



*Spring Term 2017*

## **JUDICIAL COURT OF TEXAS A&M**

McIntosh v. Election Commissioner Keathley

No. | 69-01

March 2nd, 2017

### *Syllabus*

The Appellant brought forth suit against the Appellee claiming that she wrongfully disqualified him as a candidate in the Student Body President election on the grounds of voting fraud. The Appellee argued that she was within her rights as the Election Commissioner to do so.

VICE-CHIEF JUSTICE DURIE, JUSTICE HARRISON, JUSTICE FORMELLA, JUSTICE NEUMANN, and JUSTICE WOOLSEY Issue the Majority Opinion:

The Election Commissioner (“Commissioner”) stands as Texas A&M University’s most immediate arbiter of student elections and as such, from time to time, must reasonably intervene in the ongoing election cycle of a particular race or races whose processes and procedures have previously fallen under the purview of the Commissioner in order to ensure no student, candidate, or campaigner inappropriately or unjustifiably interferes with the standards proscribed in the Election Regulations (“the Regulations”). Maintaining a voting environment consistent with the Aggie Honor Code’s prescription for ethical conduct among and between fellow students remains a principal duty of the Commissioner. The Regulations, however, permit a second, albeit different arbiter of student elections, Judicial Court (“the Court”). The Court shall have the power and capacity to scrutinize the Commissioner’s interpretation of alleged violations perpetrated by a student or students. To note, the Regulations squarely empower the Commissioner, then offer a corrective check on the Commissioner with judicial review: “These regulations are subject to interpretation only by the Election Commissioner and are subject to

review by the Student Government Judicial Court” (V S.G.A.C. § 601.1(2)). In light of the balancing framework constructed by the Regulations, it is not assumed the Commissioner wields broad and sweeping prosecutorial discretion but instead yields his or her determinations to a body similarly charged with ensuring electoral justice.

The evidence presented to the Court by the Appellee in this case seemed circumstantial at best, and when coupled with witness testimonies from both sides, was not compelling enough to convince the Court that a ruling of disqualification was warranted.

Furthermore, V S.G.A.C. § 601.6(3)(a)(1)(i)a states:

“Voting fraud shall include but not be limited to voting using another student’s credentials, physically selecting options on the ballot of another voter, or anything else deemed to be voting fraud by the Election Commissioner.”

While there exist allowances for the Commissioner to interpret “voter fraud”, said interpretation must be within the limits and constraints of objective reasonability. The two specific examples enumerated in the Code both relate to directly committing fraudulent actions (i.e. voting as someone else or filling out someone else’s ballot for them). The behavior the Appellant was disqualified for, even if proven true, does not even begin to approach the degree or scope of this type of “fraud,” and for this reason the Court disagrees with the Commissioner’s interpretation of this word.

To note, no argument presented before the Court broached either of the former two examples in the clause, leaving the latter the Commissioner’s only reliable authority, “...anything else deemed to be voting fraud by the Election Commissioner.” However, the claim of voter intimidation, a commonly referred to euphemism supposedly suggestive of voter fraud, does not reliably emerge in the aforementioned and relied upon citation. The Court affirms the purpose of ambiguous language in the regulations and upholds the role it plays in promoting accountability amongst the candidates by granting the Commissioner flexibility in the visage of unanticipated representations of “fraud.” However, the Court also recognises that with a broader scope of power and vague wording, the Election Commission thus carries a more substantial burden to prove the violation in order to punish the concerned party. In light of this understanding, the Court finds the Commission did not fulfill the demands left by this vague statute. Due to these considerations, the disqualification should be revoked.

For the aforementioned reasons, the Court rules to overturn the Appellee’s decision to disqualify Student Body President Candidate Robert McIntosh on grounds of voter fraud, as it is the opinion of these Justices that no such definition can reasonably be applied to the actions of the Appellant given the evidence provided.

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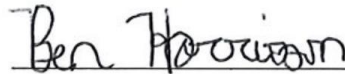
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*Signatures*



Laura Durie – Vice-Chief Justice



Benjamin Harrison, Associate Justice



Michael Formella, Associate Justice



Corbin Neumann, Associate Justice



Ryan Woolsey, Associate Justice