

NOTE: This is the portion of the Supreme Court case that concerns the rights of minors to contribute to political campaigns. The ACLJ presented the oral argument on behalf of a group of minors in this case.

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BCRA §318

BCRA §318, which adds FECA §324, prohibits individuals “17 years old or younger” from making contributions to candidates and contributions or donations to political parties. 2 U. S. C. A. §441k (Supp. 2003). The McConnell and Echols plaintiffs challenge the provision; they argue that §318 violates the First Amendment rights of minors. We agree.

Minors enjoy the protection of the First Amendment. See, e.g., *Tinker v. Des Moines Independent Community School Dist.*, 393 U. S. 503, 511–513 (1969). Limitations on the amount that an individual may contribute to a candidate or political committee impinge on the protected freedoms of expression and association. See *Buckley*, *supra*, at 20–22. When the Government burdens the right to contribute, we apply heightened scrutiny. See *ante*, at 25–26 (joint opinion of STEVENS and O’CONNOR, JJ.) (“[A] contribution limit involving even ‘significant interference’ with associational rights is nevertheless valid if it satisfies the ‘lesser demand’ of being ‘closely drawn’ to match a ‘sufficiently important interest.’” (quoting *Federal Election Comm’n v. Beaumont*, 539 U. S. ___, ___ (2003) (slip op., at 15)). We ask whether there is a “sufficiently important interest” and whether the statute is “closely drawn” to avoid unnecessary abridgment of First Amendment freedoms. *Ante*, at 25–26; *Buckley*, 424 U. S., at 25. The Government asserts that the provision protects against corruption by conduit; that is, donations by parents through their minor children to circumvent contribution limits applicable to the parents. But the Government offers scant evidence of this form of evasion.³ Perhaps the Gov-

³Although some examples were presented to the District Court, 251 F. Supp. 2d 176, 588–590 (2003) (Kollar-Kotelly, J.), none were offered to this Court.

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ernment's slim evidence results from sufficient deterrence of such activities by §320 of FECA, which prohibits any person from "mak[ing] a contribution in the name of another person" or "knowingly accept[ing] a contribution made by one person in the name of another," 2 U. S. C. §441f. Absent a more convincing case of the claimed evil, this interest is simply too attenuated for §318 to withstand heightened scrutiny. See *Nixon v. Shrink Missouri Government PAC*, 528 U. S. 377, 391 (2000) ("The quantum of empirical evidence needed to satisfy heightened judicial scrutiny of legislative judgments will vary up or down with the novelty and plausibility of the justification raised").

Even assuming, *arguendo*, the Government advances an important interest, the provision is overinclusive. The States have adopted a variety of more tailored approaches—*e.g.*, counting contributions by minors against the total permitted for a parent or family unit, imposing a lower cap on contributions by minors, and prohibiting contributions by very young children. Without deciding whether any of these alternatives is sufficiently tailored, we hold that the provision here sweeps too broadly. We therefore affirm the District Court's decision striking down §318 as unconstitutional.