IN THE STUDENT SUPREME COURT
IN AND FOR THE FLORIDA STATE UNIVERSITY

THE LEGACY PARTY,

Petitioner,

v.

THE AMPLIFY MOVEMENT,

Respondent..
_____/

Keller, C.J., and Sills, J. delivered the Opinion for the Court.

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SYLLABUS

This case comes before the Court on an appeal by Petitioner, The Legacy Party ("Legacy"), from a decision of the Elections Commission ("Commission"). Petitioner alleges that the Commission erred when finding that Petitioner committed two violations of section 711.6(C)(4), Student Body Statutes (2019) ("SBS").

ISSUE

Did the Commission err in finding that Legacy committed two violations of section 711.6(C)(4), SBS?

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Petitioner, a student-run political party on campus, appeals a decision made by the Commission, which found that Legacy committed two violations section 711.6(C)(4), SBS—one for a social media violation and one for selling t-shirts a week prior to fall elections. Amplify Movement ("Amplify"), Respondent, brought an allegation of early campaigning against Legacy for selling and distributing t-shirts on Landis Green, during Platform Week, one week prior to the fall elections. The t-shirts were being hot pressed on Landis Green and had the Legacy Party logo on the front of the t-shirts and the word "Legacy" on the back. The Commission found that Petitioner had reported the t-shirt expenses on their campaign expense report. Moreover, the Commission unilaterally imposed a violation for a social media post made by Petitioner. The sale of t-shirts would not qualify as campaign material under the Election Code. As to the second violation, the party imposing the violation was not a party to the case at hand and therefore was procedurally inadequate.

ANALYSIS

The question before the Court is whether the Commission erred in finding that Legacy violated section 711.6(C)(4) of the Student Body Statutes. In support of a finding of error, Petitioner made three arguments: (1) the t-shirts were not campaign materials; (2) that the heightened standard of section 701.1(A)(1), SBS (2019) was not met; (3) the Commission did not have the authority to add violations not alleged below. We find both of these arguments persuasive and find that the Commission erred in its decision.

As the Court is being asked to review a question of law in this case, the applicable standard of review is *de novo*.

I. The Commission's Unilateral Violation

The Elections Commission is a government entity. The Commission brought two additional violations during the Commission hearing under section 711.6(C)(4) SBS. As a matter of procedure, at the very least, the government would have to

be noticed for the hearing in front of the Student Supreme Court for the right to be heard. "This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest." *Mullane v. Cent. Hanover Bank & Trust Co*, 339 U.S. 306, 314 (1950). Being as the government was not noticed, and as a result was not present. This Court has no authority to hear arguments on the two violations brought by the government

II. Petitioner nor Respondent provided evidence of the call to vote.

The Court does not find that Petitioner violated section 711.6(C)(4) of the Student Body Statutes. Reaching this decision was indeed a difficult one because of the lack of evidence and because of the confusing nature of the Student Body Statute's language in regards to heightened standard in section 701.1(A)(1).

Section 711.6(C)(4), in relevant part states that, "Campaigning prior to one (1) week before the election" is a schedule 2 violation of the Elections Code. Campaigning is defined in section 701.1(A) as, "The distribution of campaign materials, use of campaign materials, or the solicitation of support for or against a ballot item, political party, and candidate for an elected office of the Student Body." § 701.1(A), SBS (2019). Section 701.1(A)(1) further goes on to define solicitation of support as, "publishing the name or likeness of any candidate or political party to expressly advocate the election or of [sic] defeat of a candidate; *that cannot be interpreted as something other than an appeal to vote* . . ." *Id.* (emphasis added). Section 701.1(E) provides a definition of campaign materials: "[A]ny material, include but not limited to . . . t-shirts . . . that publicize a political party or candidate for an elected office of the student body, *and calling the action to vote*." § 701.1(E), SBS (2019) (emphasis added).

As the Commission noted, the first prong of this test is easily satisfied as the t-shirts in question had the word "Legacy" on the t-shirt and the party's logo. *See Amplify Party v. Legacy Party*, FALL-2019-1. The Commission found that the second prong of this test was satisfied because Petitioner reported the t-shirts as a campaign expense. The Court was presented with contrary evidence at arguments. Petitioner presented their campaign expense report for the current year which included membership dues and the purchasing of stickers. Their expense report did not contain any reference to the t-shirts. At arguments, Petitioner stated that a private donor had contributed to the t-shirts. Respondent did not present any evidence to the contrary. Rather, Respondent argued that because of the timing of the sale of the t-shirts this was evidence of the intent of Petitioners to campaign.

While this Court finds Respondent's argument logical, the fact that there was no evidence presented that Petitioner did include the t-shirts on their expense report is damming[1]. *See Carton Beverages, Inc. v. Maynard*, 395 So. 2d 261, 262 (Fla. 1st DCA 1981) (affirming the lower court's holding because there was no evidence to the contrary presented at hearing); *Farrell v. State*, 101 So. 2d 130, 133 (Fla. 1958) (holding that a person is presumed sane when there is no evidence to the contrary). This Court is not in the position to make a ruling when evidence has not been presented to it. Moreover, this Court found itself in a precarious situation when applying the awfully high standard in section 701.1(A)(1). The phrase "cannot be

[1] The evidence of campaign expenses was an unsworn, unverified word document and screenshot of Petitioner's recent Venmo transactions.

interpreted as something other than an appeal to vote", when interpreted according to its plain meaning, puts a substantial burden on the opposing party. § 701.1(A)(1), SBS. Being bound by such a rigid standard is something this Court has been cautious of before. *See generally Unite v. SOE*, 2018-AP-04, at 3 (Moorhead, C.J., concurring) (stating that, "I hope it helps the legislature understand not everything has to be specifically defined in every instance."). The legislature should be cognizant of such rigid standard.

CONCLUSION

Petitioner is not found to violate section 711.6(C)(4). The Government, the party that would be pursing the social media violation, was not a party to the above proceeding and thus, the Commission cannot impose such a violation. No evidence of Petitioner reporting the t-shirts as a campaign expense was presented to the Court. Therefore, the decision by the Commission is hereby *reversed*.

It is so ordered.