



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7507
Aftab Pureval; Aftab for Ohio and Evan Nolan)
in his official capacity as treasurer;)
Friends of Aftab Pureval; Drenko Pureval)

**STATEMENT OF REASONS OF VICE CHAIR ALLEN DICKERSON AND
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. "TREY" TRAINOR, III**

The Complaint in this matter alleges that former congressional candidate Aftab Pureval misused funds from his preexisting state-level campaign committee to pay for his federal campaign's expenses. It further alleges that Pureval's mother made a prohibited excessive contribution to his federal campaign through his state campaign committee. Without more evidence, however, the mere fact that a non-federal committee continues to operate during a candidate's federal campaign does not support a finding of prohibited activity. For reasons described below, we voted to dismiss most of the allegations, and the Commission then voted to close the file.

I. Factual Background

Aftab Pureval was first elected the Clerk of Courts for Hamilton County, Ohio, in 2016.¹ While serving his four-year term, Pureval made an unsuccessful run for the U.S. House of Representatives in 2018, losing the race for Ohio's 1st Congressional District to incumbent Representative Steve Chabot.² He then ran for and won reelection as the Clerk of Courts in 2020, and he is currently on the ballot in the upcoming 2021 election for Mayor of Cincinnati, Ohio.³

The Complaint in this matter relates to Pureval's 2018 congressional campaign. It alleges that, as part of his 2018 House race, Pureval misused his existing state-level campaign committee (Friends of Aftab, or the "County Clerk Committee") to improperly pay for various expenses for his federal campaign committee (Aftab for Ohio, or the "Federal Committee"), in violation of the

¹ First General Counsel's Report at 3 (Nov. 14, 2019), MUR 7507 (Aftab for Ohio, *et al.*).

² *Id.*; *Ohio Election Results: First House District*, NEW YORK TIMES (Jan. 28, 2019), available at <https://www.nytimes.com/elections/results/ohio-house-district-1>.

³ *Aftab Pureval to Run for Cincinnati Mayor*, WKRC-TV (Jan. 14, 2021), available at <https://local12.com/news/local/aftab-pureval-to-run-for-cincinnati-mayor>.

Federal Election Campaign Act of 1971, as amended (“the Act”).⁴ The Respondents generally deny the allegations. First, they argue that the expenses paid for by the County Clerk Committee were related to that committee’s own expenses, with the exceptions of two mistaken payments that were subsequently corrected.⁵ They further contend that there is insufficient evidence to establish that Aftab Pureval’s mother, Drenko Pureval, contributed to the County Clerk Committee with the knowledge or expectation that the funds would be used as part of the federal campaign.⁶

The Commission deliberated on this matter over the course of several executive sessions. On July 15, we voted to dismiss most of the allegations. The Commission declined to find reason to believe as to any violation by the required four votes, and subsequently voted to close the file.⁷

II. Alleged Use of Non-Federal Funds for Federal Expenses

In the main, the Complaint alleges that Aftab Pureval used his County Clerk Committee to pay for some of his Federal Committee’s expenses. At issue are payments made in 2018 to five vendors totaling \$22,464.58.⁸ As reported by the County Clerk Committee, the vendor payments were for typical campaign services, including polling, consulting, fundraising software, staff work, and photography.⁹ According to the Complaint, these expenditures were in furtherance of Pureval’s federal campaign and should have been paid for with Federal Committee funds subject to the Act’s amount and source limits.¹⁰ As evidence that these expenses were, in truth, for the federal campaign, the Complaint notes that some of these vendors were also used by the Federal Committee, that the polling at issue was significantly geared toward the federal campaign, and that Pureval’s County Clerk reelection was two years away.¹¹

Under the Act’s soft-money prohibition, candidates may not “solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.”¹² The Commission’s regulations correspondingly prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election.”¹³

⁴ Complaint at 2–5 (Oct. 2, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

⁵ Response of Aftab for Ohio at 4–6 (Dec. 7, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

⁶ Response of Drenko Pureval at 1–2 (Dec. 7, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

⁷ Certification (July 15, 2021), MUR 7507 (Aftab for Ohio, *et al.*).

⁸ First General Counsel’s Report at 5 (Nov. 14, 2019), MUR 7507 (Aftab for Ohio, *et al.*).

⁹ The five vendor payments at issue were: (1) \$16,427.79 to GBA Strategies for polling and consulting, (2) \$4376.66 to NGP VAN for fundraising software, (3) \$721 to Brianna Ledsome for staff work, (4) \$578.63 to Valentine Strategies for consulting, and (5) \$360.50 to Byron Photography for photography services. *Id.* at 5–7.

¹⁰ Complaint at 6 (Oct. 2, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

¹¹ Complaint at 5 (Oct. 2, 2018), MUR 7507 (Aftab for Ohio, *et al.*); Supplemental Complaint (Oct. 16, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

¹² 52 U.S.C. § 30125(e)(1)(A).

¹³ 11 C.F.R. § 110.3(d).

The Commission has explained that this prohibition on all transfers from a dual candidate's state or local committee to the candidate's federal committee is intended to prevent a federal committee's indirect use of soft money.¹⁴ Moreover, under the Act, reports filed with the Commission must accurately disclose the total amount of receipts and disbursements as well as total amounts in contributions and expenditures made to meet the candidate's or committee's operating expenses.¹⁵ The question before the Commission, then, was whether there was sufficient evidence to find reason to believe that these County Clerk Committee expenses were in furtherance of Pureval's federal campaign.

The largest expense at issue was \$16,427.79 to GBA Strategies for polling and consulting services.¹⁶ Submitted as part of the Supplemental Complaint, the polling that GBA Strategies conducted focused on a general survey of the political landscape of Ohio's 1st Congressional District, which includes much of Hamilton County, as well as testing voter views on various political statements related to Aftab Pureval and his congressional opponent, Representative Steve Chabot.¹⁷ In his Response, Pureval claims that the County Clerk Committee did not pay for the entire poll, but rather the \$16,427.79 was the County Clerk Committee's portion of split polling costs with the Federal Committee.¹⁸ The Commission's regulations specifically contemplate the possibility of multiple committees dividing the costs of conducting polls in order to share the mutually beneficial information.¹⁹

The evidence before the Commission supports this argument. During this same period, the Federal Committee made a \$25,000 payment to GBA Strategies, which Pureval says reflects the Federal Committee's share of the polling costs.²⁰ While the poll was oriented around Pureval's federal campaign messaging, much of the poll's information would significantly benefit his County Clerk Committee as well. In addition to the demographic and baseline political information, the poll tested voters' reaction to various messages about Pureval's performance as Hamilton County Clerk of Courts.²¹ Regardless of whether the voter questions mentioned only the congressional race, the data were doubtlessly useful to Pureval's state office and reelection campaign.²² Nor is it unusual for a campaign committee to conduct polling or other election-related activities two years or more before the election, contra the Office of General Counsel's ("OGC") contentions. In light of these circumstances and the available evidence, we did not believe that

¹⁴ See Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3,474, 3,474-3,475 (Jan. 8, 1993).

¹⁵ 52 U.S.C. § 30104(b)(2), (4).

¹⁶ First General Counsel's Report at 6, 11 (Nov. 14, 2019), MUR 7507 (Aftab for Ohio, *et al.*).

¹⁷ Supplemental Complaint at 3–16 (Oct. 16, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

¹⁸ Response of Aftab for Ohio at 4–5 (Dec. 7, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

¹⁹ 11 C.F.R. § 106.4.

²⁰ Aftab for Ohio 2018 July Quarterly Report at 599 (July 13, 2018); Response of Aftab for Ohio at 4 (Dec. 7, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

²¹ Supplemental Complaint at 3–16 (Oct. 16, 2018), MUR 7507 (Aftab for Ohio, *et al.*) (providing poll results report).

²² See, e.g., First General Counsel's Report at 5 (Jan. 14, 2013), MUR 6529 (McLeod) (noting that polling touching on a federal candidacy must be paid in part by a federal committee).

there was a sufficient basis to find reason to believe the County Clerk Committee’s partial payment for the polling constituted a soft-money violation.²³

Likewise, we rejected as insufficiently inculcating the Complaint’s suggestion that an overlap in staffing between the two committees indicates a prohibited use of soft money. Valentine Strategies and Brianna Ledsome received payments both from the Federal Committee and the County Clerk Committee.²⁴ But the fact that a candidate uses the same staff or vendors for two different committees is as innocuous as it is common. To infer that staff paid by a non-federal committee must have been working on behalf of the federal committee is therefore entirely speculative absent other information or evidence.²⁵ For the remaining two expenses for photography and fundraising software, the Respondents explain that the County Clerk Committee’s payments for these expenses were a mistake that the Federal Committee had already rectified.²⁶

Finally, dismissal of these allegations was warranted as an exercise of prosecutorial discretion in light of the Commission’s past approach to similar cases and the relatively small amounts at issue. Many of the payments at issue involved minimal sums of money unlikely to have had any material impact on the federal campaign, and the Commission has dismissed similar matters in the past. In MUR 6216 (Coakley for Senate), for example, the Commission dismissed allegations that a Senate candidate’s non-federal committee paid \$21,716 for consultants in support of her federal candidacy—nearly the same amount at issue in this matter.²⁷ The Commission dismissed the allegations as a matter of prosecutorial discretion, with five Commissioners writing that “the use of the Commission’s limited resources to pursue this matter is not warranted here, as it would appear that any amount of State Committee consultant payments attributable to the Federal Committee would be minimal.”²⁸ Considering the Commission’s other enforcement priorities and limited resources, a discretionary dismissal is equally appropriate to one based on lack of evidence.²⁹

²³ Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 4 (Dec. 21, 2000), MUR 4960 (Hillary Rodham Clinton for Senate) (“[P]urely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred.”).

²⁴ Response of Aftab for Ohio at 4–5 (Dec. 7, 2018), MUR 7507 (Aftab for Ohio, *et al.*).

²⁵ Statement of Reasons of Commissioners David Mason, Karl Sandstrom, Bradley Smith, and Scott Thomas at 4 (Dec. 21, 2000), MUR 4960 (Hillary Rodham Clinton for Senate).

²⁶ *Id.* at 5–6. We moved to find reason to believe that these expenses violated the Act and to conciliate with the Respondents, but our colleagues did not agree despite previously voting to find reason to believe on this same violation, and the motion failed with only three affirmative votes. *See* Certifications (July 13 and 15, 2021), MUR 7507 (Aftab for Ohio, *et al.*).

²⁷ *See* Statement of Reasons of Chairman Matthew Petersen, Vice Chair Cynthia Bauerly, and Commissioners Caroline Hunter, Donald McGahn, and Ellen Weintraub at 3 (Sep. 8, 2010), MUR 6216 (Coakley for Senate).

²⁸ *Id.* at 7.

²⁹ *Heckler v. Chaney*, 470 U.S. 821, 832 (1985).

III. Alleged Excessive Contributions

We further voted to dismiss OGC’s recommendations regarding Drenko Pureval’s alleged excessive contribution to Aftab Pureval’s federal campaign because of a lack of evidence.³⁰ On February 1, 2018—the day after Aftab Pureval declared his federal candidacy—Drenko Pureval made a contribution of \$2,700 to the Federal Committee for the primary election, as well as a \$15,000 contribution to the County Clerk Committee.³¹ Later, on April 11, 2018, Drenko made another \$15,000 contribution to the County Clerk Committee.³² These contributions were consistent with previous contributions Drenko Pureval made to her son’s campaign: she had previously given a total of \$68,200 to the County Clerk Committee.³³ Under the Act, individuals may not contribute funds to a candidate or his authorized political committee in excess of the Act’s limits for each election.³⁴ For the 2018 election cycle, the contribution limit for an individual per candidate, per election, was \$2,700.³⁵

OGC asserts that these County Clerk Committee contributions were, in truth, intended to aid the Federal Committee by providing the County Clerk to Committee the necessary funds to then pay for the alleged federal expenses.³⁶ To support this, OGC points to the fact that the County Clerk Committee had previously only about \$7,600 in cash on hand and made disbursements related to polling discussed above in the amount of \$28,370.78.³⁷ Seeing a correlation and claiming causation, OGC contends that, because the County Clerk Committee’s spending roughly matches the amount contributed by Drenko Pureval, the contributions must have been *for* those expenditures, and Drenko Pureval therefore made excessive contributions in connection with a federal election.³⁸

We rejected this inference as wholly speculative and based on insufficient evidence to support a reason-to-believe finding. The sole fact supporting the allegations is that Drenko Pureval contributed an amount of funds roughly equal to the amount disbursed by the County Clerk

³⁰ It is noteworthy that this allegation does not come from the Complaint—neither the original Complaint nor the Supplemental Complaint makes any specific allegations against Drenko Pureval other than that she made legal contributions. Complaint at 6–7 (Oct. 2, 2018), MUR 7507 (Aftab for Ohio, *et al.*). Instead, it is another instance of OGC taking license to bootstrap additional allegations to the Complaint by engaging in a general search of the record for related conduct. *See* Statement of Reasons of Vice Chair Donald McGahn at 6–8 (Sept. 16, 2013), MUR 6576 (Wright McLeod for Congress, *et al.*) (noting the issues and lack of procedure when OGC includes additional respondents not named in a complaint).

³¹ First General Counsel’s Report at 4 (Nov.14, 2019), MUR 7507 (Aftab for Ohio, *et al.*).

³² *Id.*

³³ *Id.* at 4 n.5.

³⁴ *See* 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

³⁵ *Contribution limits for 2017-2018*, Federal Election Commission (Feb. 17, 2017), *available at* <https://www.fec.gov/updates/contribution-limits-2017-2018>.

³⁶ First General Counsel’s Report at 14–16 (Nov.14, 2019), MUR 7507 (Aftab for Ohio, *et al.*).

³⁷ *Id.* at 4–5.

³⁸ *Id.* at 15.

Committee allegedly in support of the federal campaign.³⁹ But the mere fact that the County Clerk Committee spent the non-federal funds says nothing about the intent or knowledge of the contributors whose funds were used. The Commission is asked to assume that Drenko Pureval knew of the County Clerk Committee’s premeditated plans to spend non-federal funds on Pureval’s congressional race, but “[t]he Commission cannot launch investigations into Americans’ political activities based on speculation or official curiosity, or shift the burden to respondents to prove their innocence.”⁴⁰ Without more facts to support the allegation, we voted to dismiss.⁴¹



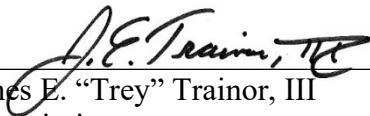
Allen Dickerson
Vice Chair

August 27, 2021
Date



Sean J. Cooksey
Commissioner

August 27, 2021
Date



James E. “Trey” Trainor, III
Commissioner

August 27, 2021
Date

³⁹ *Id.* at 4–5.

⁴⁰ Statement of Reasons of Vice Chair Caroline Hunter and Commissioners Lee Goodman and Matthew Petersen at 2 (Feb. 15, 2017), MUR 6747 (Rick Santorum for President); *see also* Statement of Reasons of Commissioners Darryl R. Wold, David M. Mason, and Scott E. Thomas at 2, MUR 4850 (Deloitte & Touche, LLP, *et al.*) (“The burden of proof does not shift to a respondent merely because a complaint is filed.”).

⁴¹ Certification (July 15, 2021), MUR 7507 (Aftab for Ohio, *et al.*).