



JUDICIAL COURT OF TEXAS A&M

Salas v. Election Commissioner

No. 72-01

Argued: February 19, 2020

Decided: February 21, 2020

Syllabus

Mr. Salas was a candidate for Student Body President in the Spring 2020 Student Government Association elections. On February 11th, 2020, he was deemed ineligible to run and disqualified from the race by the Election Commissioner. Two days later, he filed an appeal. This Court granted certiorari and a preliminary injunction to allow the candidate to attend and participate in candidate events pending the outcome of this case.

JUSTICE CHALFIN delivered a concurring opinion.

The Student Government Association (SGA) student-body elections are governed by the SGA Code and the Election Regulations contained within. This document prescribes the manner in which elections are conducted and places various restrictions and requirements on the candidates. It also grants powers to certain institutions, like the Election Commission and this Court. Such regulations aim to ensure that all Aggies experience a fair election season.

Candidates are required to understand and run their campaigns in accordance with the Election Regulations. Article I, Section I. of the Election Regulations states:

Candidates for any election shall be responsible for these regulations provided herein. Ignorance of these regulations shall not be an acceptable defense in response to any offense in any election...

The Appellant was disqualified as a candidate from the Student Body President elections by the Election Commissioner under Article III, Section V, Subsection B, Part i and Part ii:

At the time of filing the candidates for candidates for Student Body President must have a minimum overall G.P.R. of 2.0 and post at least a 2.0 for the preceding semester.

The Student Body President shall have been registered at and in good standing with Texas A&M University for at least three (3) consecutive Fall/Spring semesters preceding his/her election to office.

During oral arguments the Counsel for the Appellant offered, at times, conflicting arguments that included a denial of the Election Commissioner's assertions, and a request for an exemption or exception to the above rules from this Court. Both argumentation strategies are insufficient.

The plea for an exception to the Election Regulations listed above is an impossible request that would represent a dangerous transition for this Court. Such an exemption is not supported by any provision or rule in the SGA Code, and there is no judicial precedence supporting such an exemption. As a result, this Court does not have the power to issue such a decree, and one issued in the future under substantially similar circumstances would be invalid. In the past, the Court has taken some liberty to interpret portions of the code that are ambiguous or unclear. Such a power is granted to the Court by Article I, Section II of the Election Regulations:

These regulations are subject to interpretation only by the Election Commissioner and are subject to review only by the Student Government Judicial Court. Additionally, any liberties of interpretation given specifically to the Election Commissioner are subject to

review by the Student Government Judicial Court, No other member of the Student Government Association or the Election Commission is authorized to interpret the Election Regulations.

Such power is sacred and limited. This Court is specifically granted the power to review the Election Regulations, not discard, or exclude them. Under the proposed argumentation, any rule, including those that govern or restrict this Court can be tossed aside with whatever reason the current set of Justices can imagine.

At other times, the Appellant argued that he was not in violation of the SGA Code and thus subject to an erroneous disqualification. This argument is also not supported by the facts of the case and evidence presented.

As established by Article I, Section II of the Election Regulations, this Court is an appellate body. Much like a real court, there is a burden of proof, and that burden of proof rests solely on the Appellant. This legal principal was articulated during the pre-trial hearing and oral arguments of *McIntosh v. Election Commissioner*. In this case both sides presented evidence and a thorough amount of argumentation to the Court. The evidence provided by the Appellant was limited, vague, and often unrelated to the judicial principals at the center of this case. Many important assertions made during the oral argument were presented without verification and are contradicted by the evidence submitted by the Election Commissioner. Such supporting evidence could have been a transcript, a signed affidavit from a University official asserting his compliance with the regulations that disqualified him, or any other relevant documentation. By voluntarily withholding important evidence from the Court, the Appellant has failed to potentially meet his burden of proof and confirm his eligibility in the appeal process.

It is important to clarify that this opinion is not a criticism of the Appellant's informed choice to withhold evidence, it simply conveys that given the oral arguments and evidence presented, the Court cannot assert that he has met his burden of proof to substantiate his claims.

Chief Justice of the United States John Roberts stated "Judges are like umpires. Umpires don't make the rules; they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role. Nobody ever went to a ball game to see the umpire... I will remember that it's my job to call balls and strikes and not to pitch or bat." This quotation above summarizes the approach that justices should take when hearing and analyzing a case. Justices only apply the rules, they don't make the rules, and they don't play the game. In this case, this model restricts what justices should write in their opinions.

Justices should not propose specific remedies to the legislative body. The Court should only rule on the issues presented to the Court in this case. Even broad legislative suggestions, given the specific circumstances of this case, can be interpreted to show a bias toward one set of rules or toward one individual. This can be dangerous, given that these same Justices may have a case brought to the Court that challenges or questions these modified rules. Thus, I find it hard to imagine that a Justice can maintain the perception of impartiality when they are ruling on sections of the SGA Code they inspired or proposed themselves. This concept is enshrined in the Separation of Powers Doctrine. In a broad sense, the legislative body creates the rules, the executive branch executes the rules, and the judicial branch interprets the rules. By proposing a rule, the judicial branch is hijacking a power rightfully delegated to the legislative branch. This power is delegated in Article III, Section III, Section A, Subsection 2 of the SGA Code:

Statutes may be codified, but only if the bill or the referendum petition enacting the statute expressly states which portion of the Student Government Association Code is amended, repealed, or created by the statute

If any branch may participate in the code amendment process, why enumerate this power solely to the legislative branch? If the code expressly grants the power of code amendments to the Student Senate, it is not appropriate for the other branches to participate in, or comment on, this process when such power is not granted to them, especially when such a comment erodes the perception of judicial independence. For the reasons explained above, both the request for an exception and the argument of compliance are denied in this concurring opinion and the preliminary injunction previously granted by the Court is no longer in effect.

Spring Term 2020

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Signatures

A handwritten signature in cursive script, appearing to read "Daniel Chalfin", followed by a horizontal line extending to the right.

Daniel Chalfin - Associate Justice