

SPRING TERM, 2023

JUDICIAL COURT OF TEXAS A&M

Syllabus

CHRISTIAN NEWTON *v.* ELECTION COMMISSIONER GOGINENI

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

No. 75-03. Argued March 22, 2023 – Decided March 31, 2023.

In the matter before the Court, the Election Commissioner (herein abbreviated “E.C.”) delivered via email the disqualification of Student Body President Candidate Christian Newton (herein named “Petitioner”) under V S.G.A.C. §601.6(4) (b). The Election Commission determined that the Petitioner undermined the transparent nature of the election *vis-à-vis* the “intentional and substantive” corruption of documents per V S.G.A.C. §601.6(3) (a)(ii). In an effort to reverse his disqualification, the Petitioner filed an appeal for Writ of Certiorari with the Judicial Court, arguing that the Election Commission had insufficient evidence to prove the following four points to justify the disqualification: (1) only one vendor created the submitted invoices, (2) the Petitioner’s campaign materials constituted donated goods to be expensed at Fair Market Value, (3) the Petitioner intentionally and substantially undervalued items to subvert the transparency of the election, and (4) the Petitioner abused the financial fairness of the election process. 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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MEISENHEIMER, J., concurring

Like the canary in a mine, the Judicial Court serves to warn the Election Commission whenever there appears to be some cause for concern. However pure the goal or desirable the end-result, the Court should aim to examine the means of the Election Commission's actions by positioning the S.G.A. Code as a guide rather than a suggestion in its decision-making. With the powers vested under V S.G.A.C. §601.1(2), I plan to reason with the following questions:

1. Did the Election Commission properly apply V S.G.A.C. §601.6(3)(a)(1)(ii), “[f]alsification of documents refers to the *intentional and substantive* corruption of documents that undermines the transparent nature of the election,” when disqualifying the petitioner, and
2. Did the Election Commission “*confidently determine*” the petitioner’s disqualification in accordance with V S.G.A.C. §601.6(4)(b)?

The Election Commission, who bears the ultimate burden of proof, must meet two evidentiary standards to determine whether or not a candidate corrupted documents. The basis for the petitioner’s disqualification requires that the corruption of documents be made with the intent to falsify, and according to the Election Commission’s decision, the petitioner intentionally undervalued over twenty purchases “for the purpose of undermining the equal budget given to all candidates and [the] transparency of the elections.”¹ Mind you, the falsification of documents need not be made with the intent to deceive if the Election Commission can confidently determine that the candidate in question knowingly presented information to be materially false. In this case, however,

¹ See the petitioner’s appeal for Writ of Certiorari, No. 75-03 *Newton v. Election Commissioner Gogineni*, “Statement of Relevant Facts,” pp. 4.

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the Election Commission produced insufficient evidence to prove that *their decision* relied on the petitioner having committed an act with knowledge of its plain falsity.² Before elaborating on the aforementioned claim of intentional undervaluing, it might be helpful to address the Election Commission’s first reason for deducing false documentation.

Based on the conglomeration of “identical invoices” in the petitioner’s final expense report, two of which featured recurring Customer IDs, the Election Commission concluded that someone other than the three listed vendors created the invoices. During oral arguments, the petitioner’s counsel asserted that three sellers requested the petitioner and his campaign to provide invoice templates for each of them to fill out: the petitioner “obliged.”³ Due to the absence of cross-examination, a constitutional right that any side reserves in cases before the Judicial Court, I decided to neither consider the petitioner’s affidavits nor the respondent’s “Call Transcript” in my opinion.⁴ However, without the testimony of the petitioner’s witnesses, I found little compelling evidence to show that someone other than the stated “vendors” filled out the invoices. Moreover, the S.G.A.C. falls short of mentioning invoices, let alone requiring them to be created (template wise) by the vendors themselves.

On the matter of vendors, Section A of the expense report defines vendors as *stores*. The petitioner allowed three individual sellers, all of whom attend the university as undergraduate students, to pass off as vendors under made-up names. The E.C. presented Section A of the expense report at this year’s Mandatory Candidates’ Meeting, and according to V S.G.A.C. §601.3(6)(f), “[a]ll candidates are responsible for all information covered at [that specific

² To commit an act “knowingly” does not mean to make an accident or innocent mistake. Nevertheless, ignorance of the S.G.A.C.’s Election Regulations does not constitute an acceptable defense in response to any offense, see V S.G.A.C. §601.1(1).

³ Quote made by Judge Advocate General for the petitioner, Ms. Richa Shah, Oral Arguments for No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 04:00-04:05. For more information on the supposed agreement between the petitioner and the three “vendors,” see the petitioner’s appeal, *Newton v. Election Commissioner Gogineni*, pp. 3.

⁴ See II S.G.A.C. §001.4(a): “In all cases before the Judicial Court, all students shall enjoy...the right to cross examine witnesses brought against them.” In today’s case, neither side explicitly waived their right to cross-examine witnesses brought against them.

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meeting] without exception.” Even assuming that the E.C. permitted candidates to write individuals’ names as vendors, the petitioner and his campaign conveyed information they knew or had to have known to be false to the Election Commission—Pedram’s Playhouse, Kylee’s Sorority Supplies, and the Devin Price is Right Store do not exist as actual vendors. Nevertheless, the Election Commission looked elsewhere when making their decision. They neither arrived at their decision by taking issue with the vendors’ names nor challenged their inclusion on the petitioner’s expense report during oral arguments. ***Make no mistake, in cases involving any election, the Court functions to review the Election Commission’s decision and how they came to it—it is not the job of this Court to make arguments on their behalf that they did not make for themselves.***

When asked by Vice-Chief Justice Kull if the Election Commission considered Ms. Kylee Carter’s “inability” to access certain sorority letters as a major factor for them finding falsification, the E.C. responded in the affirmative for the one invoice under “Kylee’s Sorority Supplies.” The E.C. claimed that some of the sorority letters featured in one of the petitioner’s campaign videos were not from Ms. Carter’s sorority. By inferring that she could not have had access to another sorority’s letters, the Election Commission concluded that Ms. Carter did not sell the other sorority’s letters to the petitioner and thus deemed the invoice to be falsified. Upon further judicial inquiry, however, the E.C. admitted that the Commission had scant evidence to prove that Ms. Carter did not have access to the letters. In fact, the E.C. expressed her wish during oral arguments to question Ms. Carter as a witness for the purpose of confirming the Election Commission’s own conclusion. V S.G.A.C. §601.6(3)(a)(1) requires “*proof included to show falsification,*” and due to the E.C.’s insufficient evidence as well as wish to cross-examine Ms. Carter for confirmation, I cannot find that the Election Commission confidently determined the invoice from “Kylee’s Sorority Supplies” to be intentionally falsified.

In addition to Ms. Carter’s supposed inability to access another sorority’s letters, the E.C. insisted that the Court look at the “totality of the

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circumstances” when judging falsification of the submitted invoices. Amid their rebuttal, the E.C. and her counsel pointed out that two invoices from the petitioner’s expense report failed to properly itemize purchased campaign goods. While qualified as one of four components for a valid receipt, the E.C. conceded that the petitioner’s failure to itemize purchases on the two invoices from “Kylee’s Sorority Supplies” and “Pedram’s Playhouse” would have been classified as minor finance violations under V S.G.A.C. §601.6(3)(b)(1). The E.C. went on to state that the only way a candidate could be disqualified for accruing minor violations would be if they received so many fines that they exceeded their budget. Although V S.G.A.C. §601.6(4)(e)(1) allows for candidates to be disqualified for minor violations if they do not pay their fines “within ten (10) class days after the final day of voting,” these conditions do not apply here. I agree with the majority that the Election Commission did not assess the petitioner any fines due to minor violations and therefore cannot hold the petitioner responsible for failing to pay any fines or for going over his budget as a result of being fined.

To better understand how the Election Commission came to their decision, Justice Palit asked the E.C. if she could identify any other specific infraction that the petitioner committed in outright violation of the S.G.A.C. that did not rely upon the Commission’s ability to deliberate on the expense report’s totality. The E.C. said in response that the lack of sales tax on all three invoices and accompanying bank statements meant that they were not expensed at actual cost, defined as the cost “enumerated on an official sales receipt including the cost of tax,” see V S.G.A.C. §601.7(1)(3). Let me be clear that until a court of law has proven the petitioner guilty of committing any offense against local, state, or federal law, speculation of the petitioner possibly “committing a crime against the state of Texas” will not be entertained.⁵ On the matter of a “missing tax,” however, I found some shortcomings with the E.C.’s reasoning. Putting aside the fact that the items in question had to be

⁵ Quote made by Judge Advocate General for the respondent, Mr. Jose Portela III, Oral Arguments for No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 45:45-45:51. For judicial precedent about V S.G.A.C. §601.6(3)(a)(1), “Major violations include...**proven** offenses against local, state or federal law to any degree,” see No. 67-03 *Murtha v. Election Commissioner Douglas and Student Body President-Elect Benigno*.

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expensed at fair market value, the E.C. still argued that the invoices' omission of an official sales tax rendered those purchases improper. First, the E.C. either did not determine or take into consideration the possible exemptions that may apply when an individual engages in an occasional sale with another individual selling personal items. But even so, the S.G.A.C. does not give the Election Commission express authority to interpret this state's laws regarding legitimate exemptions on sales tax. Second, because their original decision did not depend on or even mention the notable absence of a sales tax on all three invoices, I will instead look at the Election Commission's second reason for disqualifying the petitioner.

The Commission concluded “[a]fter further investigation...that the invoices [most notably that of Mr. Devin Price] were created after the items were utilized [as] campaign material. They were not sold prior to their usage. Therefore, these items [were] ‘donated material.’”⁶ When confronted with the aforementioned facts, the petitioner's counsel acknowledged that the candidate wore an Aggie SpeedFlex Football helmet prior to purchasing it.⁷ They insisted, however, that two reasonable interpretations could be gleaned from the phrase “date of purchase.” It either refers to the date in which the petitioner received the items or the day in which the petitioner paid for the items. While I find the Election Commission's interpretation of “donated materials” reasonable and not beyond the scope of what the S.G.A.C. allows, I cannot disregard the electronic communications that occurred between the E.C. and the petitioner's campaign team beforehand. On March 1, 2023, the petitioner's campaign emailed the E.C., informing her of how Mr. Price sold the petitioner his football helmet for \$1.00. They then asked her, “*Does the attached invoice [from the Devin Price is Right Store] work if we attach the Cashapp/Venmo transaction?*” The E.C. simply replied, “*Yes.*” Just as one may find the Election Commission's interpretation of donated items reasonable, so too could one

⁶ Petitioner's appeal, *Newton v. Election Commissioner Gogineni*, pp. 3.

⁷ The petitioner wore the helmet in an Instagram post on February 12, 2023. However, the petitioner's campaign team did not pay for the item until March 1, 2023, before the deadline to submit all Finance Forms.

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reason that the petitioner acted in “good faith,” holding the honest belief that his documents indeed met the standards for a valid receipt—a point recognized by the E.C.’s own counsel.⁸ However, the Election Commission did not disqualify the petitioner for lacking a complete Fair Market Value Form to expense purchases (see V S.G.A.C. §601.6(4) and V S.G.A.C. §601.7(1)(a)(1)(ii)), but rather disqualified him for intentionally and substantially falsifying documents. While the petitioner’s reckless disregard for the fair market value system could have had the substantive effect of impacting the Commission’s auditing process, I cannot find that the Election Commission met their burden of proof to show that the petitioner knew or had to have known the information he presented to be materially false. Neither the S.G.A.C. nor the official expense report offers a clear definition for donated materials, and due to the petitioner’s correspondence with the E.C., I cannot say that the Election Commission confidently determined intentional corruption (especially with the evidence they relied on *vis-à-vis* the Spring 2023 Reported Violations Spreadsheet).

On the matter of undervaluing campaign items, I concur with the majority in its findings. When Justice Schwartz asked the E.C. if seeing Mr. Price’s football helmet priced at \$1.00 alarmed her at first, the latter responded, “On its own, no. But when I saw that the petitioner had expensed [*i.e.* undervalued] over twenty items similarly, that raised [concern].”⁹ Yet despite not feeling initial alarm, the E.C. gauged the helmet to be worth \$375.00. However, neither she nor her counsel submitted evidence to prove the truth of the matter asserted. Moreover, if the Election Commission agreed that the used helmet should have been expensed at \$375.00, then would that not bring into question the E.C.’s email to the petitioner, where she wrote, “*You can FMV [fair market value] any football helmet, it doesn’t have to be an Aggie one.*” Although her response coincides with the Election Commission’s frequent interpretation of allowing

⁸ Quote made by Judge Advocate General for the respondent, Mr. Jose Portela III, Oral Arguments for No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 58:40-59:08.

⁹ Quote made by Election Commissioner Yasaswi Gogineni, Oral Arguments for No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 59:12-59:30.

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students to expense comparable items available locally at fair market value, it does not help to explain the E.C.'s estimated figure of \$375.00.

I also feel compelled to point out that the petitioner, in the end, paid for the items underpinning this controversy. Like at a garage sale, the petitioner bought used items substantially below retail value. The Election Commission's power to determine the cost of items purchased with receipts appears nowhere in the S.G.A.C., and because the petitioner produced what the Election Commission considered to be an acceptable alternative for a receipt (an invoice plus bank statement), I find it difficult to accept the Election Commission's claim of falsification. The petitioner paid \$1.00 for a used Aggie SpeedFlex Football helmet and provided verification of the amount being paid in full as shown by the Cash App transaction statement attached to Mr. Price's invoice—if the petitioner instead paid \$375.00 for the football helmet and expensed it at fair market value for \$1.00, this case would be different.

If the Election Commission likewise disqualified the petitioner for violating campaign ethics—something the E.C. tried to appeal to during oral arguments—I would not have spoken about intentional falsification. However, the facts have not changed. When emailing the petitioner of his disqualification, the Commission cited two regulations: V S.G.A.C. §601.6(3)(a)(1)(ii) regarding the “intentional and substantive” falsification of documents and V S.G.A.C. §601.6(4)(b), “Disqualification shall only be applied in cases where the violation can be confidently determined to undermine the free, fair, and safe nature of the election.” To be clear, disqualification exists as an acceptable means for recourse in cases where the falsification of documents can be proven to undermine the transparency of an election. However, the Election Commission did not prove intentional falsification in today's case. The petitioner had to first falsify documents for the Election Commission to confidently determine that his actions “undermine[d] the free, fair, and safe nature of the election.”

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No matter how the Court decides this case, disappointment and hope will follow. So in these challenging times, the Court must adhere to the text and not abandon it out of mere convenience. In sum, I agree with the majority's application of the S.G.A.C. as well as its final conclusion that the petitioner's disqualification should be reversed. I deny, however, the petitioner's request for ordering the Election Commission to retract statements. The petitioner offered no evidence of him suffering "reputational harm" as a direct result of the Election Commission's decision. More importantly, however, claims of defamation exceed the scope of this court.¹⁰

¹⁰ See No. 59-02 *Colt Clemens v. Election Commissioner Reed*: "The Judicial Court only has jurisdiction to interpret the [C]onstitution of the Student Government Association, Branch By-Laws, and Senate Legislation." The Judicial Court has no authority to review claims of defamation.

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SIGNATURE OF THE JUSTICE

No. 75-03

A handwritten signature in black ink, reading "Catherine Meisenheimer". The signature is written in a cursive style with a large initial "C" and "M".

Catherine Tran Meisenheimer, Associate Justice