

FALL TERM, 2020



JUDICIAL COURT OF TEXAS A&M

Syllabus

KHANG TRAN NGUYEN *v.* ELECTION COMMISSIONER MAXWELL

CERTIORARI TO THE STUDENT GOVERNMENT ASSOCIATION
ELECTION COMMISSION

No. 73-02. Argued October 21, 2020 — Decided October 23, 2020

Khang Tran Nguyen (“appellant”), a candidate for Freshmen Senator, filed a petition for Writ of Certiorari asking for the reversal of his disqualification. Election Commissioner (“EC”) Maxwell disqualified the appellant based on an alleged major violation (V S.G.A.C. §601.6(4) “Common Violations Table”) of failure to report the fair market value of a poster. The Court must determine the validity of the EC’s application of the election regulations under the Student Government Association Code (“S.G.A.C.”), and decide whether to uphold or overturn the appellant’s disqualification. The main statutes concerning this case include V S.G.A.C. §601.8(1) (c)(1,2), V S.G.A.C. §601.7(1) (c), and V S.G.A.C. §601.7(1) (6).

CHENG, J., and MCINTOSH, C.J., delivered the opinion of the Court, in which CHOPRA, JOHNSON, BERGER, and CASTILLEJA, JJ., joined. MINOR, V.C.J., filed a dissent.

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The campaign poster in question was seen with the appellant on an Instagram post dated October 1, 2020. The appellant stated that the poster board was purchased prior to his attendance at Texas A&M and therefore does not count as a campaign expense. The EC argued that the poster was used as campaign material, so it must be expensed.

After reviewing the evidence and statements presented by the appellant, the Court determined that the poster shown on the Instagram photo was not originally purchased for the use of campaigning. The appellant's campaign manager purchased posters approximately one to two years ago for a school project while both of them were still attending high school, and the poster in question was a leftover.

With the powers granted by V S.G.A.C. §601.1(2), the Court reviewed the EC's interpretation of the election regulations. During the hearing, Associate Justice Cheng questioned the EC to obtain a clear sense of her understanding and interpretation of the election regulations, and two important points were revealed:

1. The EC's definition of what necessitates an expense report/fair market value report of any object used to solicit votes was offered in the context of a pen, for which we shall name the "Pen Doctrine". According to the Pen Doctrine, objects such as pens — trivial and available at hand for most students — do not warrant an expense report.
2. The EC made a reference to V S.G.A.C. §601.8(1) (c)(1,2). However, the Court noticed a discrepancy between the EC's description of the clause versus the actual text of the clause.

The Court finds both components of the EC's interpretation in conflict with the S.G.A.C. First, the Pen Doctrine lacks sufficient legal grounding — upon closer examination of the S.G.A.C., there was no clause that defines which objects are trivial enough to not be expensed without violating the election regulation. Essentially, what the EC stated was, if the appellant had an unreported pen instead of a poster board, he would not have been disqualified.

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While this might have seemed logical on the surface at first, as the Court questioned the EC further on this standard, it became clear that gauging what is to be expensed when using these criteria soon became arbitrary. The Pen Doctrine is problematic in that it lacks both legal basis and objectivity, because without a clear textual basis, one could argue that a laptop is trivial since most university students are required to own a laptop. One could also argue the other side by saying that a hypothetical candidate should be disqualified if they used their iPhone 11 as a flashlight for some campaign media, because an iPhone 11 is not a normal item owned by every university student. Second, the text of V S.G.A.C. §601.8(1) (c)(1,2) is as follows:

“Items to be expensed shall include, but not be limited to, items that fit *both* of the following criteria:

- (1) The item would not be *purchased* but for the candidate’s running for election.
- (2) The item cannot be accessed for free by the regular student.”

During the hearing, the EC cited the first of the two criteria as “an item *used* for campaigning.” While this is a seemingly subtle difference from the text, the meaning changed drastically. “Using” and “purchasing” are completely different things, and in this instance, the appellant used something that was purchased when he was still in high school, long before he decided to run in the Fall 2020 election. Therefore, the first criterion is not met and V S.G.A.C. §601.8(1) (c)(1,2) cannot be used to justify the disqualification of the appellant.

The EC brought up points regarding fair market value reporting as well, and once again, the Court found no violation on the candidate’s part after reviewing the S.G.A.C. According to V S.G.A.C. §601.7(1) (c), “It is the responsibility of the candidate to assess a fair market value for any donated campaign materials or campaign materials used without any proof of payment. This shall be done by filling out the Fair Market Value Assessment Form provided by the Election Commissioner.” The poster board was not donated, but rather was an item already in possession of the appellant’s

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campaign manager since high school. To address the second part of this statute concerning “campaign materials used without any proof of payment,” we shall first establish the definition of “campaign materials.” V S.G.A.C. §601.7(1) (6) defines campaign materials as “any items, services or materials used or intended to be used in the course of campaigning or preparing for a campaign.” As stated previously, the poster board was purchased while the appellant was in high school, and the poster board was used on the first day of voting for an Instagram photo. Looking at the definition from V S.G.A.C. §601.7(1) (6) and the first criterion from V S.G.A.C. §601.8(1) (c)(1,2) simultaneously, the poster board was not purchased during the course of the campaign nor used for the preparation of the campaign.

After reviewing the relevant facts to this specific case and comparing them to what is explicitly stated in the code, six of the seven Justices present voted to overturn the disqualification of Khang Tran Nguyen and allow him to take the seat of Freshman Senator. We found substantial differences between what the EC testified to be her interpretation of the code and what the code states. While it may be the Commission’s policy to use the Pen Doctrine to determine when an item should be expensed, there is much inconsistency in the code that does not reflect this.

* * *

It is worth noting that the Court’s decision for this case relied heavily on factualism and textualism. We examined the facts specific to this case and applied the relevant statutes based on their exact wording and ordinary meaning. While precedent is of value in the judicial branch, especially under a Common Law system, we recognize that the Student Government Association operates primarily under codified statutes passed by the Student Senate. Furthermore, the Court’s primary role in the Student Government Association is to interpret the codified statutes and apply them properly to each case. Therefore, while judicial precedents serve as valuable references, we cannot deny the fact that this Court operates under a framework reminiscent of the Civil Law system where codified statutes predominate

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over case law. This ruling *does not overturn* any judicial precedents. Regardless of which legal system this Court is bound to, we affirm our commitment to interpret the law as it is written and to not legislate from the bench. We caution future Courts to *not* use this case as a precedent to excuse actual campaign violations that are outlined in the S.G.A.C. A responsible Court must always interpret — not update nor modify — the most up-to-date election regulations passed by the legislative body.

The disqualification of Khang Tran Nguyen is overturned, and he shall take office as Freshman Senator pursuant to the election results.

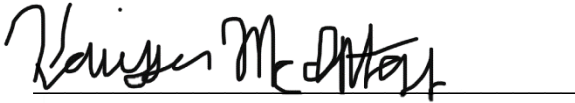
It is so ordered.

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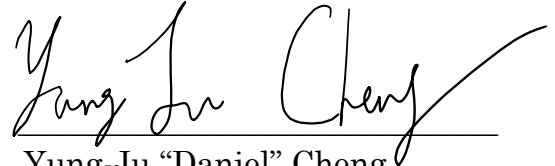
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SIGNATURES OF THE JUSTICES

No. 73-02



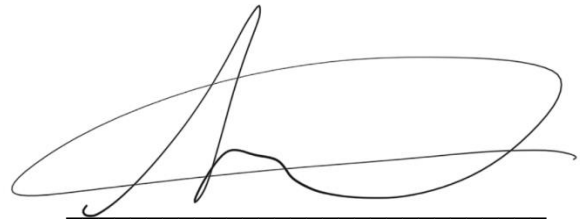
Karissa McIntosh, Chief Justice



Yung-Ju "Daniel" Cheng,
Associate Justice




Cameron Castilleja, Associate Justice



Shefali Chopra, Associate
Justice



Evan Berger, Associate Justice



Lexie Johnson, Associate
Justice