

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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Dissenting Opinion

BAGLEY, J., dissenting

In the case of Newton vs The Election Commission, the dissenting opinion holds that through various, independent cases in which violations of existing statutes occurred, the Election Commission was within the jurisdiction given it by the SGA Code and the dissent finds a lack of substantive reasoning and evidence to overturn the petitioner's disqualification, but believes dangerous precedents is set in doing so.

With the given evidence and oral arguments, the dissent holds that a major violation occurred through numerous minor violations causing the campaign budget to go over the acceptable range, thus violating the following statutes: Chapter 601 Article VI Section III(a)(1): *Major violations. Major violations include, but are not limited to: proven offenses against local, state or federal law to any degree; sabotage of opposing campaigns; voting fraud; falsified documents (with proof included to show falsification, including finance form); campaign ethics violations; and obstructions of the free and fair nature of voting.*, Chapter 601 Article VII Section II (a) & Section II(c), Article VI Section III(a)(1)(iv), Article VII Section I(c), and Article VI Section III(a)(1)(ii).

The Election Commission charges \$75 for the first minor violation in a major race and has an increment of \$15 for each violation that follows. The petitioner's expense report indicates a minimum of 5 minor violations and possibly up to 20 depending on how the Election Commission decides violations for non-itemized receipts. Chapter 601 Article VI Section IV(b)(1) indicates that going beyond one's budget is grounds for disqualification. Chapter 601 Article VI Section IV(d)(1) dictates the fines for a major race and how much they increase for each additional violation. Moreover, Chapter 601 Article VII Section II(a) definitively states that disqualification is to occur in the case of exceeding one's budget and Section II(c) limits a major race budget to \$1500.

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With just the minimum of 5 violations, the total charge to the campaign would be \$525, thus forcing the petitioner's budget to go beyond the allowed amount for a major race. Now onto the next independent reason for disqualification, a lack of substantive reasoning to overturn the majority ruling of the Election Commission.

The dissent holds that Fair Market Value is required in any case where an item is not purchased from a licensed vendor, i.e. a store. This definition is consistent with that of Section A of the expense report, in which the name of the vendor is defined to be that of a store. This clearly indicates that individuals who may sell items to a campaign are not to be considered under Section A but rather are to be filed under Section B. Moreover, Fair Market Value is needed in order to ensure that no one party is able to buy what would otherwise be expensive for a lower cost. With regards to the petitioner's case, the Election Commission ruled that the petitioner had more than twenty items which were substantially undervalued and were not done under a Fair Market Value. This allows for any campaign to hold an unfair advantage over others and opens the door for budget manipulation. Budget manipulation in this case would be when a third party would buy an enormous amount of campaign materials and then sell it to a campaign for a substantially lower price. For example, if a third party were to buy \$2000 worth of materials and sell it to a campaign for even \$1000, this is enough to subvert the election process, and with no limits in place, such materials could be sold for \$1 and no ramifications would take place. Given such circumstances and the Election Commission's duty to ensure a free, fair, and safe election, the dissent cannot in good faith or conscience vote to overturn the disqualification of the petitioner because it is within the realm of reasonability to disqualify any such campaign. Chapter 601 Article VI Section III(a)(1)(iv) states "*The Election commission may determine what constitutes significant ethical violations based on judgement of common sense and reasonability, in accordance with the Election Commission's duties to uphold a free and fair election, to look after the safety of their fellow students, and to adhere to the standards of the Aggie Core Values.*" Thus, with the petitioner violating the expense report's definition of vendor and not Fair Market Valuing a conglomeration of items combined with a reasonable interpretation and execution of the code on the

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Election Commission's part, the dissent holds that a dangerous precedent will be set otherwise and that there is no significant reason to overturn the Election Commission's decision given the above reasons. Given that the Judicial Court should not overturn a majority ruling of the Election Commission, the dissent will now explain the third reasoning for the opinion, what is to be in the Fair Market Value form.

Chapter 601 Article VII Section I(c) clearly dictates: *It is the **responsibility of the candidate to assess a fair market value for any donated campaign materials or campaign materials used without any proof of payment.*** Therefore, any item used without proof of purchase must be within the Fair Market Value form. The wording of the SGA Code is not one of intent to purchase but rather one of purchase. The petitioner held that given an intent to purchase, they should not have to assess a fair market value but this is contradictory to the Code. To clarify, the materials in question regarding the petitioner are not to be considered donated but rather as materials used without proof of payment. This implies that at the time of use, there must be proof of payment, and the petitioner did not have such proof.

The dissent also holds that the standard of date of purchase is within the realm of reasonability. It is important to note that the dissent is not arguing that such a definition is the best standard or sufficient on its own, but rather a reasonable one. One of the Court's role regarding the Election Commission's judgements is to determine whether they are reasonable and acceptable, not violating any standard set in the Student Government Association's Code. Thus, without a sufficient reason to reject the Election Commission's standard of differentiating between materials purchased and those which ought to be assessed based on the fair market value, the dissent cannot, in good faith of executing the Court's given role and authority, overturn the petitioner's disqualification based on the Election Commission's standard. Moreover, refer to Chapter 601 Article VI Section III(a)(1)(iv) which sets the standard for common sense and reasonability to be the criteria for ethics violations, given said decisions are within the scope of the Code and its standards. Moreover,

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deliberate ignorance of criteria is grounds for intent to falsify, given sufficient evidence.

The dissent holds that deliberate ignorance is grounds for intent to falsify. Falsification does not necessarily only apply when given a form of malicious intent, but rather a general intent to falsify. The dissent recognizes a stricter standard and higher bar to be met when it comes to proof of intent. Given the severity of such a statement, the dissent shall make the case for the petitioner's intent to falsify.

Firstly, Chapter 601 Article VI Section III(a)(1)(ii) states: *Falsification of documents refers to the **intentional and substantive corruption of documents that undermines the transparent nature of the election.*** Refer to this as the dissent continues forward.

Regarding the intent to falsify, it was made known to the Court during oral arguments, that the petitioner's campaign played a significant and substantial role in the invoices from the individuals. This opens the door for abuse as anyone could create a third party for an invoice and then sell items to themselves for a substantially lower amount, or to another person. Given the admittance by the petitioner's party during their hearing, the dissent holds that there is obvious collusion between the petitioner's campaign and the individuals who sold items at a greatly undervalued price. Thus, with the admittance of collusion and corruption of such documents, even without the prior proof of intent, the dissent holds that sufficient proof of the petitioner's party to intentionally create invoices for their own receipts is grounds for falsification, and thus disqualification.

With the evidence submitted unto the court by both the petitioner and respondent, there were a few key areas in which intent to falsify is evident. When considering the email correspondence between the petitioner and the Election Commissioner, it was made known to the petitioner's campaign that Fair Market Value was to be used for anything sold by individuals with regards to campaign activity. This occurred well before the date in which expense reports were to be submitted. Additionally, further correspondence indicates

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an obvious intent to not have to expense such items by the petitioner's party. The Commissioner had made known that Fair Market Value could be done for any generic brand of a specific item, in which the dissent holds that the given presupposition is that Fair Market Value was required. The above reasoning is consistent with the given standards set forth by the Election Commission.

It is important to note that the Election Commissioner wrongly agreed that an invoice and proof of transaction was sufficient for such items. The current standard for Fair Market Value is that in which one must take the average of an item from two separate vendors, i.e. licensed stores, with tax included on the Fair Market Value form. Thus, while the Election Commissioner was within the bounds of their authority in the beginning of correspondence, they were beyond their limits in suggesting that such a proof of invoice and transaction is sufficient to meet the measure of a Fair Market Value form.

The aforementioned reasons and evidence seen in correspondence and action, when put together, are reasonable and sufficient grounds to prove intent to falsify, as the petitioner had intentionally not obeyed what was given them in the Code and during the Mandatory Candidates Meeting, namely the expense report and prior sections of the Code mentioned previously. It is a candidate's responsibility to make sure what is told to them is consistent with standards set in the Code, Election Commission, or any other organization that takes part within the elections.

Therefore, while the Election Commission was in the wrong when suggesting that a form of receipt was enough to meet the Fair Market Value standards, the petitioner is also in the wrong for not completing a Fair Market Value form as was mentioned numerous times in both correspondence with the Election Commissioner and in official documents. Now that the dissent has given substantive reasons for accepting the decision of the Election Commission, the dissent will expound on the dangerous precedents that can be set.

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The dissent holds that it is a dangerous precedent to determine that the Election Commission is to be strictly beholden to the opinions of the Election Commission, who is normally a non-voting member, except in the case of a tie. Especially in this case, where the Election Commissioner was incorrect in suggesting that something met the standards by the Election Commission, when in fact it did not, namely Section A&B of the expense report. The dissent disagrees with the Commissioner's interpretation that an invoice and proof of transaction is enough for Fair Market Value and holds that the Election Commission is not entirely beholden or responsible for such an interpretation, and is not always aware of such interpretations. While the Commissioner is the representative of the Commission during elections, to suggest that the decision, voted on by the Election Commission itself, can be overturned simply due to an opinion or false interpretation of the Election Commissioner, an individual of the organization, opens the door for harm and more authority or weight given to the Election Commissioner than is good as any and every decision from the regularly voting members of the Election Commission hinges on whether they are in line with the Commissioner's. The dissent suggests that there be a form of recourse in the case that the Election Commissioner goes directly against definitive standards but the overturning of this case would achieve the opposite.

For the above reasons and opinions, the dissent has determined multiple, independent grounds for disqualification and has warned against numerous precedents that could be set by overturning the disqualification of the petitioner. Moreover, the dissent is not making a judgment on the petitioner's character or whether there was in fact malicious intent but rather, after observing the evidence and oral arguments, the dissent has come to the conclusion that the petitioner should be disqualified due to numerous minor violations which cause the budget to go over the determined threshold, an intent to falsify, and a responsibility to hold to the definitive standards of the Election Commission. The dissent recommends that there be recourse so that the Election Commissioner be accountable for going beyond interpretation of rules and regulations, that Fair Market Value be the standard for items purchased from individuals, unless later statutes are made in contradiction, though the dissent believes this to be a just standard. Further

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recommendations include a standardized form for invoices and clear standards of what is allowed to be considered a receipt, and further standards of what determines a vendor.

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SIGNATURE OF THE JUSTICE

No. 75-03

A handwritten signature in black ink, appearing to be 'SB', written in a cursive style.

Sawyer Bagley, Associate Justice