

JUDICIAL COURT OF TEXAS A&M

Syllabus

COLTON WHISENANT *v.* ELECTION COMMISSIONER GOGINENI

CERTIORARI TO THE TEXAS A&M STUDENT GOVERNMENT
ASSOCIATION ELECTION COMMISSION

No. 75-01. Argued October 13, 2022

Colton Whisenant (“petitioner”), a candidate for Freshman Class President, was disqualified by the Election Commissioner (“E.C.”) for failing to submit receipts with his finance form. Mr. Whisenant filed a petition for Writ of Certiorari with the Judicial Court arguing that according to the specific language within V S.G.A.C. §601.6(4) (b)(1) he should not have been disqualified as the statute explicitly requires the submission of the finance form by the deadline and does not state that receipts have to be attached to the finance form. The petitioner further asserts that the statute referring to the Common Violation Table, found in V S.G.A.C. §601.6(3) (c), does not require the submission of the receipts, nor the fair market value form; rather, by its language, it only requires the possession of those documents. As such, the petitioner states that the Election Commission should not have applied disqualification in this case as he maintained personal possession of his receipts, and the Election Commission had no evidence that the petitioner did not possess said receipts. In this case, the Judicial Court of Texas A&M must evaluate the validity of the E.C.’s application of the Election Regulations under the Student Government Association Code (“S.G.A.C.”) and determine if the petitioner’s disqualification should either be upheld or overturned.

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NESMITH, C.J. and MEISENHEIMER, J., delivered the opinion of the Court in which KULL, V.C.J., PALIT, MOSTY, BAGLEY, WHEELER IRIZARRY, and SCHWARTZ, JJ., joined.

Sometimes we lose the forest for the trees, becoming all too excited to separate the exact text from its original context. As is the case today, the Court must abstain from being strict or sloppy in its review of statute. Rather, it is this Court's duty to render an opinion consistent with the letter and spirit of the S.G.A. Code.

On September 29, 2022, the Election Commission disqualified the petitioner on account of V S.G.A.C. §601.4(3) (c): “Any violation found in the Common Violation Table shall be fined the amount therein associated for the offence [sic].” Due to the petitioner's “[t]otal lack of receipts,” as per the Common Violation Table, the Election Commission assessed him a fine of disqualification.

With the powers granted under V S.G.A.C. §601.1(2), the Court has reviewed the Election Commission's interpretation of the Election Regulations and has identified two main points of contention:

1. Whether “[t]otal lack of receipts...to expense purchases” implies mere possession as opposed to submission of all relevant receipts, and
2. If the Election Regulations require all receipts to be attached with signed finance forms by a predetermined deadline.

During the hearing, the petitioner and his counsel argued that the express language of “[t]otal lack of receipts” only refers to their physical possession and not their actual submission. The Court, however, found that the fundamental issue at hand was that of reading the particular violation within the context of its whole purpose, “to expense purchases.”

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When read in their entirety, the specific violation and its respective fine stipulate as such:

Violation	Fine
Total lack of receipts or fair market value form <i>to expense purchases</i> ¹	Disqualification

Before addressing the matter of possession versus provision, it is important first to affirm what it means to expense a purchase. Given the context of the Election Regulations, it is clear that expensing a purchase is in direct reference to the Expense Report, which is regarded as part of the finance form in accordance with V S.G.A.C. §601.3(2) (a)(iii). The purpose of the Expense Report is to expense any item that, for example, meets the description of a campaign material—defined as “anything distributed or displayed for the purpose of soliciting votes for a candidate.”² The Expense Report at present may include a Fair Market Value Form, which is meant to expense “donated campaign materials or materials used without any proof of payment” per V S.G.A.C. §601.7(1) (c).

If “[t]otal lack of receipts” should, in fact, be construed as the mere possession of receipts, then surely the same should be said for the “fair market value form,” also enumerated within that same clause. However—as evidenced by his submitted Expense Report—the petitioner understood that a Fair Market Value Form was in order. In other words, the petitioner submitted a Fair Market Value Form for a Wonderboom Bluetooth Speaker but did not provide any receipts for the four materials in which he purchased.³ Any mention of a

¹ V S.G.A.C. §601.6(4) (emphasis added). Due to the timing of this case, the Court is basing its decision on the 75th Session Edition of the S.G.A. Code (June 2022).

² V S.G.A.C. §601.8(1) (c) (1). This particular clause outlines a general but not definite framework of thought to expense items, as evidenced by its language of “shall include, but not be limited to.”

³ In his Expense Report, under “SECTION A,” the petitioner listed purchased items. However, in said Expense Report, the petitioner did not turn in the corresponding receipts. The instructions for “SECTION A” say to attach all receipts and include them with the Expense Report.

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Fair Market Value Form shall not be conflated with receipts from an expenditure of actual cost, pursuant to V S.G.A.C. §601.7(1) (a)(1). Therefore, to expense a purchase, it is strongly supported by the evidence as well as the explicit text that a candidate must provide all relevant documentation, including any receipts, by the appropriate deadline. In this case, the petitioner did not submit any pertinent receipts with his Expense Report by the established deadline.

On the question of who determines the appropriate deadline and location, the Election Regulations expressly confer that authority unto the E.C. by virtue of V S.G.A.C. §601.3(6) (c). During the Mandatory Candidates' Meeting, "[t]he Election Commissioner shall announce the days and times that *finance reports and receipts* are due, and the location(s) at which they must be deposited." As this subsection makes clear, finance reports along with any receipts are to be deposited at a time and location specified by the E.C. Ignorance of this or any other regulation, as stated under V S.G.A.C. §601.1(1), shall not be deemed by the Court as an acceptable defense. Even so, it is essential to note that the petitioner was indeed made aware of the E.C.'s interpretation of the Election Regulations.

On September 18, 2022, the petitioner attended the Mandatory Candidates' Meeting in which the E.C. "explain[ed] the Election Regulations, answer[ed] any questions, and announce[d] any notable interpretations of the Election Regulations," per V S.G.A.C. §601.3(6) (b). According to the Election Commission's Expense Report Slides and Examples—presented at the Mandatory Candidates' Meeting—candidates were instructed to "[i]nclude receipts with [the] expense report." All candidates under V S.G.A.C. §601.3(6) (f) are responsible for any information covered at the Mandatory Candidates' Meeting, without exception. Again, in reviewing the relevant evidence as well as the applicable text, the Court has no reason to believe that the E.C. failed in her capacity to inform all candidates that receipts must be submitted *with* the Expense Report *by* the set deadline.

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To avoid the obstruction of free and fair elections, the Court recognizes the inviolable rule of equal protection as well as uniform enforcement. For the Election Commission to determine a candidate’s compliance with “necessary and applicable regulations,” an official verification process known as auditing must occur, the specifics of which are outlined in V S.G.A.C. §601.8.

The auditing process allows the Election Commission to enforce regulations upon and ensure the transparency of a candidate’s financial activities. The Election Regulations, per V S.G.A.C. §601.8(2) (a), stipulates that for the purpose of transparency, the Election Commission shall audit and “make all candidates’ expense reports publicly available at tamuelection.com before 7:00 p.m. on the first day of voting.” By failing to properly supplement his Expense Report with all pertinent receipts by the set deadline, the petitioner undermined not only the auditing process but also the Election Commission’s pursuit of transparency—a crucial component of free and fair elections. Mandating the submission of receipts by the established deadline allows the Election Commission to verify the legitimacy of said receipts and ensure that candidates are not exceeding the defined budget limitations per V S.G.A.C. §601.6(4) (b)(1).

Conducive to the equal enforcement of auditing procedures is the prevention of candidates gaining an unreasonable financial advantage as a consequence of exceeding their budget limit. Therefore, the Court—in reviewing the E.C.’s interpretation of this article—rejects the notion that the deadline to submit all appropriate documentation for the purpose of being audited is whenever the candidate says it is. To expect the E.C. to enforce a deadline that is unique to an individual candidate, that the deadline “is when the candidate has provided everything that they can provide,”⁴ is counterintuitive to the principle of a uniform deadline. The matter of auditing Expense Reports in a timely manner is not one of policy, as suggested by the petitioner. Rather, it is a matter of grounding the codified statute within its appropriate context.

⁴ Quote made by J. Thad Whisenant, Oral Arguments for Whisenant v. Gogineni (No. 75-01), October 13, 2022, Koldus Governance Room, Live-Streamed Video, 46:05.

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The duty of this Court is not to render opinions that it likes either out of sheer convenience or policy preference. Indeed, we, as Justices of the Judicial Court of Texas A&M, are charged with following the text and evidence wherever they may lead.

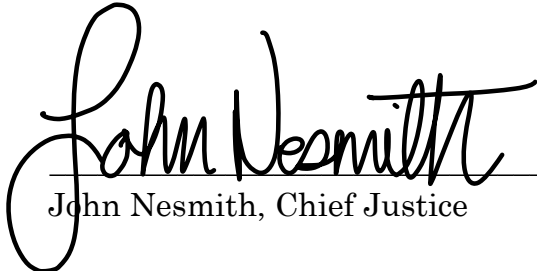
With that in mind, the Court cannot in good conscience rule in favor of the petitioner. In reviewing the E.C.'s interpretation, the Court hereby finds the Election Commission's decision to disqualify the petitioner under V S.G.A.C. §601.6(4) of the Common Violation Table to be consistent with the text. The petitioner's request for the reversal of his disqualification is denied.

It is so ordered.

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SIGNATURES OF THE JUSTICES

No. 75-01



John Nesmith, Chief Justice



Henry Kull, Vice Chief Justice




Ishita Palit, Associate Justice




Catherine Meisenheimer,
Associate Justice



Caleb Mosty, Associate Justice



Sawyer Bagley, Associate Justice



Brandon Wheeler Irizarry,
Associate Justice



Mirella Schwartz, Associate Justice