

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-053307

10/27/2010

HONORABLE LINDA H. MILES

CLERK OF THE COURT
L. Crawford
Deputy

THOMAS C HORNE

THOMAS C HORNE

v.

COMMITTEE FOR JUSTICE & FAIRNESS, et
al.

MARTY HARPER

BELO CORP
NO ADDRESS ON RECORD
EVENING POST PUBLISHING CO
NO ADDRESS ON RECORD
BARRY D HALPERN
DAVID JEREMY BODNEY

RULING

The Court has considered Plaintiff's Application for a Temporary Restraining Order, the Defendants' Responses thereto, and the arguments of counsel presented on October 26, 2010.

In this case, Plaintiff Thomas C. Horne ("Horne") seeks a temporary restraining order enjoining the broadcast of an advertisement by the Committee for Justice & Fairness ("Committee"), which Horne contends expressly advocates his defeat as a candidate for the office of Attorney General. Horne seeks to restrain further airing of the advertisement on the basis of an alleged violation of A.R.S. § 16-912, which requires political committees to register with the Secretary of State and make certain disclosures in their advertisements. Defendants oppose Horne's request for injunctive relief contending, among other things, that Horne has not

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-053307

10/27/2010

established that the Committee violated § 16-912, and that even if there is a violation, the remedy set forth in the statute is exclusive and does not include injunctive relief.

The Court need not resolve the issue of whether the Committee violated § 16-912. Even assuming, without deciding, that a violation occurred, the remedy sought by Horne is not available.

In the recent case of *Pacion v. Thomas*, 225 Ariz. 168, 236 P.3d 395 (2010), the Arizona Supreme Court stated that “Title 16, Chapter 6, Arizona Revised Statutes (A.R.S. §§ 16-901 to 16-961) . . . contains a comprehensive statutory scheme governing election campaign finance.” 236 P.3d at 396. In that case, the Supreme Court addressed the issue of whether a trial court may enter an injunction for a violation of an election statute, specifically A.R.S. § 16-903. Noting the civil penalty provisions of that statute and A.R.S. § 16-924, the Court affirmed the trial court’s denial of an injunction finding that “the exclusive remedy for . . . a violation is the civil penalty provided in the campaign finance statutes.” *Id.*

The statute at issue in this case, like the statute at issue in *Pacion*, provides for a civil penalty that “shall be imposed as prescribed in section 16-924.” A.R.S. § 16-912(E). Sections 16-912(E) and 16-924 set forth the exclusive remedy for a violation of § 16-912. The election campaign finance statutes contain no provision authorizing the Court to grant injunctive relief as requested by Horne. As in *Pacion*, this Court “decline[s] to infer a statutory remedy into the campaign finance statutes that the legislature eschewed.” 236 P.3d at 397.

IT IS ORDERED denying Horne’s Application for a Temporary Restraining Order. In light of this ruling, the Court need not address the First Amendment issues raised by Defendants.

IT IS FURTHER ORDERED denying the Broadcast Defendants request for attorneys’ fees.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>