

Appeal

Filed By: Torch Party

Against: Supervisor of Elections

Date Appeal was Heard: October 6, 2013

L. Hebb delivers the opinion of the Commission joined by *C. Powell, C. Hayes, I. Waldick, and A. Norat*

T. Thompson recused himself due to a conflict of interest.

Mr. Henmy has submitted before this Commission an appeal of the Supervisor of Elections' decision to not forward violations filed by the Torch Party against candidates of the Ignite Party.

Following are the facts: Mr. Henmy submitted to the Supervisor several alleged violations against the Ignite Party and/or its candidates. The Supervisor decided that these claims were without merit and decided to use his discretion under §703X of the SGA Statutes to not forward the alleged violations to the Commission. Mr. Henmy appeals this decision under §702.2F.

At issue in this appeal is whether there is sufficient evidence that a violation occurred and that the alleged violation in question should have been forwarded to this Commission. In order for this Commission to overturn a decision by the Supervisor to not forward an alleged violation we would need sufficient evidence that a violation may have occurred and that the Supervisor acted egregiously by not submitting this violation to the Commission. That is the way the statutes are written and this Commission is confined to act within the statutes. We have no authority to overturn or modify statutes.

After reviewing the evidence presented, we find that there is not enough evidence that the Supervisor acted wrongfully and a violation may have occurred. While there is a valid point that the Supervisor did forward a similar violation filed by another party to the Commission and did not forward this one, that point is irrelevant to these proceedings. We will only look at the alleged violation in question on deciding whether an alleged violation should be forwarded to this Commission, not on past actions of the Supervisor. The statutes give the Supervisor the right to forward any issue he wishes to this Commission, even if it is voted unanimously to not be a violation (as the previous forwarded violation was).

On a policy note, in the future this Commission will be very reluctant to find that a party violated the statutes, in regards to making false accusations, by submitting an alleged violation in good faith. This is especially true if these accusations of making a false claim

are filed before we have even heard, much less decided, the original issue upon which they are based. This is a prime example of putting the cart before the horse and we believe that the Supervisor acts appropriately when he does not forward such violations.

In conclusion, we find that the facts presented before us show that the Elections Supervisor's decision to not forward alleged violations to this Commission is within his statutory power and that his decision was not so egregious as to warrant being overturned. There was no evidence presented that would lead this commission to believe that any members of this Commission would find that a violation had occurred if we had heard it.

We hereby **AFFIRM** the decision of the Supervisor of Elections.