

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2022-7 “Ice Cream” 6-0

RAWAN ABHARI, Petitioner *v.* FORWARD FSU,
Respondents.

[March 1, 2022]

Argued and Decided on 1 March 2022. Gabrielle Little and Rawan Abhari for the Petitioner. Trevor Murray and Bella Suarez for the Respondents. Opinions delivered electronically on 7 March 2022.

Chair: Supervisor of Elections Spencer Greenwood. Commissioners in attendance included Nicholas Concilla, Vice Chair; Corey Adamyk, Kelvin Ready, Mackie Taranto, Khamisi Thorpe, and Hank Thompson. Commissioner Carter Pope was in attendance but did not vote.

At the time of the hearing and decision, Commissioner Khamisi Thorpe was a voting member of the Elections Commission. Between that time and the publishing of this opinion, Mr. Thorpe has been confirmed as the Student Attorney General, and as such has stepped down from his position. Mr. Thorpe does not join in these opinions in any capacity except for his vote at the time of deliberation.

SUMMARY OF ALLEGATIONS

This action was brought before this Commission by Rawan Abhari, a Florida State University (“FSU”) student and member of Surge FSU (“Petitioner”), against Forward FSU, (“Respondents”) for violating Student Body Statutes (“SBS”) § 711.6(C)(6) by holding an event where ice cream was provided to students. The alleged violation occurred on 22 February 2022.

JURISDICTION

The Elections Commission has the power to investigate and make findings of fact regarding alleged violations of the Elections Code pursuant to SBS § 703.2(F) and § 703.2(G). Chapter 700 of the SBS states, “Once the date of an election has been determined, according to 705.4 and 706.5, the election code used for that election cannot be changed. The Election Code will be enforced in a time period beginning three (3) weeks prior to an election and ending upon the certification of that election. This does not preclude the reporting of violations later enumerated in Chapter 711.”

RIGHT TO APPEAL

According to SBS § 703.2(I), “Any decision made by the Elections Commission may be appealed by a party to the hearing to the Student Supreme Court no later than thirty-six (36) hours after said decision and all accompanying opinions have posted to the SGA website pursuant to Chapter § 703.2(F)(1) of the Student Body Statutes. No appeals of decisions made by the Elections Commission shall be accepted after this thirty-six (36) hour period.”

OPINION

CONCILLA, V.C., delivers the majority opinion on behalf of the Commission, in which ADAMYK, READY, TARANTO, THOMPSON, and THORPE, CC., join.

Although this complaint is akin to those otherwise addressed in our consolidated opinion in SPR-2022-2, 9, 12, 13, and 14, this Commission has additional concerns regarding the evidence provided by Petitioner. We are not asserting that providing food at tabling events is or is not a violation of the statute, but that Ms. Abhari failed to meet the evidentiary burden under either circumstance. The evidence considered is a video recording (the “Recording”) of what appears to be a snippet of conversation between an anonymous party and associate of Ms. Abhari (the “Recorder”) and an individual identified as Jared Gould, who is a member of Forward FSU and a candidate for a student office. The camera appears to be covered by the Recorder, and Mr. Gould can be heard briefly discussing Student Government (“SGA”), then saying “do you want some ice cream? ... it’s very soupy... are you voting tomorrow? okay you don't need to know anything about SGA as long as you vote for me!” Ms. Abhari has requested that the source remain anonymous.

I

We are concerned with the constitutionality of admitting the presented evidence. Although we believe it of utmost importance to preserve the requested anonymity of the Recorder as a member of the FSU Student Body, we believe that doing so would be in violation with the Confrontation Clause of the Sixth Amendment to the U.S. Constitution according to the test formulated by Justice Scalia and the U.S. Supreme Court in *Crawford v. Washington*, 541 U.S. 36 (2004). Although this Commission is not a criminal court in the traditional sense, this Commission has the power to assess financial penalties or require community service, and thus Sixth Amendment protections should be afforded to any Respondent in front of this Commission. The entirety of the evidence presented in this case is the Recording. The Recorder was not available to testify but there was no opportunity for

cross-examination, as such, the Recording violates the Sixth Amendment and therefore cannot be considered as evidence.

II

This Commission believes that Ms. Abhari failed to meet burden of “clear and convincing evidence” as set forth in SBS § 711.4(F). As the evidence supplied has been held to violate the Sixth Amendment, we believe there is no evidence upon which we can rely to find a violation. Even if the evidence provided does not violate the Sixth Amendment, the recording was insufficient to overcome the Petitioner’s statutory burden.

HOLDING

This Commission enters judgment 6-0 in favor of the Respondent. Any evidence proffered to this court must be in compliance with the Student Body Statutes, state and local law, and the U.S. Constitution.

DONE and ORDERED, this 7th day of March 2022.