

**From:** DCD\_ECFNotice@dcd.uscourts.gov <DCD\_ECFNotice@dcd.uscourts.gov>

**Sent:** Monday, October 30, 2023 3:39 PM

**To:** DCD\_ECFNotice@dcd.uscourts.gov

**Subject:** Activity in Case 1:22-cv-00035-CRC CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON v. FEDERAL ELECTION COMMISSION Order on Motion for Reconsideration

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**U.S. District Court**

**District of Columbia**

### **Notice of Electronic Filing**

The following transaction was entered on 10/30/2023 at 3:38 PM and filed on 10/30/2023

**Case Name:** CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON v. FEDERAL ELECTION COMMISSION  
**Case Number:** [1:22-cv-00035-CRC](#)  
**Filer:**  
**Document Number:** No document attached

#### **Docket Text:**

**MINUTE ORDER granting [9] Plaintiff's Motion for Reconsideration and vacating the Court's February 8, 2023 Minute Order. In light of the D.C. Circuit's decision in End Citizens United v. FEC, 69 F.4th 916 (D.C. Cir. 2023) ("ECU"), the Court has determined it has jurisdiction to review the FEC dismissal challenged in [1] Plaintiff's Complaint. Under ECU, to "determine whether the [FEC] exercised its prosecutorial discretion...in effecting a deadlock dismissal, the court looks...to the statement of reasons of the controlling Commissioners." Id. at 921. But**

when the statement of reasons is issued "after the commencement of [federal] litigation and the expiration of the statutory deadline to challenge the dismissal," it is a "*post hoc* rationalization[]" not "properly before the court as an explanation of the controlling Commissioners' votes." *Id.* at 921-22. In this case, the controlling Commissioners' statement of reasons was issued on March 7, 2022, *see* Statement of Reasons of Chairman Allen Dickerson and Commissioners Sean J. Cooksey and James E. "Trey" Trainor, III, MUR 7465 (Freedom Vote) (Mar. 7, 2022)--after the sixty-day window for Plaintiff to challenge the dismissal, *see* 52 U.S.C. § 30109(8)(a)(B), and more than two months after Plaintiff filed this suit. Under *ECU*, then, the Court may not rely on the statement's invocation of prosecutorial discretion as a basis for declining jurisdiction. Accordingly, the Court will reconsider [6] Plaintiff's Motion to Compel and will allow Defendant until November 13, 2023 to file an opposition to Plaintiff's motion in light of the Court's decision to exercise jurisdiction. If Defendant files an opposition, Plaintiff shall have until November 20, 2023 to file a reply. SO ORDERED by Judge Christopher R. Cooper on 10/30/2023. (lccrc3)

**1:22-cv-00035-CRC Notice has been electronically mailed to:**

Stuart C. McPhail [smcphail@citizensforethics.org](mailto:smcphail@citizensforethics.org), [alerts@citizensforethics.org](mailto:alerts@citizensforethics.org)

**1:22-cv-00035-CRC Notice will be delivered by other means to::**