

SPRING TERM, 2015

JUDICIAL COURT OF THE TEXAS A&M STUDENT GOVERNMENT ASSOCIATION

Case Number 67-02

GREGORY LANIER *v.* ELECTION COMMISSIONER EMMA DOUGLAS AND
SENIOR YELL LEADER ELECT STEVEN LANZ

SUMMARY OF THE FACTS

The appellant filed alleging that the 2015 election results concerning the Senior Yell Leader race had been improperly processed by the Election Commission, as the number of votes in the final tally (11,217) were only approximately one-third of the possible 33,651 votes that would have been cast if each student had the opportunity to vote for 3 people for senior yell, as the election regulations mandate. The appellant asserted that the election commissioner erred in the tallying of student votes, rendering roughly 66% of student votes cast for yell leader to go uncounted, and as such, requested a recount of the votes be performed.

JUSTICE S. SMITH delivered the opinion of the Court, in which JJ. Halbert, Bonsu, Hadjis, J. Smith, Mueller, Maredia, and James join:

This case presents two questions. The first question is whether the Court should dismiss the case on the grounds that it was filed improperly. The second question is whether the Election Commission erred in counting the votes for the Senior and Junior Yell Leader races. The first question presented to the court is put forth by the Appellee Mr. Lanz and council for Mr. Lanz, who assert that filing procedures for the case were not completed in accordance with the Election Regulations since the appeal does not list Steven Lanz, Kyle Cook, or Zachary Lawrence as a defendant in the case. Before answering this question, however, the Court must determine whether Mr. Lanz's own appeal was filed properly and is within the Court's jurisdiction. The Court must refer back to the Constitution of the Student Government Association, which states in Article IV, Section I, subsection A, that:

“The powers of the Judicial court shall extend to any case between any student and any member of the Student Government Association in regards to: this Constitution, any statute; any rule or procedure enacted pursuant to this

Constitution or any rule or procedure enacted pursuant to any statute; or any action or inaction authorized by the same.”

While neither Mr. Lanz nor Mr. Lanier, the two parties listed in the former’s appeal, is a member of the Student Government Association, the Election Commissioner is a member. By consolidating the two appeals, the case has the requisite member of the Student Government Association and can ask itself the first question.

In answering that question, the Court holds that Mr. Lanier’s appeal should not be dismissed on the grounds that it was filed improperly. Article VI, Section I, Subsection (i) of the Election Regulations states:

“A candidate may contest an election no sooner than after the announcement of unofficial results, and later than forty-eight (48) hours after the unofficial results are posted by filing an appeal with the Judicial Court stating the basis on which the election is contested.”

The public meaning of this section and its ensuing rules for filing procedures, however, is that it applies only to candidates. Mr. Lanier was not a candidate and therefore did not have to abide by the filing requirements that the text of the rule requires for candidates. The text says nothing about whether non-candidates have to follow the requirement of listing the election winner as a defendant. As a result, the Court must defer to the SGA Constitution, which allows the Court to hear any and all cases so long as there are only students involved and at least one member of the Student Government Association. *SGA Constitution Article IV, Section I, subsection A.*

This interpretation is consistent with the larger overarching interpretation of the Election Regulations as a whole. Article I, Section A of those regulations states that “Candidates for any election shall be responsible for these regulations provided herein.” In other words, the rules in the election regulations apply in large part to candidates and Mr. Lanier is not a candidate.

The Court recognizes that this illuminates a loophole. Under the rules as they are written, any candidate could simply have their campaign manager file the appeal in order to deprive the original winner of their representation in the Judicial Court. But it is not the role of the Court to design good policy and close loopholes. It is the role of the Court to discern the public meaning of the text as written by the Student Senate and the public meaning in this case leaves no option but to allow Mr. Lanier’s appeal to stand.

Council for the Appellant contends that Mr. Lanier did not know if a correct tally of the votes would change the outcome of the race, which is why he solely listed the Election Commissioner on his original appeal. Because Mr. Lanier is not a candidate, he is not required to list the parties in a case required by the Election Regulations. With this in mind, the Court still believes it is within Mr. Lanz’s rights

under the Election Regulations to have representation in this case and its consolidation of the two cases reflects that.

The second question in this case is whether the Election Commissioner erred in the tallying procedure outlined in the Election Regulations for the office of Senior Yell Leader. The Appellant maintains that the votes were not tallied in accordance with the Election Regulations, which resulted in roughly two thirds of the votes for Senior Yell Leader not being tallied. Due to an error in the Information Technology department's tallying algorithm, the Appellant believes that the current results for Senior Yell Leader could possibly be incorrect.

The Appellant argues that the Election Commissioner did not follow the procedure for Multiple-Seat Races outlined in Section VI of the Election Regulations. Section VI, subsection F, part (iv) 1, defines the procedure for Multiple-Seat Instant Runoff Voting as the following:

“The procedures for multi-seat races shall be the same as for single-seat races except: While ranking shall proceed numerically, with no duplications, votes for as many candidates as there are winners shall be weighted equally.”

This text poses the question of the definition of the phrase, “weighted equally” in terms of the election for Senior Yell Leader. The Court believes that “weighted equally” must be defined as such: in every round of the Instant Runoff Voting, each voter's top three choices still remaining will each be counted as their highest preference. The phrase “top three choices” can be defined as the remaining candidates with the three highest rankings regardless of whether those numbers are consecutive.

The Election Commissioner conceded that the tallying of the elections was not carried out in accordance with the Election Regulations. Taking into account the evidence presented along with the statements of the Election Commissioner, the Court finds that the Election Commissioner erred and that the votes cast for the offices of Senior Yell Leader and Junior Yell Leader were tallied incorrectly. Therefore, the results of the Senior and Junior Yell Leader votes declared by the Election Commission are invalid, and thus will not be certified. Furthermore, in a forthcoming writ, the Court will demand a recount with the existing data.

In his Appeal, the Appellant sought a recount of the votes in accordance with the Election Regulations. The Election Commissioner argued that a manual tally of the votes is not in accordance with the Election Regulations. The rule in Section VI, subsection A, part (i), is as follows:

“Elections shall be conducted online using a secure and private method. Ballots shall be organized and marked in a manner designated by the Election Commission. Students may vote only once with their own Net ID and password. Duplicate ballots and those not complying with these requirements shall be voided.”

The Court defines “Elections” as only the procedure of voting, and not of tallying. The voting portion of Elections was conducted online in a method deemed “secure and private”. Therefore, the Court agrees that a manual recount would be acceptable under the text of the Election Regulations. In deciding this case, the Court must interpret the text of two seemingly incompatible sections of the Election Regulations. The tough part of this decision is navigating between the Scylla of Section VI, Subsection A and the Charybdis of Section VI, Subsection F. We hold that, while difficult, this navigation is certainly possible.

The procedure for tallying votes during this election was not in compliance with the Election Regulations. However, the Court does not view this as the fault of any single individual or party. The system of Instant Runoff Voting is fundamentally incompatible with an equally weighted multiple-seat race.

The heart of the issue in this case was the tallying procedure carried out by the Election Commission. The Court finds that the actions of the Election Commissioner and her Commission resulted in a tallying procedure not in compliance with the Election Regulations. Therefore, the Court rules in favor of the Appellant, Mr. Lanier.

C.J. Cooper submitted his own opinion, concurring in part and dissenting in part:

I agree with the majority except for the path by which the Court ought to navigate the difficulty between Article VI, Section A and Article VI, Section F by demanding a recount. I believe Article VI, Section A to refer both to the casting and counting of votes. The meaning of the words can be determined by the principle of *noscitur sociis*, or the process of knowing words by the words around them. The discussion of how the Election Commission shall mark the ballots indicates that the word “election” includes both casting and counting.

Instead, I think the proper way to maneuver the difficulty presented by these two points is by recognizing that Article VI, Section A is a general provision and Article VI, Section F is a more specific provision. Section A is general since the title of the section is “General”. Whenever two provisions of these kinds conflict, it is an established principle that we ought to defer to the specific provision in order to give greater effect to the entire text of the provision. *Reading Law, by Scalia and Garner; O’Rourke v. Douglas, 67-01*. Accordingly, a recount should be allowed with this reasoning.