

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

JOHN E. WALKER

Plaintiff,

v.

THE UNITE PARTY,

Defendant,

Kaney, J. Delivers the Opinion of the Court.

SYLLABUS

This case comes before the Court on a complaint from Plaintiff, John E. Walker, alleging six separate violations against Defendant, The Unite Party. Plaintiff alleges that the Defendant violated Florida State University Student Body Statutes (FSU SBS) section 715.6(A)(9) three times by placing three separate signs outside the permitted areas.

ISSUE

1. Whether defendant violated § 715.6(A)(9) by placing three separate campaign boards outside their designated area in purported violation of the FSU Posting Policy?¹

FACTUAL AND PROCEDURAL HISTORY

This Court assumed original jurisdiction over this complaint which was originally filed before the Elections Commission. The events at issue all took place between 11:00

A.M. and 3:15 P.M. on Wednesday, February 21.

At approximately 11:00 A.M., Plaintiff discovered a Unite Party “A-Board” (also known as an A-Frame or advertising board which were used as campaign boards in this case) located in front of the Honors, Scholars, and Fellows House on Landis Green. Thereafter, Plaintiff discovered another Unite Party A-Board located on Landis Green in front of Strozier Library. Finally, at approximately 3:15 P.M., Plaintiff discovered the third and final Unite Party A-Board in front of the Starbucks at the corner of North Woodward Avenue and Learning Way (also located near the Health and Wellness Center of Florida State). Plaintiff documented each A-Board location by taking pictures from multiple angles of each A-Board.

Representatives for Defendant testified during the hearing before this Court that they reached out to Ms. Jade McGrath, Supervisor of Elections, in order to determine the appropriate locations of their A-Boards. Mr. Thomas Brooks, Deputy Campaign Manager for The Unite Party, sent Ms. McGrath a string of text messages beginning at 12:21 A.M. on the date in question. The text messages contained pictures of the signs and their locations, asking whether the particular locations were appropriate. The following text message occurred after Plaintiff brought his complaint to the attention of Ms. McGrath:

McGrath: “Yes so I did approve those (sign locations) earlier and it was my fault that they cannot be there and need to be shift”

¹ The pertinent portion of FSU’s posting policy can be found at the following web link: Florida State

University, *Posting Regulations: Free Standing Signs*, <http://www.posting.fsu.edu/locations/signs>.

Brooks: "Thank you so much."

McGrath: "So the ones on landis need to be moved to the other side of the sidewalks and the one near integration need to be moved next to Denny's"

Brooks: "We will get I.T. done"

McGrath: "It is my understanding he won't file a violation but if he does then I take full responsibility"

Brooks: "Thank you."

ANALYSIS

The issue in this case boils down to whether Defendants violated FSU's posting policy for Free Standing Signs. This Court finds that Defendant violated the section 715.6(A)(9) which states that Schedule 1 violations include "[e]ngaging in any action against Chapter 714 of the Student Body Stautes, including but not limited to violations of posting policies." Under the strict letter of the law (or posting policy in this case) Defendant clearly violated FSU's posting policies.

This Court relies upon textualism, a school of statutory interpretation which rests on the premise that Congress speaks authoritatively only through enacted legislation. See Frank H. Easterbrook, *Text, History, and Structure in Statutory Interpretation*, 17 HARV. J.L. & PUB. POL'Y 61, 68 (1994). The late Justice Scalia noted that the meaning of terms should be determined on the basis of which meaning "most in accord with context and ordinary usage, and thus most likely to have been understood by the *whole* Congress which

voted on the words of the statute." *Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 528 (1989).

Defendant placed their signs in improper locations which were less than a stone's throw from permitted locations pursuant to the policy. Moreover, Mr. Brooks received confirmation from Ms. McGrath that the locations were permissible for posting. Ms. McGrath admitted her mistake and went so far as to take accountability for the infractions. While it may seem unfair or ludicrous to impose sanctions on Defendant in this case, it is not this Court's duty to determine what is fair and reasonable, rather, this Court must determine whether laws, statutes, or policies were violated.

Defendant made a promissory estoppel argument at the hearing by asserting that they relied upon the confirmation and subsequent promise by Ms. McGrath that the locations were proper and Ms. McGrath herself would take full responsibility. Generally stated, promissory estoppel is "[t]he principle that a promise made without consideration may nonetheless be enforced to prevent injustice if the promisor should have reasonably expected the promisee to rely on the promise and if the promisee did actually rely on the promise to his or her detriment." *DK Arena, Inc. v. EB Acquisitions I, LLC*, 112 So. 3d 85, 93 (Fla. 2013) (citing Black's Law Dictionary 6th ed 2009). The problem this Court finds with this arugment, albeit compelling and seemingly "fair," is that there are established posting policies which dictate where free standing signs may be placed on campus. Furthermore, the website contains maps indicating the appropriate locations for these signs (which Plaintiff presented as evidence at the hearing).

This Court ruled at the hearing that Defendant violated section 715.6(A)(9)

twice. The two signs located on Landis Green were consolidated into one violation for purposes of the posting policy due to the proximity of the two signs. Stated another way, the ability to throw a baseball from one sign to the other signifies quite a close proximity and thus, one violation of the policy.

Plaintiff further alleged that Defendant violated the pertinent FSU SBS an additional three times by failing to place the contact information of the party on their sign. This Court deemed this to be part of the two separate violations. Nothing in the posting policy indicates that these are separate violations and section 715.6(A)(9) is purposely vague in its writing as referenced above.

Ms. McGrath should be commended for taking accountability of her *honest* mistake. Also, the Court does not believe that Defendant intended any harm in their placement of campaign signs. To excuse these actions without penalty, however, would create a slippery slope moving forward which this Court simply cannot afford to due under the “letter of the law.”

CONCLUSION

Defendant violated FSU’s posting policies for free standing signs, and in turn, violated section 715.6(A)(9) which resulted in fines pursuant to section 716.2(A)(1) and (2) totaling \$63 (\$25 for the first violation as a political party and \$38 for the second violation as a political party).

It is so ordered.

J. Engelbrecht concurring in the analysis, dissenting in the judgement.

Justice Kaney is correct in the analysis of whether violations exist. I also echo his sentiments in commending the Supervisor of Elections in recognizing, resolving, and taking accountability for her mistake.

Where I diverge from my fellow Justices is in the number of violations found. I do not believe that just because the signs were as such as you could “throw a baseball from one sign to the other” should set a precedent as to consolidate the violations. Three signs were outside the designated areas, so three violations occurred. Justice Kaney’s finding of two violations has no basis in the statute.

I would have found three violations and penalized the Unite Party as such.