

JUSTICE JAMES concurred in part and dissented in part:

The court addressed four issues when reviewing Case 67-03 that seemingly create dissonance in the text but are ultimately reconciled by Commissioner Douglass's interpretation of the Election Regulations: the question as to whether or not defendant Joseph Benigno committed a violation in creating the campaign video, whether or not an offense against state law occurred, if the SGA Constitution's "equal protection of the statutes" was undermined in determining fines, and whether or not Douglass erred in applying her discretion.

In regards to the first question, Benigno clearly committed violations of the Election Regulations. Douglass used the video's segment of students holding a banner to assess Benigno's violation of the provision limiting campaigning for any candidate to four individuals in one place at a time. However, Douglass defined the use of the sign wielded while riding the motorcycle as material used solely for the creation of the video, not off-campus campaigning. Article II, Section c, Subsection i of the Election Regulations defines campaign materials as "anything distributed or displayed for the purpose of soliciting votes for a candidate." Furthermore, Article III, Section b, Subsection iii states, "Off-campus campaigning shall be prohibited. No campaign materials shall be distributed, posted, or held off campus." Like the featured banner, Benigno and his campaign team used the sign "held off campus" with the intention of soliciting votes in their promotional video.

The second issue addressed by the court brings into question the definition of "offense" in the context of the Election Regulations and whether or not, because of due process, it is within our jurisdiction to recognize a violation of state law if conviction has not taken place. The fact Benigno did not incur punishment from the law does not compel the court to presume his innocence. Article IV, Section c, Subsection i of the Election Regulations specifies that "offenses against local, state, and federal law to any degree" are major offenses without stipulating that an indictment must take place for the Election Commissioner to recognize such offenses. While punishing traffic violations may create precedent for unbounded actions by the Election Commissioner, the photographic and video evidence submitted to the court clearly depict the offenses to state law.

In interpreting Section IV, Subsection a of the Student Government Association Constitution, the court must identify whether or not Douglass's assessment denied equal protection to the candidates and whether or not her discretion is deemed unconstitutional if "arbitrary and capricious". The Election Regulations grant candidates protection by outlining prohibited activity and its consequences but also inform candidates that the "regulations are subject to interpretation only by the Election Commissioner" (Article I, Section b). In applying a tier to a violation, the Election Regulations define the tiers as a "guideline" and allow Douglass to determine "the final sanction amounts and degrees" of each violation. The plaintiff's counsel argued Douglass must assign Benigno the same fines incurred by SBP candidate Isaiah Tsau for campaign violations, but the defendants' counsel referred to Article IV, Section c, Subsection i of the Election

Regulations dividing tiers “according to severity, intent and impact on the campaigning process.” Douglass used her authority as Election Commissioner to assign fines based on the context of the violations and handled each differently, as they are situational. One may argue this power extends only to bridging tiers, but the text allows her interpretation as to what constitutes “campaigning” and an “offense”. As Douglass asserts off-campus campaigning did not take place and the candidate did not commit an offense against state law, she is not required to impose fines on Benigno.

*Shelby James '18*

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Shelby James, Associate Justice