

FLORIDA STATE UNIVERSITY STUDENT ELECTIONS  
COMMISSION

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No: FALL-2023- 1

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Spencer Greenwood, Petitioner v.

SURGE FSU, Respondent.

[November 2, 2023]

*Argued and Decided on 2 November 2023. Petitioner for Elections Commission. Megan Bettley for the Respondent. Opinions delivered electronically on 5 November 2023.*

*Supervisor of Elections and Chair Spencer Greenwood recused himself as party to the allegation. Vice Chair Bennet filling in as Chair did not vote in deliberations. Commissioners in attendance included Jonathan Carden, Alexa Kays, and Andrew Barrineau*

## Summary of Allegations

This action was brought before this commission by Spencer Greenwood (“Petitioner”). Greenwood filed this complaint as the Supervisor of Elections (“Supervisor”) and forwarded the claim to the Elections Commission. He alleges that Surge FSU (“Respondent”), an on campus political party, is responsible for the actions of its member who violated Student Body Statute (“SBS”) §§ 711.6(B)(12) one count for not following the rules and regulations of the Student Body Statutes.

## 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.”

## ISSUES

- I. Did a Surge FSU member make a posting on social media that was still under the statutory 24 hour period of review afforded to the Supervisor of Elections regarding approval of campaign materials?
- II. Was the material posted educational in nature and thus not subject to approval from the Supervisor of Elections?

## HOLDING

- I. Yes. Petitioner presented clear and convincing evidence that Respondent violated the relevant statute
- II. No. Respondent failed in meeting the burden necessary to establish their defense.

## FACTUAL BACKGROUND

The relevant facts are as follows. On or about October 22, 2023 at 5:17 p.m. Ashley Gonzalez of Surge FSU texted Supervisor Greenwood several images and a video requesting approval for posting. Supervisor Greenwood responded that the post was under review and a response would be given within twenty-four hours. Gonzales told Supervisor Greenwood that Surge would be posting the material anyway, to which Greenwood responded that this would result in an election violation. Gonzales asked whether it would be a schedule 1 violation, which Greenwood confirmed. Gonzales then liked Greenwood's response, indicating that she understood. The materials were then posted to social media by Surge FSU.

The Petitioner argues that this clearly shows that the Respondent knew that their post was under review, and Respondent posted anyway. The Petitioner argues that there is no issue of material fact here and that the evidence is clear and convincing.

The Respondent claimed that the post was only submitted to "cover their bases" given that there was an ongoing SGA election at the time, and that the purpose of the post was only to educate. For this reason they claim that their post is not subject to approval from the Supervisor of Elections.

## OPINION

COMMISSIONER CARDEN with whom COMMISSIONERS BARRINEAU and KAYS join.

I

SBS § 711.6(B)(12) reads in full: "Posting, either electronically or physically, or utilizing campaign materials that have not been approved by the Supervisor of Elections." The only issue under dispute here is whether or not the post made by Surge FSU constituted campaign materials. There is no dispute as to whether or not the material was approved, there is no ambiguity that could have led Surge FSU to believe that the post was approved. As such,

if the material is found to be campaign material, then Surge has violated this statute. Respondent also argued that the material was rejected improperly but as the post was neither rejected nor accepted this claim is irrelevant and deserves only a brief mention.

## II

The defense asserted by Surge FSU is that their post did not constitute campaign material as defined under SBS § 701.1(E) which states, “Campaign Materials - any material[s]... that publicize a political party or candidate for an elected office of the student body, and calling the action to vote.” The main thrust of their defense is the last condition of the definition; the material must call on the viewer to vote. In their post, they use the language, “stand with Surge FSU,” which is admittedly ambiguous.

The specific language, “vote for Surge FSU,” is not required for the post to be a call to vote. After all, “cast your ballot for Surge FSU,” is clearly a call to vote without using the specific language in the statute. Based on this interpretation, this Commission may find material to be campaign material despite not using the word “vote”. The statement, “stand with Surge,” while not dispositive, certainly makes one believe that they are being called to vote. As such, we turn to extrinsic evidence to determine the intention behind the language.

The Respondent was asked why they submitted the material for approval if they did not believe it was subject to the Supervisor’s approval. They responded that it was simply to cover their bases. When asked why, when they found out their bases weren’t covered, they decided to post anyway, they said it was because they believed the post would be denied, and they wanted to get the material out in front of the election. This response lends further credence to the idea that this is campaign material. The Respondent in fact admitted that once they decided that the material would be treated as campaign material by the school, they began to treat it as campaign material themselves.

With the admission that they were treating the post as campaign material, this opinion need go no further. If educational in nature, the Respondent could have posted the materials after the election. They clearly posted the material to influence the results of the election in their favor by asking the student body to stand with them. Under these considerations, this Commission must consider the intention of the language to be a call to vote. As

such, we consider these materials to be campaign materials and find for the Petitioner.

#### CONCLUSION

This Commission enters judgment 3-0 in favor of the Petitioner for violation 1; Surge FSU is in violation of the Elections Code. Petitioners met their burden of proof in showing that Surge FSU posted unapproved campaign materials. Surge FSU failed to assert a convincing defense in the face of evidence presented against them.