

Violation 1: The Legacy Party v. The Amplify Movement – Spring 2019

Case No.: SPRING-2019-1

Rosenthal, M. For the Majority

The Legacy Party alleges that the Amplify party violated SBS § 701.1(A) by campaigning prior to one week before the election. The alleged violation occurred at a banner making event attended by sorority members of Sigma Delta Tau and Amplify party member. During the event, Caleb Dawkins, the Amplify Party candidate for Student Body Treasurer recorded and uploaded a video to Instagram on February 9th, 2019 showing a partially completed banner bearing the phrase, “SDT Supports Amplify.”¹ The Legacy Party alleges that the Amplify Party candidate uploading of the video constituted campaigning prior to one week before election in violation of SBS § 701.1(A). If true, then the violation would be a schedule 2 violation under SBS § 711.6(B). However, this commission finds that there were no violations of the election code.

Two elements are required for a claim of campaigning prior to one week before the election to succeed: 1) a party which is prohibited from engaging in campaigning prior to one week before the election and 2) the use or distribution of campaign materials or the solicitation of support prior to one week before the election. The alleged incident satisfies the first element but fails to satisfy the second element. Candidates are prohibited from engaging in campaigning prior to one week before the election under SBS § 701.1(A), with a sole exception that they may announce what office they are running for. The phrase, “SDT Supports Amplify”, does not meet the high standard required to be considered campaign materials under SBS § 701.1(E) or campaigning under SBS § 701.1(A). Both SBS § 701.1(E) and SBS § 701.1(A) require an

express call to vote and SBS § 701.1(A) raises the standard even higher by stating that an appeal to vote must not be able to have “**any**” other interpretation. There is no express call to vote with the word “Supports” and the phrase “SDT Support Amplify” can be interpreted as a mere statement of fact without any persuasive power or intent. The difference in standard is especially important, as Legacy Party made the choice to bring a claim on the grounds of SBS § 701.1(A), not SBS § 701.1(E). The Legacy Party choose to try and meet the higher of the two standards, on their own volition, and subsequently failed to show that the interpretation of the phrase, “SDT Supports Amplify” as an appeal to vote was the only interpretation. Based on the previously stated reasons, this commission finds that there is no violation.

Richmond, T. Dissenting

The majority contends that the unfinished poster titled “SDT supports Amplify” in the electronic communication does not constitute campaign materials under SBS § 701.1(E) and does not expressly advocate for the call to vote, I disagree.

SBS § 701.1(E) provides a list of examples of campaign materials that are defined in the election code and includes the final clause of “*and calling the action to vote*”. This is the point where the majority opinion and my own differ. The majority does not believe that the phrase “SDT supports Amplify” does not call the action to vote, and they seem to accept the Amplify position that this is simple declaration of support rather than a solicitation. I believe that given the context of the situation, the phrase is in fact soliciting support.

Sigma Delta Tau, like most Greek organizations, provides an organization that people can belong to. It is an organization that is exclusive and requires an extensive process to become a member. Many people want to belong to these organizations and make these organizations a part

of their identity. This context and for the following reasons are why I think the poster in question does solicit support. First, why else would political parties put up banners like these in the first place, if not to solicit support from the Greek organizations they are targeting? Hanging up posters in alliance with exclusive organizations isn't to just declare support, but to win their votes. That is the point of these posters. Second, when these organizations like SDT put up these posters, the group atmosphere of exclusivity and sisterhood would compel other sisters to vote with their organization. Why would sisters want to act differently to a group they want to belong to, a group that may be a part of their identity. It is part of human nature to want to belong, so when a group pulls one direction, it is inevitable that others would lean that direction as well. And finally, this wasn't just some third-party action. Amplify and the sisters of SDT collaborated to make this poster. It cannot just be a declaration of third-party support if the political party itself is directly involved. As I said previously, Amplify is making these posters to win the votes of Greek members. This is where the difference between declaration and solicitation lies. Declaration connotes that it is a third-party action, separate from the outside influences. When a political party assists and directs the organization, the group is no longer expressing their own speech. The party influence changes the context of the situation; because of their involvement (and obvious reasoning for participating in these events) it is clear they are trying to solicit the support of these Greek organizations. Therefore, the poster is calling the action to vote and would be defined as campaign materials under SBS § 701.1(E).

Because the poster would be considered campaign materials, it would be a violation of campaigning through electronic communication defined in SBS § 701.1(B) and by advertisement defined in SBS § 701.1(Y).

Riveras J., Dissenting

I believe the majority was incorrect in concluding that the video of the banner did not constitute campaign materials. § 701.1(E) defines “Campaign Materials” in pertinent part as: “any material, including but not limited to social media, electronic communications... posters... signs... that publicize a political party or candidate for an elected office of the student body, and calling the action to vote.” The majority decided that the banner did not call the action to vote. Commissioner Richmond stated that, given the context, the word “support” is clearly calling the action to vote. I am of the opinion, however, that calling the action to vote is not a necessary but instead a sufficient element of the aforementioned statute.

§ 701.1(E) begins by providing an all-encompassing list and then qualifies that list using three sufficient categories, the satisfaction of any of which would constitute a campaign material. The first and second categories are any and every listed item that “publicizes a political party” or “publicizes a... candidate for an elected office of the student body.” Thus, if a listed item publicizes either a political party or a candidate, said listed item suffices the constitution of a campaign material. The third category is more difficult to discern because of the statute’s syntax. However, the first and second categories are followed by “...body, and calling the action to vote.” The majority contends that the word “and” is conjunctive and therefore an indispensable and necessary element of the statute. However, the word “and” can and often is used at the start of an independent clause. Thus, the statute can read “any material, including but not limited to social media, electronic communications... posters... signs... that... [call] the action to vote.” This third element may be satisfied, for example, by simply employing campaign material with the word “vote” containing the distinct colors of a specific party and without explicitly mentioning the name of a candidate or party.

Therefore, to reiterate, I believe the statute contains three elements which may individually constitute a campaign material. The first element is that a campaign material may “publicize a party,” the second element is that a campaign material may “publicize a candidate,” **and** the third element is that a campaign material may “call the action to vote.” Because the third element is not necessary but sufficient, the Amplify party’s poster, which publicized the party prior to campaign season, therefore satisfied the first element of the statute which ultimately constitutes a violation.

Ravelo, J. did not participate in this decision