

## IN THE FLORIDA STATE UNIVERSITY SUPREME COURT

THE IGNITE PARTY

Appellant,

v.

ELECTION COMMISSION

Appellee

Published: November 24, 2013

### SUMMARY

The Supreme Court examined this case on appeal following the decision of the Elections Commission, upholding the finding by the Supervisor of Elections that the Ignite Party was in violation of Student Body Statute 716.1(B). Holding that the facts of this controversy adequately fell within Statute 702.2(F)(16), The Court reversed the finding of violation by the Elections Commission.

### BACKGROUND

On November 13th at 4:39 PM, The Ignite Party received a violation regarding an incomplete expense statement that was not turned into the Supervisor of Elections. The Ignite Party accepted the violation at 7:40 PM the same day. Under Penalty Statute 716.1(B) of the Student Body Statutes, the violating party has two “business days” to render payment of the pertinent fine. Under the same provision, if payment is not made within two business days, the Elections Commission (hereinafter “the Commission”) is to disqualify either the pertinent member of the party or, if applicable, the party itself. According to the Commission, the Ignite Party, and more specifically, Jaclyn Smith, an Ignite Party candidate, failed to pay the allotted fine within two “business days.” According to the Commission, the two-day period expired on Friday, November 15. It is stipulated by both parties that the payment was made on Monday, November 18. Accordingly, Smith was disqualified as a candidate.

Smith and the Ignite Party appeal, alleging that (1) the two days following the violation were not two “business days” and (2) even if those days were in fact two “business days,” the facts surrounding Smith’s failure to pay the fine adequately falls within the breadth of 702.2(F)(16), effectively excusing her from violation.

### STANDARD OF REVIEW

“Absent an abuse of discretion, fraud, lack of notice, or lack of an opportunity to be heard, this Court reviews only the record and questions of fact under an abuse of discretion standard while questions of law are examined de novo.” Impact Party v. Elections Commission, No. 97-111 (FSUUSC 1997) and Wood & James v. Elections Commission, No. 99-01 (FSUUSCC 1999). Pursuant to the aforementioned cases, this Court will review the matters of law presented for abuse of discretion.

## OPINION

### WECHSLER, J., writes per curium

Smith's first argument is that the two "business day" time limit should not have been tolled on Friday, November 15. According to Smith, and as far as the record before us demonstrates, classes were scheduled to be, and in fact were, canceled Friday, November 15 at 1:10PM, the same day that the fine was to be paid, according to the Commission's interpretation of the two "business days" requirement. The cancellation of classes was instituted because of the Florida State University parade which took place that afternoon. Classes are not usually cancelled at 1:10PM on Fridays. Smith argues that because of the unique scheduling, Friday, November 15 was not a "business day" because the "business hours" of the day ended early. Essentially, Smith argues that November 15 was a "holiday," not a "business day." Smith supports this position by alleging that executive branch offices were not occupied when she attempted to pay the fine on Friday, November 15. There is no dispute over these facts by the Commission. It is this fact, however, which avails us to leave the "business day"/"holiday" dispute for another day, as Smith's conduct is covered under 702.2(F)(16)'s "good faith" exception to late payment.

702.2(F)(16) reads as follows: "Should a conflict in statutes, emergency, or otherwise unforeseen circumstance render it infeasible for someone to comply with the Election Code or be a miscarriage of justice to enforce the code[,] the Election Commission shall have the power to rule if a 'good faith effort' was rendered by the specified party and adjust the ruling as necessary. This may also be appealed to the Supreme Court."

Smith's second argument is that she and the Ignite Party faced unique, and indeed "unforeseen circumstance[s]," and rendered a "good faith effort" to comply with the two "business day" requirement for paying the fine. The record supports that conclusion.

There is little room for debate that the Ignite Party faced an unusual set of circumstances on Friday, November 15. Inarguably, the entire school did as well, because classes were canceled, effective at 1:10PM. Although there are questions which are unanswered before the record, two questions that *are* definitively answered help us reach our determination that the Ignite Party made a "good faith effort" in these unusual circumstances: (1) the Ignite Party attempted to make payment to the executive branch and (2) the executive branch's offices were unoccupied. Being that these allegations were not disputed by the Commission, we hold that the Ignite Party indeed rendered a "good faith effort" in attempting to comply with the two "business days" requirement. Further supporting this finding is the fact that on the very next business day, the fine was paid. And, of course, the circumstances the Ignite Party faced were indeed unusual, although it is subject to varying interpretations as to whether or not the circumstances were indeed "unforeseen." Given our interpretation of 702.2(F)(16), however, we have trouble finding that these were not unforeseen circumstances. To hold otherwise would hold Smith and others similarly situated to a difficult standard, and doing so would undoubtedly subvert the intention of 702.2(F)(16). For that reason, and because we feel that 702.2(F)(16)'s "good faith effort"

exemption was satisfied by Smith's attempt to pay the fine, we reverse the Commission's finding.

Reversed.

*\*\*JUSTICE CANNON and JUSTICE ROZANSKI did not participate in this decision*