Court Majority Opinion

SUPREME COURT OF STUDENT GOVERNMENT AT TEXAS STATE UNIVERSITY

No. 02-06

HOMANN/MARTINEZ
v.
GALO/PAVLICEK

Received February 26, 2016 – Decided February 27, 2016

A Notice of Complaint was filed with the Supreme Court by Mr. Andrew Homann and Ms. Samantha Martinez (further referred to as complainants) desiring to appeal a decision made by the Election Board on February 26, 2016. This decision disqualified the complainants from the Student Government 2016 Elections on the grounds that the party had been found guilty of violating the Student Government Code (S.G.C) III. §101.2(7) which states, "Any person who fails to comply with an order or advisory opinion of the Board shall immediately be disqualified from candidacy…"

On February 20, 2016 the Supreme Court issued an Order and Opinion for Case No. 01-05 that resulted in a suspension of campaigning (among other consequences) for the Homann/Martinez Executive Alliance to start on February 22, 2016 at 8 AM and end on February 24, 2016 at 8 AM. However, a complaint was filed with the Election Board regarding the profile picture of Samantha Martinez and the campaign website of the Alliance, both of which had not been removed for the duration of the suspension.

Within the Notice of Complaint submitted to the Supreme Court on February 26, 2016, the complainants argue that their actions were not considered campaigning on the grounds that they were neither intentional nor deliberate.

The Student Government Supreme Court is empowered by S.G.C. VII §100.2(2) to refuse a case by majority vote if we do not believe any true critical questions to be presented. For this Notice of Complaint, the Supreme Court has decided to exercise this power on the grounds that the Election Board was indeed correct with their ruling.

In S.G.C. III §100.4(11), Campaigning is defined as, "statements, literature, activities, or deliberate uses or distribution of materials of any kind including electronic or

virtual, that have or are intended to have the effect of soliciting votes, support or interest for a candidate or elective office…" The majority opinion of the court is that the word "deliberate" is not to be held to the entire definition but simply as a modifier to the word "uses". Given this phrasing, the complainants are guilty of passive "distribution of materials" that were "intended to have the effect of soliciting votes".

Furthermore, the complainants never attempted to seek out clarification on whether the profile picture or campaign website would need to be removed. So, by S.G.C. §100.3(7) – the "Ignorance Not a Defense" clause – there is no proper defense against a lack of clarity of the code.

On these grounds, it is the majority opinion of the Court to dismiss the appeal.

…it is so ordered.