

**Summary of SC94951, *Gerald Geier and Stop Now! v. Missouri Ethics Commission, et al.***  
Appeal from the Jackson County circuit court, Judge Joel P. Fahnestock  
Argued and submitted September 9, 2015; opinion issued November 24, 2015

**Attorneys:** Geier and Stop Now! were represented by Hugh A. Eastwood, an attorney in St. Louis, (314) 809-2343, and W. Bevis Schock, an attorney in St. Louis, (314) 726-2322. The commission was represented by Solicitor General James R. Layton, Nicholas Beydler, Andrew W. Blackwell and Peggy A. Whipple of the attorney general's office in Jefferson City, (573) 751-3321.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A man appeals a circuit court's judgment in favor of the state's ethics commission in a case challenging the constitutional validity of certain campaign finance disclosure laws and a statute closing a hearing to the public. In a unanimous decision written by Judge Mary R. Russell, the Supreme Court of Missouri affirms the judgment. The campaign finance reporting laws are not unconstitutional, either on their face or as applied. Similarly, the statute requiring the commission to close the hearing is not unconstitutional. Further, the commission had authority to investigate the man and find that he violated the reporting obligations in his official capacity as the political action committee's treasurer.

**Facts:** From 1991 to 2012, Gerald Geier was the treasurer of Stop Now!, a political action committee (PAC) that engaged mostly in issue advocacy opposing ballot initiatives that would raise taxes. Under chapter 130, RSMo, Geier was required to register the PAC with the state ethics commission. The PAC became inactive after 2003, and the bank closed its account in 2006 after routine fees depleted the account to zero. The PAC, however, did not notify the commission that its account had been closed as required by statute. The PAC remained registered with the commission and continued to file quarterly disclosure reports indicating it had no money and was engaging in no activity. The commission opened an investigation after the PAC failed to file reports for the first three quarters of 2011, after which Geier filed the overdue reports along with a committee termination statement indicating the PAC's dissolution. The commission filed a formal complaint against Geier and the PAC, alleging they violated provisions of chapter 130 by failing to file timely disclosure reports in 2011 and failing to maintain a bank account or notify the commission of changes to the account. Following a hearing that was closed to the public pursuant to section 105.961.3, RSMo, the commission found probable cause that Geier and the PAC unknowingly violated the applicable statutes and issued a letter to Geier stating that no further action would be taken. Geier ultimately sought judicial review in the circuit court, in which he also challenged the constitutional validity of the reporting statutes as well as section 105.961.3 and brought claims under federal law. The circuit court granted summary judgment (judgement on the court filings, without a trial) in favor of the ethics commission. Geier appeals.

**AFFIRMED.**

**Court en banc holds:** The circuit court properly granted judgment in the commission's favor.

(1) The campaign finance reporting statutes are constitutional as applied. In analyzing the impact of campaign finance laws on First Amendment rights, the United States Supreme Court distinguishes laws that limit speech by restricting the amount of money a person or group can spend on political communication, to which the Supreme Court applies “strict scrutiny,” from disclosure regulations that impose no ceiling on campaign-related activities, to which the Supreme Court applies “exacting scrutiny.” Because the laws Geier challenges are disclosure regulations, exacting scrutiny applies, requiring the government to establish a substantial relationship between the regulation and a sufficiently important interest that reflects the seriousness of the actual burden on First Amendment rights. Missouri’s broad interests in preserving the integrity of the election process are significant, compelling and important, and they comport with Supreme Court precedent. The commission serves the public interest by enforcing the election laws in a nonpartisan and transparent manner to provide the electorate with accountability as to the source of political speakers and information about how money is spent in elections and on issue advocacy. The PAC’s inactivity does not alter the state’s interest in enforcing the reporting statutes. Absent a termination statement, the commission had no way to know the PAC effectively had dissolved. The reporting statutes are substantially related to the state’s interests, and the relevant reporting and disclosure requirements are not overly burdensome.

(2) Geier’s assertions that the reporting statutes, on their face, chill speech are not ripe (legally ready) for judicial review. He seeks relief on behalf of others not before this Court and in future circumstances not certain to occur, and he offers no evidence of any similarly situated PAC or of his own future plans to become treasurer of a PAC that becomes inactive after many years without formally dissolving.

(3) Section 105.961.3 is not unconstitutional. Because the violations of which the commission suspected Geier and the PAC were not criminal, the commission conducted a hearing that section 105.961.3 states “shall be a closed meeting and not open to the public.” Although the commission determined after the hearing that there was probable cause to believe a violation had occurred, the commission advised Geier it would take no further action. As such, the hearing did not lead to criminal penalties, nor could it have exposed Geier or the PAC to criminal liability. Accordingly, there could be no violation of the Sixth Amendment’s right to a public trial, which, by its terms, applies only to criminal proceedings. Because the proceeding was not criminal, there also was no First Amendment violation. Geier cites no authority for the proposition that the First Amendment guarantees the public and the news media access to an investigative proceeding to determine whether there is probable cause that a non-criminal violation of campaign finance disclosure laws occurred.

(4) The commission had the authority to investigate Geier. Under section 130.058, Geier – as the PAC’s treasurer – was responsible for its reporting obligations, which he admits he violated. The commission had authority to investigate Geier individually for these violations on account of his responsibility as treasurer, and it determined the violations occurred in Geier’s official capacity, and there were no monetary penalties assessed for which Geier could have been liable.