



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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Majority Opinion of the Court

NESMITH, C.J., KULL, V.C.J., PALIT, and SCHWARTZ, JJ., delivered the opinion of the Court, in which MEISENHEIMER, J., joined. BAGLEY, J., filed a dissenting opinion. MEISENHEIMER, J., filed a concurring opinion., and MOSTY, J., abstained.

On March 3, 2023, the E.C. sent an email notifying the Petitioner of the Election Commission’s decision to disqualify him from the Spring 2023 Elections as a candidate for Student Body President. In her email, the E.C. cited two statutes to justify the decision behind disqualification. First, V S.G.A.C. §601.6(3) (a)(1)(ii), which reads, “Falsification of documents refers to the intentional and substantive corruption of documents that undermines the transparent nature of the election.” Second, she cited 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, or the candidate has committed an act which prevents them from maintaining qualification as a candidate within the current election.” The Court is reviewing the E.C.’s application of these statutes to the present case.

To determine the validity of the E.C.’s applications of the aforementioned statutes, the Court first looks to V S.G.A.C. §601.6(3) (a)(1)(ii), cited in the E.C.’s disqualification email. In order to meet the standard of falsified documents, as stated in V S.G.A.C. §601.6(3) (a)(1)(ii), there must be “intentional and substantive corruption of documents.” The Court does not find that the E.C. sufficiently proved this element of the statute. During oral arguments, the E.C. said that one of the main factors behind the claim of falsification of documents was in regard to one of the Petitioner’s invoices, “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 the letters of Ms. Kylee Carter’s sorority; therefore, she couldn’t have accessed and subsequently sold them to the Petitioner. This led to the conclusion that the invoice was falsified. However, the E.C. admitted that she had no evidence to prove that

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Ms. Carter could not have accessed these letters.¹ While this reasoning serves as one of the E.C.'s principal basis for falsification, it is uncertain and not rooted in fact, thus undermining her claim. Moreover, V S.G.A.C. §601.6(3) (a)(1) requires “*proof* included to show falsification [emphasis added].” The Court finds that the E.C. has not presented sufficient evidence to *prove* falsification of documents, as required by the S.G.A.C.

Further regarding Kylee’s Sorority Supplies, the Court would like to note that during oral arguments, the E.C. mentioned her inability to vet the statements made by the witness (see footnote 1), Kylee Carter, in the witness affidavit brought forward by the Petitioner. Upon further examination of this statement, the Judicial Court found that the inability of the Petitioner to produce his witnesses for oral testimony and subsequent cross-examination posed a threat to the E.C.’s ability to confront those bringing claims against her. That being said, in an effort to protect the E.C.’s constitutional rights, as provided by II S.G.A.C. §001.4(a), the Judicial Court did not consider any of the Petitioner’s witness affidavits when deciding the outcome of the case. Similarly, the Judicial Court did not take into account the unidentified whistleblower’s call transcript submitted by the E.C.

Moving on to the second, and last statute cited in the E.C.’s disqualification email, V S.G.A.C. §601.6(4) (b). On its face, the statute reads: “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, or the candidate has committed an act which prevents them from maintaining qualification as a candidate within the current election.” In reviewing this statute, the Court has determined that a candidate cannot be disqualified solely under this statute. This statute applies to the decision of the Election Commission to choose an appropriate penalty in response to a violation that

¹ Judicial line of questioning between Vice-Chief Justice Kull, Justice Meisenheimer, and the E.C. in which the E.C. stated her suspicions still needed to be confirmed via cross examination, No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 50:44-51:37.

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warrants disqualification. This occurs *after* the Commission determines that a Tier 1 or major violation has occurred.

When considering a Tier 1 violation, the Election Commission votes on two reasonable actions, as described in V S.G.A.C. §601.6(4) (a): “(1) A fine of 15% of the candidate’s allotted budget” and “(2) Disqualification.” V S.G.A.C. §601.6(4) (b) is listed directly under these statutes. Following, it is clear that this statute is referring to the Election Commission’s ability to choose disqualification (as opposed to a 15% fine) as a punishment *after* the Election Commission determines that a Tier 1 violation has been committed. “Falsified documents” is considered a Tier 1 violation under V S.G.A.C. §601.6(3) (a)(1). However, because the Court does not find that falsification occurred, as defined in V S.G.A.C. §601.6(3) (a)(1)(ii), then it follows that V S.G.A.C. §601.6(4) (b) does not apply.

It is important to note that the origins of this case revolved around external concerns regarding the legitimacy of some of the vendors utilized by the Petitioner. The Court recognizes that the names on the invoices² in question are not businesses as compared to the other vendors listed in “Section A” of the Petitioner’s Expense Report, but rather, “vendor” names created by the individuals who sold used items to the Petitioner’s campaign. In response to these questions of legitimacy, the Petitioner’s counsel contended that the campaign did not complete these portions of the invoices. Given that the E.C. lacked sufficient evidence to prove these are falsified documents as required by V S.G.A.C. §601.6(3) (a)(1), the Court cannot determine that the invoices were intentionally and substantively corrupted. The fact that these circumstances were not addressed in the E.C.’s original disqualification email to the Petitioner nor relied upon during oral arguments indicates the claim’s lack of significance to the E.C.’s argument. **Make no mistake; it is not the role of**

² Invoices 5, 6, and 7 on Petitioner’s Expense Report are the “Devin Price is Right Store,” “Kylee’s Sorority Supplies,” and “Pedram’s Playhouse.”

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the Court to create new arguments on behalf of the E.C., instead, it is our duty to analyze the E.C.’s application of the cited statutes.

During oral arguments, the E.C. contended that the Court should look at the “totality” of circumstances surrounding the Petitioner’s invoices. The E.C. pointed out that invoices 5 and 7 contained the same customer I.D. number and that there were problems with the invoices not being properly itemized. The E.C. admitted that these alleged violations would be classified as minor offenses, more specifically, minor “finance violation[s]” under V S.G.A.C. §601.6(3) (b)(1).³ During judicial questioning, the E.C. stated that the only way that a candidate can be disqualified for a minor violation is if they receive so many fines that they exceed their allotted budget. V S.G.A.C. §601.6(4) (e)(1) also 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.” However, these statutes do not apply in this case. The Petitioner was not assessed any fines due to minor violations and, therefore, cannot go over his budget or fail to pay any fines. Regardless of how many minor violations the Petitioner might have committed, the S.G.A.C. does not allow candidates to be disqualified solely due to the accumulation of minor violations.

Throughout the hearing, Mr. Devin Price’s \$1 football helmet acted as a recurring example for the E.C.’s claim that the Petitioner circumvented the Fair Market Value Assessment Form by intentionally and substantially undervaluing his purchases. In their oral argument, the E.C. repeatedly stated that if the helmet were Fair Market Valued, its worth would amount to \$375. The E.C. proceeded to emphasize the unfair purchase price of the helmet in comparison to its Fair Market Value. However, the Court has found two complications with the use of this assessment. For one, the \$375 value of the helmet, generated by the E.C., was not included in any submitted evidence with explanation or clarification of how that value was deduced. Furthermore, email correspondence on March 1st between the E.C. and the Petitioner’s

³ Judicial questioning between Vice-Chief Justice Kull and the E.C in which the E.C. expanded upon the totality of minor violations, No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 59:48-1:00:21.

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campaign signifies that the helmet, if Fair Market Valued, could have been estimated at a substantially lower price. Specifically, the E.C. writes, “You can Fair Market Value any football helmet, it doesn’t have to be an Aggie one.”⁴ Thus, the use of “\$375” is unsettled due to the E.C.’s permission for a more flexible and subjective calculation.

Nevertheless, the Petitioner did not utilize the Fair Market Value form, indicating that he purchased a used Aggie football helmet from Mr. Devin Price for \$1. The Petitioner emailed this information and a subsequent copy of the invoice to the E.C. on March 1st, asking, “Does the attached invoice work if we attach the Cashapp/Venmo transaction?” to which the E.C. replied, “Yes.”⁵ The E.C. was aware of the context and price of the purchase of the used “TAMU Football Helmet.” She reviewed both the invoice and email, ultimately affirming their totality. During oral arguments, the E.C. was further questioned if, when first viewing the invoice, it raised any concerns or if the price alerted her to undervaluing the item. She responded no, claiming that she found the issue of “undervaluing” only when looking at the “conglomeration” of the other invoices and items.⁶ Yet, it’s important to note that besides the expense of the football helmet, the E.C. does not raise specific concerns or arguments about the other 19 items they claim as being undervalued. Therefore, the Court contends that the E.C.’s approval of this particular invoice contradicts their argument that the Petitioner acted substantially and intentionally to undervalue the listed items. The request for verification of the invoice prior to submission demonstrates the Petitioner’s efforts to remain in compliance, ultimately challenging the E.C.’s claims that the Petitioner sought to undermine the transparency of the election. Although

⁴ Petitioner’s evidence, No. 75-03 *Newton v. Election Commissioner Gogineni*, answer from the E.C. to question number 14 posed by the Petitioner, pp. 263.

⁵ Petitioner’s evidence, No. 75-03 *Newton v. Election Commissioner Gogineni*, answer from the E.C. to question number 22 posed by the Petitioner, pp. 265.

⁶ Judicial Questioning between Justice Schwartz and the E.C., No. 75-03 *Newton v. Election Commissioner Gogineni*, March 22, 2023, Koldus Governance Room, Facebook Live-Stream Video, 59:13-59:47.

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the Court recognizes that the \$1 purchase price of the helmet is severely discounted, the consent of the E.C. in the March 1st emails is what permitted and finalized the Petitioner's pursuit of this expense.

A significant point of contention between both the Petitioner and the E.C. stems from the classifications of "purchased" and "donated" items. Within the protocol established in V S.G.A.C. §601.7, there is no specific distinction between the two nor a definition of what constitutes a donated good. The E.C. argued that because many of the Petitioner's items were used before they were purchased, they should be classified as "donated" goods, thus requiring a Fair Market Value Assessment. However, in reference to the S.G.A.C., there is no stipulation that the classification of an item as donated or purchased is contingent on when the item is used in campaigning. The Petitioner included invoices along with screenshots with proof of mobile payment, qualifying his ability to expense these items as purchases. In the end, the Petitioner did, in fact, purchase the items and met the criteria of a valid receipt according to V S.G.A.C. §601.7(1) (a)(1-4). Even if the Petitioner's invoices were not itemized properly, this would be classified as a minor violation and would not result in disqualification.

* * *

After hearing oral arguments in conjunction with the evidence submitted to the Court, we cannot in good conscience rule in favor of the E.C. In reviewing the E.C.'s application of V S.G.A.C. §601.6(3) (a)(1)(ii) and V S.G.A.C. §601.6(4) (b), the Court hereby finds the Election Commission's decision to disqualify the Petitioner to be invalid. Furthermore, the Court will not mandate the Election Commission retract any statements made regarding the violations of the Spring 2023 elections. The petitioner's request for the reversal of his disqualification is hereby granted.

It is so ordered

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SIGNATURES OF THE JUSTICES

No. 75-03



John Nesmith, Chief Justice



Henry Kull, Vice-Chief Justice



Ishita Palit, Associate Justice



Catherine Meisenheimer,
Associate Justice



Mirella Schwartz, Associate Justice

NEWTON *v.* GOGINENI**POINT OF NOTICE**

NESMITH, C.J., KULL, V.C.J., PALIT, and SCHWARTZ, JJ., issue a point of notice, in which MEISENHEIMER, J., joined.

The Judicial Court of Texas A&M cannot ignore the multiple, complex factors that have catalyzed this case. Foremost, the Judicial Court wishes to bring to the attention of anyone reading this opinion that we *do not condone* the undervaluing of campaign materials nor the circumvention of the Fair Market Value Form. While the Judicial Court remains steadfast in its ruling, it is not our intention to set a precedent permitting these behaviors. To prevent such conduct in the future, the Judicial Court strongly recommends the implementation of the following suggestions. For one, the Judicial Court advises that the legislative body looks into and remedies in any way they see fit the issue of a candidate's ability to purchase used goods from individuals at rates dangerously below fair market value. We further encourage the inclusion of a protocol outlining the process of expensing purchases from individuals. The Court also suggests clarifying the difference between “donated” and “purchased” campaign materials. Finally, we recommend reviewing how an item’s “date of purchase” and time of use during campaigning impacts its classification as either donated or purchased.