general.[80]

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[70] *Williams-Yulee*, 135 S. Ct. at 1666.
[71] *Id.*
[72] *Caperton*, 556 U.S. at 889.
[73] *Williams-Yulee*, 135 S. Ct. at 1667.
[74] *Id.*
[75] *Id.* (referencing Republican Party v. White, 536 U.S. 765, 783 (U.S. 2002)).
[76] *Id.*
[77] *Id.* (quoting John Marshall, Address of Proc's. and Deb's. of the Va. State Convention of 1829–1830, 616 (1830)).
[78] *Id.*
[79] *Id.*
[80] *Id.* (quoting *White*, 536 U.S. at 790).

Chief Justice Roberts states that although "public confidence" is not defined in statutory or case records, both parties agree it is compelling.[81] It is the appearance of a judge asking for money that reduces the expectations of fairness.[82] Many states, including Florida, have law severing the link between the judicial candidate and the campaign contributor.[83] To the opposite argument, a citizen that does not contribute might fear retribution for failure to support a judicial candidate.[84] The citizen then must seek out an attorney that has contributed to a specific judge to increase their chances of a successful verdict.[85] A state that allows election of judges need not assume this risk; therefore, the Florida Bar's interest is compelling.[86]

2. Underinclusive

Yulee concedes the State has a compelling interest but argues the Canon is underinclusive in that it does not restrict a judge's campaign committee.[87] Yulee contends this permissive regulation carries the same risk of public perception of favor.[88] Additionally, Yulee points to judicial candidates that write thank you notes to contributors establish a link between contributor and candidate.[89]

It is against normal thought that the First Amendment can limit "too little" speech, however the Court has held that underinclusiveness raises doubt that the restriction applies to an interest and not just a person.[90] A law that does not actually advance the compelling interest is underinclusive; for example a newspaper that cannot list juvenile names in print, but can list them

[81] *Id.*
[82] *Id.*
[83] *Id.*
[84] *Id.* at 1668 (citing Simes v. Arkansas Judicial Discipline & Disability Comm'n, 247 S.W.3d 876, 882 (2007)).
[85] *Id.*
[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *Id.* (citing Brown v. Entm't Merchants Ass'n, 131 S. Ct. 2729, 2740 (2011)).

on electronic media does is underinclusive.[91] There is no amount of underinclusiveness regulated in the First Amendment. The court has held that a state can address its problem in stages, and a regulation can restrict more than needed for compelling interest if the concern is pressing.[92]

Florida Bar's Canon 7C(1) is not underinclusive in the method it is deployed here.[93] The targeted audience, the exact people that would undermine public confidence, cannot solicit campaign funds directly.[94] Yulee contest that a judicial candidate's campaign committee may solicit funds within the scope of 7C(1). The Florida Supreme Court has differentiated the effect of a donation to a person and a donation to a person's committee, which finds the effect of soliciting to the judicial candidate directly more dangerous to public confidence.[95] In a direct solicitation, the candidate's reputation and name are behind the request making the query personal in nature.[96]

Request for campaign contributions by an individual, or committee are similar in substance, a State can find these two request have different effects on public perception.[97] Writing thank you notes does not deviate from the State's interest and actually resolves "fundamental tension between the ideal character of the judicial office and the real world of electoral politics."[98] The acceptance of contributions to a committee, and not by the candidate, is a valid choice by Florida; it does not create underinclusiveness in the law.[99] The First Amendment does not punish a State that regulates a restriction in speech that does not reflect a pretextual motive.[100] Yulee

[91] *Id.* (citing Smith v. Daily Mail Pub. Co., 443 U.S. 97, 104-05 (1979)).
[92] *Id.* (referencing Burson v. Freeman, 112 S. Ct. 1846, 1861 (1992)).
[93] *Id.*
[94] *Id.*
[95] *Id.* at 1669.
[96] *Id.*
[97] *Id.*
[98] *Id.* (citing Chisom v. Roemer, 501 U.S. 380, 400 (U.S. 1991)).
[99] *Id.*
[100] *Id.* at 1670.

asserts that a ban on judicial candidate donations is only constitutional if a ban exist on all donation request by candidate or by committee is without merit, and the Constitution does not have such all-or-nothing language.[101]

3. Narrowly tailored

Yulee argued above that the Canon restricts too little speech and now turns to argue it restricts too much, claiming the Canon is not narrowly tailed enough to meet the compelling interest in the least restrictive means.[102] Canon 7C(1) restricts a narrow amount of speech, a candidate is still allowed to discuss issues and beliefs on any matter.[103] Candidates can place billboards, make phone calls, contact supporters directly to discuss any matter except request money.[104] A candidate's campaign can make contact for any of those reasons including a request for money.[105]

Yulee accepts the premise that the Canon should prohibit solicitation of attorneys and litigants, and bar "in person" solicitations.[106] Yulee points to difference in non-personal solicitations like a letter and a website, because addressing such a wide audience is not damaging.[107] This argument fails to address the underlying principle that Canon 7C(1) is advancing, that is, to protect public confidence in the judiciary.[108] The protection is absolute, and not a matter of degree.[109]

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[101] *Id.*
[102] *Id.* (citing United States v. Playboy Entm't Group, 529 U.S. 803, 813 (U.S. 2000)).
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.* (referencing Ohralik v. Ohio State Bar Ass'n, 436 U.S. 447, 449 (1978)).
[107] *Id.* at 1671.
[108] *Id.*
[109] *Id.*

Yulee contest that although in person solicitation is not preferred, the Court does not want to make determinations on emails, text messages and webpage content.[110] A Canon must be narrowly tailored, not "perfectly tailored".[111] Perfect tailoring is impossible with a variable goal like public confidence.[112] Florida concludes that a judicial candidate personally soliciting campaign funds creates a public appearance of impropriety.[113] Banning these solicitations is narrowly tailored.[114]

B. Application to Judicial Campaigns

The Supreme Court held that the First Amendment allows restrictions on speech like Canon 7C(1).[115] The Canon is narrowly tailored to serve the State's compelling interest.[116] Judges are not the same as politicians in the definition of their work, or in the duty they owe to constituents, even if popular vote puts them both in office.[117] If a state chooses to elect judges, it does not infer that the rules have to be the same for both candidates of general elections and candidates that seek judicial office.[118] A state may require a judge to not ask for money personally, if that requirement is to assure the public that the bench will rule fairly, and without favor.[119] The judicial candidate is free to employee a committee to secure campaign financing, that committee can collect donations, make announcements, and interface with voters on behalf of the candidate.[120] The Supreme Court affirmed the judgement of the Florida Supreme Court.[121]

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[110] *Id.*
[111] *Id.* (citing Burson v. Freeman, 112 S. Ct. 1846, 1861 (1992)).
[112] *Id.*
[113] *Id.*
[114] *Id.*
[115] *Id.* at 1662.
[116] *Id.* at 1672.
[117] *Id.* at 1662.
[118] *Id.*
[119] *Id.*
[120] *Id.* at 1672.
[121] *Id.* at 1673.

C. Concurrence and Dissent

Justice Breyer concurs stating the tiers of scrutiny need not "be mechanically applied", but more like guidelines to view each case at hand.[122] Justice Ginsburg disagrees with part II of the opinion differentiating judges from politicians, stating that election rules should apply to all persons.[123] Ginsburg continues, and Justice Breyer joins, politicians and judges are different because of the roles they have in office, therefore, applying the First Amendment as done in political cases should have no bearing as to judicial cases.[124] State may impose different finance rules on each type of candidate because failure to do so dims the line of distinction between the two positions.[125] The public may perceive favor with the bench as they do political office.[126]

Justice Scalia, with whom Justice Thomas joins, dissents stating the First Amendment declares a state has no power to ban speech based on content.[127] Georgia became the first state to elect judges in 1812, most states followed by the time of the Civil War.[128] There were no rules on judicial candidate's speech from then to the mid-nineteenth century.[129] The American Bar Association first placed rules regulating speech by judicial candidates in 1924, but such rules were not generally enacted until after World War II.[130] Justice Scalia wrote "In the absence of any long-settled tradition about limiting judicial candidate's speech specifically concerning campaign finance . . . there is no basis to apply laws that limit speech based on content."[131] Justice Scalia

[122] *Id.* (citing United States v. Alvarez, 132 S. Ct. 2537, 2551-53 (2012), *see also* Nixon v. Shrink Mo. Gov't Pac, 528 U.S. 377, 400-03 (2000)).
[123] *Id.* (citing Ginsburg dissent in Republican Party v. White, 536 U.S. 765, 803 (U.S. 2002)).
[124] *Id.*
[125] *Id.* at 1674.
[126] *Id.*
[127] *Id.* at 1676.
[128] *Id.* (citing *White*, 536 U.S. at 785).
[129] *Id.*
[130] *Id.* (citing *White*, 536 U.S. at 786).
[131] *Id.*

furthers the Court's "twistification" is off-point because the compelling interest is vague and the law to meet it ineffective.[132] Mass mailing letters and web content do not make a request to a specific person.[133] There is no evidence that Canon 7C(1) will maintain public confidence.[134]

Justice Kennedy dissents agreeing completely with Justice Scalia's dissent, but desiring to underscore the irony of a decision of the court to relax the First Amendment with respect to judicial elections.[135] The Court's decision in this case "imperils the content neutrality essential both for individual speech and the election process."[136] Justice Thomas agrees with Justice Kennedy and asserts the Court is assuming the public is uninformed to make a good judicial election decision and rules for the judiciary different from other offices are not equal nor fair.[137] In addition, similar to Justice Scalia's comment on mass-mailing and web content, Justice Thomas points to the internet and other technologies as lift the vail of anonymity as to who contributes to what campaign, undermining the notion of public confidence in a neutral vote.[138] Canon 7C(1) is not narrowly tailored and provides case law to manipulate strict scrutiny for any speech the Court dislikes.[139]

Justice Alito dissents, agreeing with Justice Scalia and Kennedy, writing to emphasize that the speech the Florida law is trying to regulate lies at the heart of the type of speech the First Amendment is in place to protect.[140] Justice Alito disagrees with Florida's compelling interest stating the public has a right to a judiciary that is fair and impartial and not for citizens to have

[132] *Id.* at 1678.
[133] *Id.* at 1679.
[134] *Id.* at 1678.
[135] *Id.* at 1682.
[136] *Id.* at 1683.
[137] *Id.*
[138] *Id.* at 1684.
[139] *Id.* at 1685.
[140] *Id.*

confidence in the bench if they are not performing that role due to a law.[141] Because of the misstated compelling interest, the law itself is not narrowly tailored.[142] The Florida Supreme Court violated Yulee's rights with respect to the Constitution, stained her record, and levied a fine against her with a finding of unethical conduct.[143] Justice Alito stated, "That decision should be reversed."[144]

IV. CONCLUSION / COMMENTARY

Every state has the right to an elected official of any role to perform their task to the highest ethical standard. Corruption by elected officials damages the candidate, the territory they represent and the people they serve. Money and corruption are long-standing bedfellows, and perception is reality. If handing a candidate money implies that the recipient owes a favor back, campaign financing is in for a long, hard battle. Elections cost money, and without contributions, only the rich would win elections, judicial or political. Where is the place for the common folk in such a scenario? It is not a daunting task to ask someone to run a campaign for you. That campaign can ask for the moon with no legal backlash. I agree with the decision and majority that a State has a compelling interest to avoid the perception of corruption and the Canon 7C(1) is narrowly tailored to meet that objective. Yulee should have made a friend write the letter for her, a simple act that would have eliminated this case from history.

There is important language in the dissent concerning to development of technology; specifically e-mails, mass mailing, website content, and internet searches. All dissenting Justices point out the lack of personal connection to these new technologies and they are correct in that deduction. A person handing money to a candidate has a personal touch. Technology removed

[141] *Id*.
[142] *Id*.
[143] *Id*. at 1685-86.
[144] *Id*. at 1686.

the personal touch completely out of the picture. No one sees a personal face to the spam emails asking for sales on the internet, and in most cases even emails from an acquaintance distance the conversation as opposed to a phone call, or talking in-person. Still, it is not difficult to have someone write an email for you, or write the web content.

Florida endured a massive judiciary corruption scandal in 1970. That event marred the confidence in the judiciary and the outcry of "someone should pass a law" put words into action. Canon 7C(1) does just enough to meet the goal of preventing the appearance of a bench for sale. According to the American Bar Association, thirty of thirty-nine of fifty states that have judicial elections also have regulations against personal solicitation of funds.[145] If public confidence in the judiciary were not important, this majority would not exist. Florida's Canon 7C(1) provides the proper tool to prevent the appearance of judges-for-hire, and is written is such a manner as to escape a violation of the First Amendment.

[145] *Id.* at 1663.