

No. 25-49

In the
Supreme Court of the United States

ALEXANDER SITTENFELD, A/K/A “P.G.” SITTENFELD,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari to the United States
Court of Appeals for the Sixth Circuit

**BRIEF OF FORMER FEDERAL, STATE, AND LOCAL
ELECTED OFFICIALS AS *AMICUS CURIAE* SUPPORTING
PETITIONER**

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QUESTION PRESENTED

When the government alleges bribery based solely on lawful campaign contributions, may the defendant be convicted based on evidence that is ambiguous as to whether the public official conditioned any official act on the campaign contributions?

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INTERESTS OF *AMICUS CURIAE*¹

Amici curiae are a bipartisan group of former elected officials. *See* Appendix A. These former officials are familiar with soliciting and accepting lawful campaign contributions while running for public office. *Amici* know well that campaign contributions from private parties play a critical role in funding American campaigns and that the criminalization of campaign solicitations can have a serious chilling effect on protected First Amendment activity. *Amici* thus have a strong interest in the proper application of federal bribery and extortion laws to campaign contributions.

INTRODUCTION AND SUMMARY OF ARGUMENT

Campaign contributions are core exercises of free speech and free association under the First Amendment. Our Nation’s campaign-finance system—which relies on private contributions from interested parties—is an inescapable and salutary feature of American politics.

The Sixth Circuit’s holding below threatens to disrupt that system. The evidence of a quid pro quo in this prosecution was, as the lower courts recognized, ambiguous at best. Yet the Sixth Circuit thought it fine to leave it to the jury to “infer” a quid pro quo from that ambiguity. *See United States v. Sittenfeld*, 128 F.4th 752, 771 n.7 (6th Cir. 2025).

¹ No party’s counsel authored any part of this brief. No person or entity, other than *amici curiae* and their counsel, paid for the preparation or submission of this brief. All parties received timely notice of *amici*’s intent to file this brief.

That holding muddles and undermines this Court's precedents, as Councilman Sittenfeld explains in his petition. Pet. 21–23, 28–29 (discussing *McCormick v. United States*, 500 U.S. 257, 272 (1991) and *Evans v. United States*, 504 U.S. 255 (1992)). It also threatens to suppress and punish essential political speech.

Juries should not be parsing ambiguities in political speech to assign criminal liability. Prosecutions for campaign solicitations and donations must be subject to strict scrutiny. And under that framework, a defendant cannot be prosecuted for a campaign contribution unless the evidence *unambiguously* establishes a quid pro quo.

This bar is high, and rightfully so. Any lower standard would offer insufficient breathing room to core political speech. Recognizing this, courts have imposed similarly stringent requirements in other First Amendment contexts. *See, e.g., United States v. Barclay*, 452 F.2d 930, 933 (8th Cir. 1971) (true threats); *Fed. Election Comm'n v. Wis. Right to Life, Inc.*, 551 U.S. 449 (2007) (Roberts, J., plurality) (electioneering communications).

This high bar does not leave the government without other tools to combat political corruption. Campaign–finance laws and ethics rules serve the same purpose, but with clearer guidance and absent the threat of a criminal prosecution.

This Court should grant the petition for a writ of certiorari and reverse the Sixth Circuit.

ARGUMENT

Candidates for public office must be able “to discuss the actions they will take if elected and to associate with others who share their goals.” *Sittenfeld*, 128 F.4th at 793 (Murphy, J., concurring). *Amici* know this well, having routinely solicited and accepted lawful donations while running for federal, state, and local office. The First Amendment protects this essential political speech. But the ruling below threatens to turn that protection on its head, opening politicians and donors to the threat of federal bribery charges for every day political activity. Elected officials now must fear that any ambiguity in soliciting a contribution might lead to criminal prosecution and conviction by a lay jury disposed against money in politics. Given this threat, public “[o]fficials might wonder whether they could respond to even the most commonplace requests for assistance.” *McDonnell v. United States*, 579 U.S. 550, 575 (2016).

Core First Amendment speech is chilled, and will continue to be chilled, absent a clear legal rule and staunch judicial protection. Campaign contributions are protected political speech, and any law criminalizing such contributions must be narrowly tailored so as not to infringe on that protection. It is not enough for the prosecution to point to an ambiguous exchange and ask the jury to infer a quid pro quo. Instead, there must be *unambiguous* evidence of a quid pro quo conditioning an official act on the campaign contribution at issue. In other words, the quid pro quo must be so clear that it cannot be reasonably understood as sounding in ordinary politics. This standard is demanding, and for good reason: anything lower opens virtually every elected official and donor in the country to criminal prosecution.

“The First Amendment has its fullest and most urgent application precisely to the conduct of campaigns for political office.” *Fed. Election Comm’n v. Cruz*, 596 U.S. 289, 302 (2022). This “constitutional guarantee” must remain “of the highest caliber” for elected officials to serve their constituents effectively. *Sittenfeld*, 128 F.4th at 799 (Bush, J., dissenting).

I. The Solicitation and Making of Campaign Contributions Are Forms of Political Speech Essential to Our Democracy.

“There is no right more basic in our democracy than the right to participate in electing our political leaders.” *McCutcheon v. Fed. Election Comm’n*, 572 U.S. 185, 191 (2014). A fundamental way to exercise that right is to contribute to a campaign.

Campaign contributions express “support for the candidate and his views”—putting a donor’s money where her mouth is. *Id.* at 203 (internal quotation marks omitted). Campaign contributions also “influence policymaking,” helping disseminate a donor’s views as candidates funded by those contributions share those views more widely and more effectively than the donor could herself. *Sittenfeld*, 128 F.4th at 798 (Bush, J., dissenting). And campaign contributions “affiliate a person with a candidate,” signaling to others that the donor agrees with the candidate’s policy proposals and that they should too. *McCutcheon*, 572 U.S. at 203 (internal quotation marks omitted).

Tens of millions of Americans donate to local, state, and federal campaigns each year. Roughly 30 million individuals made at least 340 million separate contributions to

campaigns between 2005 and 2020. See Laurent Bouton *et al.*, *Small Campaign Donors* 5–6, 11 (Nat’l Bureau of Econ. Research, Working Paper No. 30,050, 2021). In about that time, nearly 23 million contributions were made to candidates for state-wide office, see Follow The Money, *Contributions to Gubernatorial or Other Statewide Candidates*, <https://bit.ly/3G9AXVI> (last visited Aug. 13, 2025), 30 million to candidates for state legislatures, see Follow the Money, *Contributions to State House/Assembly or State Senate Candidates*, <https://bit.ly/46mk5pu> (last visited Aug. 13, 2025), and at least 1.5 million to candidates for local office, see Follow the Money, *Contributions to Local Candidates and Committees*, <https://bit.ly/40RR0kx> (last visited Aug. 13, 2025). In 2020 alone, an estimated 25% of voters donated to a campaign. See Andrew Daniller & Hannah Gilberstadt, *Key Findings About Voter Engagement in the 2020 Election*, Pew Research Ctr. (Dec. 14, 2020), <https://pewrsr.ch/49LPEvL>.

Candidates, in turn, depend on these private campaign contributions. “[C]ampaigns must be run and financed.” *McCormick*, 500 U.S. at 272. Few states offer public financing for candidates. See Nat’l Conf. of State Legis., *Public Financing of Campaigns: Overview* (Feb. 6, 2023), <https://bit.ly/3sKCnTw>. The limited financing available is often designated for specific positions, like governor, and any candidate accepting public funding must in turn “promise to limit ... how much the candidate spends on the election.” *Id.* So most candidates turn to private individuals for campaign contributions, spending hours each day headlining rallies, calling potential donors, and attending fundraising dinners. See Andy Sullivan, *In Washington, Lawmakers’ Routines Shaped by Fundraising*, Reuters (June 12, 2013). This system is not new; “election campaigns [have been] financed by private contributions or

expenditures ... from the beginning of the Nation.” *McCormick*, 500 U.S. at 272.

Though fundraising may be a headache for many politicians, this system of private campaign contributions benefits the democratic process. For one, private contributions increase the pool of potential candidates for public office. Campaigns are expensive; the median cost of a campaign for an incumbent member of the Senate, for example, is between about \$5 and \$11 million, while an incumbent’s campaign for the House of Representatives runs about \$1.4 million. *See* Fed. Election Comm’n, *Median Activity of Senate and House Candidates* (Aug. 17, 2022), <https://bit.ly/3sL3XzY>. Even local elections can cost tens of thousands of dollars. Because there are no limits on how much of a candidate’s money can be spent on her own campaign, wealthy candidates have a head start that other candidates often cannot overcome. But by crowdsourcing contributions from individual donors, candidates “lacking immense personal or family wealth” can still run a successful campaign. *Buckley v. Valeo*, 424 U.S. 1, 26 (1976).

Private campaign contributions also keep candidates accountable to their electorate. Those voters happy with an incumbent’s performance might donate to encourage him to continue his recent activities. Others, discontent with the incumbent’s actions, might take their money to a challenger. This competition between candidates draws public attention to races and promotes debate on policy issues. *See* Paul Freedman *et al.*, *Campaign Advertising and Democratic Citizenship*, 48 Am. J. Pol. Sci. 723, 734 (2004) (showing that widespread political advertising “can inform and mobilize the citizenry”).

Put simply, our democratic system is built upon campaign contributions from interested parties. “[P]olitical candidates regularly make promises about what they will do if elected, and citizens who agree with those promises regularly support the candidates with their votes, their time, and their money.” *Sittenfeld*, 128 F.4th at 787 (Murphy, J., concurring). These contributions allow constituents to express their views, and ensure that politicians remain responsive to requests to “solve [constituents’] problems and help [them] navigate the complex government bureaucracy.” Nat’l Democratic Inst., *Constituent Relations Manual* 5 (2008). After all, “[s]erving constituents and supporting legislation that will benefit the district and individuals and groups therein is the everyday business of a legislator.” *McCormick*, 500 U.S. at 272.

II. Federal Bribery and Extortion Prosecutions for Protected Political Speech Must Satisfy Strict Scrutiny.

Campaign contributions are core political speech. So any limits that discourage this speech must be viewed with strict scrutiny—even criminal statutes prohibiting bribery and extortion.

A. *Bribery and extortion statutes, as applied to campaign contributions, must be narrowly tailored.*

Federal prohibitions on bribery and extortion must survive strict scrutiny (and at the very least, must survive exacting scrutiny).

Statutes criminalizing speech generally must satisfy the demanding standard of strict scrutiny. Specifically,

where the law restricts expression, it must be “narrowly tailored to serve a compelling interest.” *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 442 (2015). Laws that infringe on an individual’s right to associate must survive exacting scrutiny, meaning that the government must “demonstrate[] a sufficiently important interest and employ[] means closely drawn to avoid unnecessary abridgement of associational freedoms.” *Buckley*, 424 U.S. at 25. In limited circumstances, where a statute’s purpose is “unrelated to the suppression of free expression,” the government must make a somewhat lighter showing: that the statute “furthers an important or substantial governmental interest” and that “the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest.” *United States v. O’Brien*, 391 U.S. 367, 377 (1968).

Campaign contributions represent core political speech. *Buckley*, 424 U.S. at 16–17. And by criminalizing the solicitation or making of certain types of campaign contributions, the government seeks to regulate and suppress this expression.

Specifically, the federal bribery statute criminalizes a quid pro quo, or a payment “made in return for an *explicit promise or undertaking* by the official to perform or not to perform an official act.” *McCormick*, 500 U.S. at 273 (emphasis added). To prove this agreement, the government necessarily relies on speech of both the donor and the candidate, as this case illustrates. In sustaining Councilman Sittenfeld’s conviction, the courts below scrutinized and emphasized the *content* of statements by Sittenfeld and the donor to explain why the conduct was criminal rather than innocent. *See Sittenfeld*, 128 F.4th at

772–74; Order on Motion for Judgment of Acquittal, R. 283, PageID 7141–42.

Criminal liability thus necessarily turns on the donor and candidate’s speech, not just on the campaign contribution itself. The government’s interest in criminalizing the act “of giving or spending money” to a candidate arises “because the communication allegedly integral to the conduct *itself* is thought to be harmful.” *Id.* at 17 (internal quotation marks omitted and emphasis added).

To be sure, *Buckley* applied exacting scrutiny, not strict scrutiny, in assessing federal limits on the *amount* of money that an individual could contribute to a particular candidate each year. 424 U.S. at 16. But the statute at issue prohibited only the act of donating a particular amount of money. *See id.* at 7. And limiting the amount of money that can be donated is different from regulating the expression of that donation.

Strict scrutiny is thus the appropriate standard for federal bribery and extortion statutes. *See Williams-Yulee*, 575 U.S. at 442–44 (applying strict scrutiny to state law banning judicial candidates from personally soliciting campaign funds).

B. *To avoid chilling political speech, courts must require an unambiguous quid pro quo to sustain a conviction.*

Under strict scrutiny, federal bribery and extortion statutes must be narrowly tailored to serve a compelling government interest.

Congress has a recognized compelling interest in preventing “quid pro quo” corruption that would “control the exercise of an officeholder’s official duties.” *McCutcheon*, 572 U.S. at 207–08. Because a quid pro quo makes a politician accountable to one person rather than his constituents at large, it “is a subversion of the political process” sufficient to warrant restrictions on a donor and candidate’s speech. *Fed. Election Comm’n v. Nat’l Conservative Pol. Action Comm’n.*, 470 U.S. 480, 497 (1985).

The government does not, however, have a compelling interest in prohibiting political contributions from interested parties. *See McCutcheon*, 572 U.S. at 207–08. Inherent in a campaign contribution is the donor’s expectation that, in exchange for her support, the public official will listen to her and potentially help with her problems. A politician may feel “general gratitude ... toward those who support him or his allies” and as a result may grant “political access” to those donors. *Id.* at 192. This “[i]ngratiation and access ... [is] not corruption.” *Id.* (internal quotation marks omitted). Instead, it “embod[ies] a central feature of democracy—that constituents support candidates who share their beliefs and interests, and candidates who are elected can be expected to be responsive to those concerns.” *Id.*

Any prohibition on bribery thus must be narrowly tailored not only to target quid pro quo corruption but also to avoid sweeping in the solicitation and making of campaign contributions by interested parties. That narrow tailoring demands that any quid pro quo be unambiguous. In other words, it is not enough to “infer” from “circumstantial and less-than-conclusive evidence” that something untoward could have happened. *Sittenfeld*,

128 F.4th at 771 n.7. Rather, the government must prove that no reasonable person could see the campaign contribution as anything but an exchange in promise for the performance of a specific official act.

Otherwise, politicians will hesitate to accept needed campaign funds and individuals will hesitate to donate for fear that campaign contributions that come close to the line but do not cross it will be punished all the same. “Prohibitions on speech have the potential to chill, or deter, speech outside their boundaries.” *Counterman v. Colorado*, 600 U.S. 66, 75 (2023). “A speaker may be unsure about the side of a line on which his speech falls. Or he may worry that the legal system will err, and count speech that is permissible as instead not. Or he may simply be concerned about the expense of becoming entangled in the legal system,” especially where his speech may lead to a jail sentence. *Id.* (citation omitted). Facing this uncertainty, the speaker chooses not to speak. This self-censorship harms the “silenced” speaker and deprives “society” of the speaker’s “contributions to the marketplace of ideas.” *United States v. Hansen*, 599 U.S. 762, 770 (2023) (internal quotation marks omitted).

To avoid such chilling, “the First Amendment requires us to err on the side of protecting political speech rather than suppressing it.” *McCutcheon*, 572 U.S. at 209 (quoting *Wis. Right to Life*, 551 U.S. at 457 (opinion of Roberts, C.J.)). In other words, protected speech must be given “breathing room.” *Hansen*, 599 U.S. at 769. This breathing room “comes at a cost,” for it necessarily “shield[s] some otherwise proscribable ... speech.” *Counterman*, 600 U.S. at 75. But “the possible harm to society in permitting some unprotected speech to go unpunished is outweighed by the possibility that protected

speech of others may be muted.” *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973).

The line between an interested (and legal) campaign contribution made with the hope that a candidate will help the donor and an illegal campaign contribution made in exchange for the performance of an official act can be thin. Few campaign contributions are offered and accepted in a formal process, reviewed by counsel trained to detect whether a contribution has crossed the line. Instead, many campaign contributions are arranged informally, at rallies, dinners, or meetings, offered by donors and accepted by candidates using imprecise language. Given the rough and tumble nature of politics, there is a high risk that legal campaign contributions are misconstrued as illegal quid pro quo corruption.

This risk is amplified where it is the jury that decides whether an ambiguous exchange amounted to an explicit quid pro quo. The majority below believed that lay juries can be “entrusted ... with discerning between legitimate campaign donations and illegitimate bribes.” *Sittenfeld*, 128 F.4th at 761. *Amici* are not so confident.

“Money in politics may at times seem repugnant to some.” *McCutcheon*, 572 U.S. at 191. Jurors, already skeptical of politicians and unversed in the realities of campaign financing, may not understand or give sufficient weight to the constitutional value of interested campaign contributions, and may be unable to parse the nuances of an illegal quid pro quo and a proper donation. See *Sittenfeld*, 128 F.4th at 798–99 (Bush, J., dissenting) (noting that “it can be very difficult to distinguish a legitimate contribution from a corrupt bargain”); *id.* at 790

(Murphy, J., concurring) (“doubt[ing] many jurors would understand [the] subtle distinction”).

That threat alone may be enough to chill campaign contributions, absent clear instructions to the jury that any quid pro quo must be unequivocal. *See Jenkins v. Georgia*, 418 U.S. 153, 160 (1974) (though obscenity turns on “questions of fact,” juries do not have “unbridled discretion in determining what is ‘patently offensive’”) (internal quotation marks omitted).

Under the Sixth Circuit’s reading, wholly honest candidates will worry that their good intentions could be construed as “ambiguous” and that their fate would then be left to the post hoc judgment of a criminal jury. Better to steer clear. There is “a high chance of jury confusion as to what the First Amendment protects, and a high cost if the jury gets it wrong.” *Sittenfeld*, 128 F.4th at 808–09. The only way to avoid chilling campaign donations is to demand that any quid pro quo be unambiguous.

C. *Other courts have required that the covered speech be unambiguously criminal.*

This bar is high, but it is mirrored in other First Amendment contexts. *See also Sittenfeld*, 128 F.4th at 800–802 (Bush, J., dissenting) (finding a similar limitation in antitrust cases).

In prosecutions of true threats, for instance, courts have demanded that the government prove that no reasonable person could consider the defendant’s speech to be protected. That is, the statement must be a “clear, *unambiguous*, and immediate” threat to harm another. *People v. Behlin*, 863 N.Y.S.2d 362, 365 (Crim. Ct. 2008)

(emphasis added); accord *State v. Krijger*, 97 A.3d 946, 962 (Conn. 2014). If the “communication contains language which is equally susceptible of two interpretations, one threatening, and the other nonthreatening, the government carries the burden of presenting evidence serving to remove that ambiguity.” *Barcley*, 452 F.2d at 933.

And for a prohibition on a different category of campaign speech, several Justices of this Court arrived at a similar test. See *Wis. Right to Life, Inc.*, 551 U.S. 449. The Bipartisan Campaign Reform Act of 2002 had “ma[de] it a federal crime for any corporation to broadcast, shortly before an election, any communication that names a federal candidate for elected office and is targeted to the electorate.” *Id.* at 455–56. Several years prior, in *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003), the Court had held that the Act could constitutionally punish both express campaign advocacy and its “functional equivalent,” but may run afoul of the First Amendment to the extent it punished issue advocacy. *Id.* at 456–57. A non-profit advocacy organization sought to air radio advertisements criticizing a group of senators for filibustering judicial nominees shortly before a state primary. *Id.* at 458–60. Facing criminal penalties, the organization sought a declaratory judgment that BCRA was unconstitutional as applied to the organization’s radio ads.

Chief Justice Roberts, joined by Justice Alito, found that the advertisement at issue was not the functional equivalent of express campaign speech. “[A] court should find that an ad is the functional equivalent of express advocacy,” the Chief Justice reasoned, “only if the ad is susceptible of *no reasonable interpretation other than as*

an appeal to vote for or against a specific candidate.” *Id.* at 469–70 (emphasis added). Such a high standard was necessary, he explained, to “give the benefit of any doubt to protecting rather than stifling speech.” *Id.* at 469. The organization’s radio ads did not meet that standard because they could “reasonably be interpreted as something other than as an appeal to vote for or against a specific candidate.” *Id.* at 476. These ads were thus not the functional equivalent of express advocacy, and they fell outside the scope of *McConnell*’s constitutional holding. Three other Justices, concurring in the judgment, thought that even that high bar was insufficient to protect political speech and would instead have overruled *McConnell* and held BCRA facially unconstitutional. *Id.* at 492–93, 500 (opinion of Scalia, J., joined by Kennedy and Thomas, JJ.).

This Court should impose a similar high bar here: For a campaign contribution to be criminal, there must be *unambiguous* evidence of a quid pro quo.

III. Other Safeguards Prevent Corruption Without Infringing First Amendment Rights.

Criminal prosecution for bribery or extortion is not the only tool available for the government to combat political corruption. Other safeguards ensure that, even with a properly heightened test for bribery and extortion that gives due weight to the First Amendment’s protections, the government can still identify and prevent corruption.

For one, campaign-finance laws target quid pro quo corruption. Donors typically may contribute only a certain amount to a candidate, limiting a donor’s influence over a candidate. In federal elections, donors are limited to \$2,000 per candidate each year. *See* 52 U.S.C.

§ 30116(a)(1)(A). Many states set similar limits. *See* Nat'l Conf. of State Legis., *State Limits on Contributions to Candidates 2023-2024 Election Cycle* (May 2023), <https://bit.ly/3SXtcdg>. And legislatures have implemented measures to avoid circumvention of these limits. For example, individuals may only contribute \$5,000 to a political action committee affiliated with a candidate. *See* 52 U.S.C. § 30116(a)(1)(C). And any contributions to a political action committee that are “in any way earmarked” for a particular candidate “shall be treated as contributions” to that candidate. *Id.* § 30116(a)(8).

Disclosure rules also keep donors and electors accountable to the public and regulators. Federal law demands disclosure of all campaign contributions over \$200. *Id.* § 30104(b)(3)(A). Some states set similar dollar limits, while other states require that all contributions be disclosed. *See* Nat'l Conf. of State Legis., *Contribution Disclosure Requirements* (July 22, 2022), <https://bit.ly/3uwE1c0>. And political action committees must disclose any contributions “earmarked” for particular candidates. 11 C.F.R. § 110.6(c)(1).

Ethics rules hold officials to an even higher standard, going far beyond any conduct covered by the bribery and extortion statutes. For example, the Ethics Manual for the House of Representatives prohibits Members from using “official resources,” including office supplies and “staff time,” to raise campaign funds. Comm. on Ethics, House Ethics Manual 133, 156 (2022). So Members may not solicit contributions from visitors to their offices nor accept any campaign contributions offered by visitors. *See id.* at 154, 158–59. Nor may they host fundraisers in the Capitol or even make fundraising calls in the hallways. *See id.* at 137, 154; *see also* 18 U.S.C. § 607 (making it unlawful

“to solicit or receive a donation ... in connection with a[n] ... election from a person who is located in a room or building occupied in the discharge of official duties by an office or employee of the United States”).

These ethics rules help ensure that donors are not misled that their campaign contributions are in exchange for “any official action that [the Member] has taken or is being asked to take.” Ethics Manual 156. To that end, the Rules caution Members that though they may ethically “request contributions from those for whom the legislator had done appreciable favors,” Members should never present such a contribution “as a payment for the services rendered” and should wait “a decent interval of time” before asking for a contribution “so that neither party will feel that there is a close connection between the two acts.” *Id.* And if a donor ever offers a campaign contribution that is “linked”—even indirectly—to an official act, the Member must reject the contribution. *See id.* at 159–60 (if a Member receives a letter requesting help and a campaign contribution in the same envelope, the Member must return the contribution, even if “the letter makes no reference to” it). In short, Members must “avoid *even the appearance*” of a potential quid pro quo. *Id.* at 156 (emphasis added).

The ethics rules go so far as to discourage members from favoring donors over other constituents. *See id.* at 160. “Members and staff are not to take or withhold any official action on the basis of the campaign contributions or support of the involved individuals,” and they “are likewise prohibited from threatening punitive action on the basis of such considerations.” *Id.* “[A]ll requests for casework assistance are to be handled according to their merits,” with no “preferential treatment” given to

“requests made by the Member’s supporters or contributors.” *Id.* (emphasis omitted); *see also* Senate Code of Official Conduct R. 43(3) (2021) (“The decision to provide assistance to petitioners may not be made on the basis of contributions or services, or promises of contributions or services, to the Member’s political campaigns or to other organizations in which the Member has a political, personal, or financial interest.”); Code of Ethics for Government Service ¶ 5 (1958) (“Any person in Government service should ... [n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not ...”).

Any House Member that violates these ethics rules “is subject to disciplinary action by the Standards Committee.” Ethics Manual 134. The Committee may “issue letters of reproof” or “make recommendations to the House,” which can in turn “punish a Member by censure, reprimand, condemnation, reduction of seniority, fine, or other sanction,” or even “expel a Member.” *Id.* at 3. Members “in doubt” about a particular contribution may contact the Committee for guidance. *See id.* at ii.

Federal criminal laws are a blunt instrument for regulating campaign contributions. Campaign finance laws and ethics rules are other effective means to prevent quid pro quo corruption. These alternatives mean that the breathing room necessary to protect legal campaign contributions need not be improperly shrunk for the government to effectively police the integrity of political officeholders.

CONCLUSION

Campaign contributions are core political speech. To give that speech sufficient breathing room under the First Amendment, any quid pro quo must be unambiguous to sustain a criminal conviction. Any rule to the contrary will chill the speech of elected officials and their constituents. This Court should grant the petition for certiorari and reverse the Sixth Circuit.

Respectfully submitted,

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APPENDIX

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APPENDIX A

LIST OF *AMICI CURIAE*

Chester G. Atkins, Member of the United States House of Representatives, Massachusetts, 1985–1993; Member of the Massachusetts Senate, 1972–1984; Member of the Massachusetts House of Representatives, 1970–1971.

Chris Bortz, Member of the Cincinnati City Council, 2005–2011.

Yvette McGee Brown, Associate Justice of the Ohio Supreme Court, 2011–2012; Judge of the Court of Common Pleas of Franklin County, Ohio, 1993–2002.

Dick Celeste, Governor of Ohio, 1983–1991; Lieutenant Governor of Ohio, 1975–1979; Member of the Ohio House of Representatives, 1971–1974.

Steve Driehaus, Member of the United States House of Representatives, Ohio, 2009–2011; Member of the Ohio House of Representatives, 2001–2009.

Lee Fisher, Lieutenant Governor of Ohio, 2007–2011; Attorney General of Ohio, 1991–1995; Member of the Ohio Senate, 1983–1990; Member of the Ohio House of Representatives, 1981–1982.

Willis D. Gradison, Jr., Member of the United States House of Representatives, Ohio, 1975–1993; Mayor of Cincinnati, 1971; Member of the Cincinnati City Council, 1961–1974.

Cyrus Habib, Lieutenant Governor of the State of Washington, 2017–2021, Member of the Washington State Senate, 2015–2017, Member of the Washington House of Representatives, 2013–2015.

Greg Hartmann, Hamilton County Commissioner, Ohio, 2009–2015.

Mark Mallory, Mayor of Cincinnati, 2005–2013; Member of the Ohio Senate, 1999–2005; Member of the Ohio House of Representatives, 1995–1998.

Andrew Platt, Member of Maryland House of Delegates, 2015–2019.

Zack Space, Member of the United States House of Representatives, Ohio, 2007–2011.

Christopher Seelbach, Member of the Cincinnati City Council, 2011–2022.

Dwight Tillery, Mayor of Cincinnati, 1991–1993; Member of the Cincinnati City Council, 1975, 1990–1991, 1993–1998.