



## JUDICIAL COURT OF TEXAS A&M

David Cabrera Salas v. Election Commissioner Schaffer

No. 72-01

Argued: February 19, 2020

Decided: February 19, 2020

### *Syllabus*

On February 11th, 2020, under the guidance of a university official privy to FERPA protected information, Election Commissioner Jacob Schaffer notified Student Body President (SBP) Candidate Davide Cabrera Salas of his disqualification from the SBP elections. SBP Candidate Salas brought the issue forward to the court. The court must decide whether the disqualification holds or if said candidate meets the requirements established in the code to run for SBP.

**CHIEF JUSTICE CHOPRA, VICE CHIEF JUSTICE MCINTOSH, JUSTICE BINGER, and JUSTICE CHENG issued the majority opinion of the Court:**

1. The authorities of the Election Commission and the Judicial Court are enumerated in the following articles of the Student Government Association Code (S.G.A.C.):
  - a. **S.G.A.C Article V, §III(b)(1), EXECUTIVE COMMITTEES, COMMISSIONS, AND OTHER OFFICES**

"The Election Commission exists to organize and oversee all Student Government Association elections in a manner consistent with the Aggie Code of Honor"
  - b. **S.G.A.C Article I, §II, 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"

2. Issue to consider: Eligibility as per-

**S.G.A.C Article III, §V(b)(1), THE ELECTION REGULATIONS**

"(i) At the time of filing the 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."

"(ii) 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."

When a candidate fails even one eligibility check out of the three checks, pursuant to the S.G.A.C., disqualification will follow, Since Mr. Salas did not pass all three eligibility checks and did not meet the burden of proof to suggest otherwise, a majority of the court determined the Election Commissioner appropriately applied the code which led to Mr. Salas's disqualification from the SBP election.

Based on our review of evidence submitted, the Election Commissioner deemed Mr. Salas ineligible for Spring 2019 and Fall 2019 pursuant to the above statute. *Those who authored this opinion hold that the Election Commissioner appropriately applied the code specifically for Spring 2019.*

The cause of Mr. Salas' ineligibility for Fall 2019 is due to his withdrawal from the university and the lack of a posted GPA. This ineligibility stems largely from an extenuating circumstance in which he was unable to physically attend classes at Texas A&M University, This circumstance entails the candidate being obliged to return to his country of citizenship for Visa renewal and had no other option other than to abide by federal law. How the court may address such extenuating circumstances is not provided by any precedence or regulation in S.G.A.C.

With regards to the eligibility of Mr. Salas for Fall 2019, the court was not able to make a decision for or against the candidate. While we uphold the Election Commissioner's disqualification based on the Spring 2019 eligibility check, we lacked the necessary mechanisms to review the issues brought forth by the extenuating circumstances presented by Mr. Salas. Since this court is not a legislative body, we do not have powers vested in the S.G.A.C that allow us to address the aforementioned issues,

**CHIEF JUSTICE CHOPRA, VICE CHIEF JUSTICE MCINTOSH, and JUSTICE CHENG bring about a point of notice:**

While we uphold the Election Commissioner's disqualification, we cannot dismiss nor ignore a larger issue at hand that was brought under scrutiny over the course of this case. Through this case we have realized that the S.G.A.C. provides no shelter or exception for students who wish to run for any office under extenuating circumstances.

We have identified Fall 2019 as an extenuating circumstance for Mr. Salas given his obligation was held against him since the court could not provide any remedy for him. This remedy can only be provided by the legislative body. We recommend a legislative action to address this issue not being present in the code.

On face, this case seems to be a simple application of the statute against a single candidate who wishes to run for SBP. However, upon further analysis, this issue also affects the student body as a whole by preventing any student from running for SBP who has withdrawn from the university whether it be for immigration needs, work experience, injury, illness, or other personal reasons if the withdrawn semester falls in the three consecutive semesters before the spring SBP elections.

The absence of such provisions has the potential to unfairly limit the scope of our elections by preventing all students from having the equal opportunity to run in Student Body Elections.

The court therefore takes it upon itself to remind the SGA of our *absolute* duty to protect the student body as best as we can by supporting all students who wish to run for SBP despite their extenuating circumstance as it relates to **S.G.A.C Article III, §V(b)(I), THE ELECTION REGULATIONS**. We must consider the unintended consequences of our governing documents and take this opportunity to put provisions in place that might provide remedies to those in circumstances which are not ideal or standard as it relates to **S.G.A.C Article III, §V(b)(1), THE ELECTION REGULATIONS**.

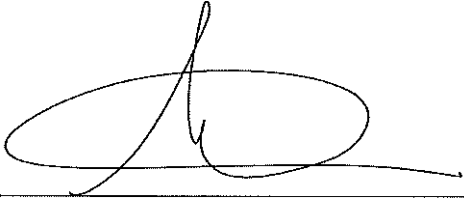
The lack of any provision for such issues creates the potential for an undue burden on students in extenuating circumstances.

As the preamble of the SGA Constitution states, it is our duty to "[represent] student interests" and "[promote] the general welfare of the student body." If we as members of SGA do not seize these opportunities to uphold and promote the welfare and interests for *all students* of this university in endeavors they wish to support the SGA and student body, how can we create a system that is fair and just?

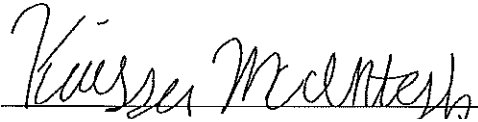
Taking all of this into consideration, this case has given us the opportunity to evaluate the purpose of our governing documents. We recommend a full evaluation of the regulations regarding student body election eligibility by the Student Government Association.

*Spring Term 2020*  
**JUDICIAL COURT OF TEXAS A&M**

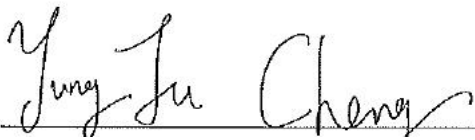
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Shefali Chopra - Chief Justice



Karissa McIntosh - Vice Chief Justice



Yung-Ju "Daniel" Cheng - Associate Justice



Grace Binger - Associate Justice