

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2023- 15

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 this complaint 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(B)(1) for distributing campaign materials on off-campus property without consent of the owner or manager.

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: Whether a QR code linking to the voting webpage for student government elections is part of the “campaign material” prohibited by §§709.1(B)(1)?

II. Whether Surge FSU members distributed campaign material on off-campus, privately owned property without the consent of the owner or manager?

HOLDING

I: Yes. The QR code constitutes “electronic communication” under SBS §§ 701.1(E) and is therefore a part of the “campaign material prohibited by §§709.1(B)(1).

II. Yes. Both the QR code and the three flyers found on Stadium Centre property were distributed by Respondent, done so without the consent of the property’s owner or manager.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about March 1st, 2023, Petitioner alleges, and Respondent admits, that members of the Surge FSU party were soliciting support within the Deck building of the Stadium Centre Apartment Complex, an off-campus, privately owned property. SBS §§709.1(B)(1) states, in relevant part, “Campaign material is prohibited on any privately-owned property, except that candidates may post materials on private property should they obtain the consent of the property owner or manager.” It is undisputed that Surge FSU did not have permission from Stadium Centre management to post materials on the property, as made clear by an email from the Stadium Center Assistant General Manager.

Petitioner presented the Commission with photos of small flyers found in different locations on the Stadium Centre property, which is known as a heavily undergraduate student populated apartment complex. The flyers included the words “Surge,” “Vote Blue Vote Surge,” “Bold. Progressive. Grassroots.” and “October 19” and contained a QR code leading to a webpage where

users could cast their vote for the student government political party of their choice. Respondent admitted that the flyers shown in the photos had specifically been distributed by Surge FSU the day of the alleged violation and that they were found on the same floor of the apartment complex where Surge party members were shown campaigning. Petitioner presented a photo of a Surge Party member in a hallway of Stadium Centre, as well as a video in which the Treasurer of Surge Party could be heard saying “Just both of you scan that QR code” while seen standing in front of the doorway to an apartment. The Surge Party Treasurer seen in the video admitted to using a QR code on her phone to help solicit support for Surge Party while on the Stadium Centre premises. When asked whether she had any of the small cardstock promoting Surge on her person, the Treasurer said she may or may not have, but that she was not sure. Petitioner urges us that a QR code on one’s phone, which can be scanned to cast a vote for a student government political party, constitutes “campaign materials” and is thus prohibited under SBS §§709.1(B)(1). “Campaign materials” are defined in SBS §§701.1(E) as “any material, including but not limited to, social media, electronic communication, videos, posters, placards, signs, signboards, leaflets, folders, handbills, fliers, banners, t-shirts, buttons, paint, University owned walls that may be painted on, handwritten announcements or circulars of any size and consistency that publicize a political party or candidate for an elected office of the student body, and calling the action to vote.”

Petitioner also urges that there is enough evidence to conclude that the flyers found on the Stadium Centre property was distributed by Surge Party members, and thus their actions violated SBS §§709.1(B)(1). Respondent argues that while Surge Party members were campaigning, they were not posting any campaign materials, and that the materials shown as evidence could have been placed or left in their various locations through other actors. Respondent also emphasizes the burden of proof that Petitioner must show to prove a violation of the Election Code, which is “clear and convincing.”

OPINION

I.

A QR code, presented on a phone, which can be scanned to cast one's vote for a student government political party is "electronic communication" under SBS §§701.1(E) and is therefore part of the prohibited "campaign material" in SBS §§709.1(B)(1). "Electronic communication" within the statute is not defined, however here it is clear that QR codes fall into that category. A QR code itself is merely an intricate black-and-white design and doesn't communicate any information. However, when scanned with one's smartphone, the QR code provides a link to a webpage, which does communicate information. Here, that webpage allowed users to cast their vote for the student government elections. Because that information could *only* be communicated through the process of scanning the code and accessing the webpage on a phone—requiring the use of electronic mediums—the QR code is "electronic communication" under SBS §§701.1(E).

II.

Based on the evidence given, Petitioner has shown clearly and convincingly that Respondent violated SBS §§709.1(B)(1). The Treasurer of Surge FSU was seen presenting a QR code on her phone while standing in the front of the doorway to an apartment in Stadium Centre and said, "just both of you scan that QR code." The QR code, as we held, constitutes "campaign material" for purposes of §§709.1(B)(1). By accessing the code and presenting it to others while on privately-owned property, Respondent violated §§709.1(B)(1).

Additionally, there is sufficient evidence to prove that the Surge Party flyers found in Stadium Centre, which also contained the same QR code as their Treasurer presented on her phone, were brought onto the premises and left there by Respondent. The flyers at issue are unquestionably campaign material under §§701.1(E) as they "publicize a political party or candidate for an elected office of the student body, and [call] the action to vote." The flyers said "Surge," "Vote Blue Vote Surge," and "Bold. Progressive. Grassroots." Although the flyers also said "October 19," Respondent admitted to distributing the flyers in question on the day of the alleged violation due to running out of the up-to-date materials that had

been given out initially. Additionally, the QR code printed on the flyers would direct users to the up-to-date election voting page. Petitioner also alleged, and Respondent admitted, that the Surge FSU members shown campaigning in Stadium Centre were doing so on the exact same floor that the Surge FSU flyers were found on. Additionally, one of the flyers was deliberately wedged into a door to someone's apartment above the lock and handle. When asked whether she had any of the flyers on her person while campaigning in Stadium Centre, Surge FSU's treasurer stated that she may or may not have carried those flyers in her bag.

Respondent argued that those flyers could have ended up in Stadium Center from non-Surge member students who obtained them from Surge FSU handing them out on campus, carrying them, and then returning home to Stadium Center, dropping them on the floor. The Commission does not find this argument persuasive. The methodical placement in the door combined with the active campaigning of multiple Surge members who may or may not have had the same flyers on their person is too precise to be a coincidence. Given the specific context, careful placement of the flyers, and timing, it is highly unlikely that the three Surge FSU flyers shown by Petitioner ended up at Stadium Centre through no direct action of Respondent.

Surge FSU had begun distributing those exact flyers by the end of the day on Election Day, and was not only actively campaigning in Stadium Centre, but also on the exact same floor the flyers were found on. Moreover, one of the flyers was even found wedged into someone's door at a height where it could easily be accessed and read, a position much more conducive to Surge FSU placing it there than anyone else. This was all going on in the waning hours of election day, where Surge FSU would have had added incentive to distribute campaign material that, via QR code, allowed anyone to easily access the voting website and cast their vote.

CONCLUSION

This Commission enters judgment 5-0 in favor of the Petitioner for Violation 15. Surge FSU is in violation of the Elections Code §§709.1(B)(1), as Forward FSU succeeded in meeting its burden of proof for the violation it filed

regarding the distribution of campaign material on off-campus property without consent. Therefore, the Commission finds that Surge FSU committed one Schedule 1 violation under SBS § 711.6(B). As this is Surge FSU's first violation, the penalty is 1 point and a fine of twenty five (\$25.00) dollars or two (2) 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 Wednesday, 15 March 2022.