FLORIDA STATE UNIVERSITY STUDENT ELECTIONS COMMISSION

No: SPR-2023- 1, 4, 5, 6, 14 and 20

OMER TURKOMER, Petitioner v.

SURGE FSU, Respondent.

[March 8, 2023]

Argued 6 March 2023 and Decided on 7 March 2023. Petitioner for Forward FSU. Rawan Abhari for the Respondent. Opinions delivered electronically on 13 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, on on-campus political party ("Respondent"), is responsible for the actions of its members who violated Student Body Statute ("SBS") § 709.1(E) on four counts for not following the rules and regulations the concerning campaign materials being

wrongfully posted within FSU's campus owned residence halls. Petitioner also brought two counts under SBS § 711.6(B)(6) concerning posted campaign flyers in a classroom.

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: Is a GroupMe "owned" by an RA considered a "campus owned residence hall" for the purposes of statute SBS § 709.1(E)?

II: Is a GroupMe "owned" by a TA considered a "classroom" for the purposes of SBS § 711.6(B)(6).

HOLDING

I: No. Under SBS § 709.01(E), a GroupMe, even if "owned" by a RA for residence hall purposes, does not equate to a "campus owned residence hall", for the purposes of the statute.

II: No. Under SBS § 711.6(B)(6), a GroupMe, even if "owned" by a TA for classroom purposes, does not equate to a "classroom" for the purposes of the statute.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about February 28th, 2023 at 3:57 pm and Election Day, March 1st, 2023 at 7:57 am, 8:07 am, 9:42 am, 10:16 am, and 4:35 pm Forward FSU alleges that members of the Surge FSU party send out a series of messages via the internet-based chat platform GroupMe soliciting support as defined under SBS § 701.1(A)(1) which reads "Solicitation of support shall be defined as publishing the name or likeness of any candidate or political party to expressly advocate the election or of defeat of a candidate; that cannot be interpreted as something other than an appeal to vote, through publishing, for or against a specific candidate".

Petitioner submitted screenshots of the GroupMe messages and the "Members" listing, which indicated the "Owner" as either a Resident Assistant ("RA") for violations 1, 6, 14 and 20 or a Teaching Assistant ("TA") for violations 4 and 5.

Respondent submitted evidence to the contrary including the syllabus for the course in question, the training guide for RAs called the "JRB Fall RA GUIDE", and the "TA Handbook 2021-2022". As university policy was the basis of the claim, anecdotal evidence was excluded in favor of the aforementioned official university communications or publications.

While these messages were posted in groups created by an RA or TA and used for residential and classroom purposes, the messages themselves were sent by individual Surge party members, not the RA or TA.

There is relevant precedent set by case SPR-2022-4 which declined to recognize a GroupMe where a RA is present as a campus owned residence hall.

OPINION

COMMISIONER KENNAMER, delivers the opinion on behalf of the Commission, with whom BRODIGAN, KENDALL, KOLASA, and TARANTO, VC., join.

ANALYSIS

I.

SBS §709.1(E) reads as follows: "There shall be no campaign materials posted within campus owned residence halls." The key parts of this statute are "campus owned" and "residence halls". The petitioner distinguished the case grouping in fact by introducing ambiguity to the term "campus owned".

The Petitioner proffered evidence that in this instance the GroupMe in question was "owned" by an RA. Petitioner argued that the creation and function of the group chat are mandated by the school. Therefore, as a duty of the RA, the group chat constitutes an extension of the physical residence hall.

Respondent argued that the requirements of the positions do not mandate the use of GroupMe and entered evidence to support her claims. She argued that the precedent case should be followed and the GroupMe chats should not be considered a "residence hall" or a "classroom". Respondent maintained that doing so would encroach on a student's right to free speech.

The petitioner's argument did not carry the day. The title of "owner" of a group chat is nominal in nature. It is instantly transferable with no need for consideration. We examined the "JBA RA Training Guide" and found the issue of GroupMe with residence was addressed explicitly: "You are also not required to make a floor GroupMe, but many RAs find it helpful. If you become aware of policy violations through your GroupMe, you need to report them." The weight of the evidence showed that the creation and continued use of a group chat by an RA is voluntary in nature and students are not required to participate under threat of penalty. The character of student interactions within the group chat is no different than any other student run group message.

As for the term "residence hall", the plain meaning remains slated against the inclusion of GroupMe or similar internet-based messaging platforms. The plain meaning of the statute prohibits students from putting up physical campaign materials inside the residence hall buildings.

This Commission continues to be unwilling to extend "campus owned residence halls" to a GroupMe chat. At this time, there is no compelling reason to limit the free speech of an individual student in a group chat based on the nominal ownership of a group chat by an RA.

II.

SBS §711.6(B)(6) reads as follows: "Having any posted campaign flyers in a classroom". The important terms here would be "posted campaign flyers" and "classroom". The "posted flyers" was not an issue argued thus we decline to comment at this time. Therefore, we looked at the term "classroom". Having no compelling reason to do otherwise, the commission applies the aforementioned reasoning of an RA "owned" chat being claimed as a residence hall to the parallel relationship of a TA "owned" chat being claimed as a "classroom". The TA Handbook includes a table of "Communication Tools for Teaching and Learning" which indicates that the primary communication tool will be "university email" but goes into further detail by offering guidance on the use of social media platforms like "linkedin.com" and "twitter.com". What was noticeably missing was the mention of GroupMe or similar group chat platforms. The class syllabus was also silent on the matter. We find that the Petitioner did not meet his burden of proof to support his claim. Therefore, this Commission declines to extend the term "classroom" to include a GroupMe chat. At this time, there is no compelling reason to limit the free speech of an individual student in a group chat based on the nominal ownership of a group chat by an TA.

CONCLUSION

In conclusion, we hold that a GroupMe "owned" by an RA, even if used for residence hall purposes, is not a "campus owned residence hall" for the purposes of statute SBS § 709.1(E). Similarly, we hold that a GroupMe "owned" by a TA, even if used for classroom purposes, is not a "classroom" for the purposes of §711.6(B)(6). This Commission enters judgment 0-5 in favor of the Respondent for Violations 1, 4, 5, 6, 14 and 20, dismissing all charges. Surge FSU is not in violation of the Elections Code, as Forward FSU failed to meet its burden of proof on

all counts. We additionally request that the legislature take measures to define acceptable parameters for the use of GroupMe, or similar platforms, in the next iteration, since the technology is unlikely to become obsolete any time soon.