

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2023- 3, 7, 8 & 10

OMER TURKOMER, Petitioner v.

SURGE FSU, Respondent.

[March 10, 2023]

*Argued 10 March 2023 and Decided on 10 March 2023.
Petitioner for Forward FSU. Rawan Abhari for the
Respondent. Opinions delivered electronically on 17 March
2023.*

*Supervisor of Elections and Chair Spencer Greenwood was
in attendance. Commissioners in attendance included
Mackie Taranto, Sam Brodigan, Kole Kolasa, Taylor
Kendall, and Katie Kennamer.*

SUMMARY OF ALLEGATIONS

This action was brought before this commission by Omer Turkomer on behalf of Forward FSU, an on-campus political party (“Petitioners”). Petitioner Turkomer filed these complaints with the Supervisor of Elections (“Supervisor”)—who forwarded them to this Commission—alleging that Surge FSU, an on-campus political party (“Respondent”), is responsible for the actions of its members who violated Student Body Statute (“SBS”) § 709.1(C) on four counts for not following the rules and regulations concerning general advertising using freestanding signs and A-frames.

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.”

ISSUE:

I: Was the location for the sign in Violation 3 improper?

II: Are the signs in Violation 3, 7, and 8 freestanding signs for the purposes of SBS § 709.1(C)?

III: Is reliance on goodwill between the parties a defense for the A-frame being in the wrong location?

HOLDING

I: Yes. There is no evidence of it being proper to place freestanding signs in the Askew Student Life Center and not enough evidence that it is customary to place the signs in this location.

II: Yes. The signs were freestanding signs under SBS § 709.1(C).

III: No. Reliance on goodwill is not a defense for the location of the A-frame.

FACTUAL BACKGROUND

The relevant facts are as follows. For Violation 3, on or about February 28th, 2023 at 6:31 pm, Forward FSU alleges that members of the Surge FSU party placed a Surge free-standing sign within the Askew Student Life Center, violating SBS § 709.1(C) which reads: “All material and activity in the Union and on FSU campuses shall be in accordance with rules and regulations of Oglesby Union policy.” The relevant posting policy reads:

(7) Free-Standing Signs.

(a) The placement of Free-Standing signs on campus is limited to the promotion of events or activities for up to 7 days prior to its occurrence and must be removed within 24-hours upon completion of the event/activity.

(c) The placement of free-standing signs must be in accordance with terms in the Americans with Disabilities Act (ADA) and are not to block sidewalks or walkways per the maps located at www.posting.fsu.edu.

For Violation 7 and 8, on or about Election Day, March 1st, 2023 at 8:43am and 11:47am Forward FSU alleges that members of the Surge FSU party posted freestanding signs in prohibited locations on Landis Green, in violation of SBS § 709.1(C). Finally, for Violation 10 on or about February 27th, 2023 at 4:04pm, Forward FSU alleges that members of the Surge FSU party placed a Surge A-frame placed in an unauthorized zone on Landis green.

Petitioner argued that the freestanding signs promoting members of Surge FSU are not related to any specific event on campus because they merely promoted the party.

For Violation 3, Petitioner argued that there is no allowance of freestanding signs in on-campus buildings because the posting policy map is silent on the placement of signs in buildings. Respondent argued that it is customary for signs to be placed in buildings on campus and that other RSOs have put up such signs to promote their events, the most notable being a cardboard cutout of the singer Pitbull. Recollection from other FSU students claimed that this is not the case in the Askew Center.

For Violations 7 and 8, Petitioner argued that the signs in question are freestanding signs that were placed in locations that were improper. Petitioner entered into evidence photos of the signage and maps of the area from the FSU posting website. Respondent did not argue that the location was improper, even admitting to improper location for the outside signage. Rather, she argued that the signs were not “freestanding” and thus do not fall under these regulations. Respondent presented evidence that the two Landis Green signs were being supported by the Frother’s Daughter truck for Violation 7 and by boxes and the table in Violation 8. Because the signs had to be supported, Respondent argues, they are not “free standing.” Petitioner presented video evidence of the same sign in the Askew Center where it has its own cardboard backing holding it up.

For Violation 10, Respondent admitted that the A-frame was in the improper location when she admitted the signs in 7 and 8 were in the improper location. Respondent

presented testimony from Surge FSU Chair Erick to detail his conversation he had with Forward FSU members on the day in question. He relayed that that morning there had been the spirit of comradery between himself and Forward FSU members as they worked together to try to figure out the difficult reading of the various FSU posting maps, which are admittedly confusing at first. Erick also relayed that he had previously called and discussed with Supervisor Greenwood the correct placement of a different A-frame. Through this testimony, Respondent implied that this goodwill between the parties should be considered as a defense to the A-frame being in the wrong place. In the alternative, Respondent argued that they should not be found in violation at all for these violations because the Landis Green map is very confusing and this it is hard to locate the specific approved areas.

OPINION

COMMISSIONER KENNAMER, delivers the opinion on behalf of the Commission, with whom BRODIGAN, KENDALL, KOLASA, join with TARANTO, VC., joining in part for Violations 7, 8, and 10, dissenting in part for Violation 3,

ANALYSIS

The Commission finds that the specific event that these signs are related to are the Election itself, even if the sign does not explicitly say so.

I.

Respondent argued that although Violation 3 was in the wrong location, there is custom that would allow for the use of freestanding signage in that area. This Commission found no evidence of it being proper to place freestanding signs in the Askew Student Life Center and not enough evidence that it is customary to place the signs in this location. Without clearer guidance from the University allowing the signs to be posted in the Askew Center, then the Commission does not feel that they can allow them to be placed there. Therefore, we hold that Violation 3 is in violation of the SBS.

II.

In determining if the signs were “freestanding”, this Commission looked at the design and features of the signage. In absence of a binding definition of the word “freestanding”, the plain meaning of the word was considered. A sign that stands alone without the need for interference by another party. The evidence clearly showed the Surge signage in a static, upright position that did not require the interference of party members or adhesion to a building. The Respondent conceded that there was some form of structural element to the signage but argued that the element was faulty and that the signs could be easily tipped over.

In the evidence presented in Violation 8, contrary to what the Respondent argued, the shadows behind the sign do not look like the sign is leaning on the table. In addition to this evidence, the video of the sign in the Askew Center submitted by the Petitioner clearly shows that the sign can be free standing. This Commission does not want to get into the weeds of determining which signs are free standing and which are not based on the current state of the sign. Therefore, we hold that if the sign has the capability of being free standing, notwithstanding one particular sign’s faultiness or damage, then it is considered free standing. For example, even if the sign in Violation 7 truly could not stand without the support of the truck, the fact that it was designed to be free standing, contained the parts to be free standing, and that others exactly like it were able to freely stand, it is by nature, a free standing sign.

Respondent admitted they were in the improper location, which is confirmed by the photo evidence and posting maps presented. Therefore, we hold that Violations 7 and 8 are in violation of the SBS.

III.

It was not disputed that the A-frame is in the improper location. What is in dispute is whether reliance on goodwill is a defense for the improper location of the A-frame and, in the alternative, if the confusing nature of the map is a defense. To both of these, the Commission holds no.

Last year, the Commission spent hours hearing signage complaints where we analyzed the exact placement of the signs. With a full year between the prior hearings and the placement of A-frames for this election cycle, this Commission refuses to accept the argument that the location of the two triangles indicated on the posting maps for Landis Green are so hard to locate that neither party can find them. A quick look at google maps, the buildings that surround the permitted triangles, and then a trip to Landis Green show that the locations are relatively easy to identify. The Commission suggests that the parties next year get together with the next Supervisor and physically mark the permitted triangles and do not deviate from those two locations.

The Commission also considered the reliance on goodwill argument presented. There is no mention of this as a defense in the SBS. This Commission believes that there should always be goodwill between the parties. Petitioner suggested that if the goodwill argument is to be believed, then Respondent is essentially arguing that Forward FSU members may have purposefully misled Surge FSU members in the placement of their A-frame, which is in itself a violation. However, no such violation was filed. As it is clear from above reasoning that the parties should know by now the proper locations for their A-frames and signs, and so, reliance on the goodwill of members of other parties is not a defense. Finally, goodwill has never stopped either party from filing 19 to 24 violations against each other back and forth with bare bones, severely lacking evidence.

CONCLUSION

In conclusion, this Commission enters judgment 0-5 in favor of Petitioner for Violations 7, 8, and 10 and 4-1 in favor of Petitioner for Violation 3. Surge FSU is in violation of the Elections Code, as Forward FSU successfully met its burden of proof on all counts. As this is Surge FSU's third to sixth violations, the penalty is 8 points and a fine of two-hundred (\$200.00) dollars or sixteen (16) approved work hours. According to SBS § 711.7(B), the fine must be paid within two (2) business days, that is, by the end of the day on Tuesday, 21 March 2022. If the legislature and University would like to more fully

define the parameters of this regulation, we welcome the guidance.

TARANTO, V.C., DISSENTING IN PART

There is not enough information to clarify the admissibility of free standing signs to be within the Askew Student Life Center. There are also conflicting reports as to whether free standing signs like these are commonly placed in the Askew Center by other RSOs. I, therefore, cannot find that the Surge FSU party is guilty without clearer guidance and direction from the University on whether or not free-standing signs are allowed in university buildings.