

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2023- 23A

SURGE FSU, Rawan Abhari, Petitioner v.
FORWARD FSU, OMER TURKOMER, Respondent.

[April 6, 2023]

*Argued 6 April 2023 and Decided on 6 April 2023.
Petitioner for Rawan Abhari and Forward FSU for the
Respondent. Opinions delivered electronically on 11 April
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. Supervisor Greenwood was
called as a witness and therefore Vice Chair Taranto
presided and abstained from voting.*

SUMMARY OF ALLEGATIONS

This action was brought before this commission by Rawan Abhari on behalf of SURGE FSU, an on-campus political party (“Petitioners”). Petitioner Abhari filed these complaints with the Supervisor of Elections (“Supervisor”)—who forwarded them to this Commission—alleging that FORWARD FSU, on-campus political party (“Respondent”), is responsible for the actions of its members who violated Student Body Statute § 711.6(C)(1), which reads, "Bringing false or malicious charges against another candidate or political party," can bear the interpretation to be a student's best remedy to frivolous suits and charges.

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). This situation was particularly unique in the sense that this violation was heard long after the prescribed deadlines. It was the consensus of the Elections Commission and the FSU Supreme Court, in the interest of justice and fairness, to hear the false and malicious violation filed after the 48-hour deadline.

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: Does the combination of the number and quality of violations that have been submitted by Forward FSU against Surge FSU meet the burden of false and malicious?

HOLDING

I: No, the Commission found that the number and quality of violations that were submitted does not rise to the clear and convincing burden to be considered false and malicious.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about Tuesday, March 3rd at 8:33 PM, Supervisor Greenwood submitted to the Surge party an additional 10, to the already filed 12, violations from the Forward party.

University policy states that 711.4 E states, "All alleged violations and appeals must be presented to the Supervisor of Elections electronically by the end of two (2) business days from their discovery. The final deadline for all alleged violations and appeals to be filed by an individual or political party for a particular election, is forty-eight (48) consecutive hours after the close of polls of that election." Furthermore, Statute 711.6 C1, "Bringing false or malicious charges against another candidate or political party," can bear the interpretation to be a student's best remedy to frivolous suits and charges. For Violation 23A, Petitioners argues that Forward FSU sought to file a plethora of violations in to disqualify Surge candidates.

Petitioner argued that the large volume of violations brought against Surge FSU by Forward FSU were false because many violations were, in Surge FSU's opinion, frivolous and based in meritless legal argument with abysmal evidence. Petitioner points out that 77% of the violations filed by Respondent were dismissed, withdrawn, or denied. Surge FSU also contends that the violations were malicious because the number of violations filed were the exact number that Forward FSU needed to, if all violations were found for Forward FSU, dissolve Surge FSU as a political party on campus altogether. Petitioner called Supervisor Greenwood and Megan, the Vice Chair of Surge FSU, as witnesses.

Supervisor Greenwood testified that party members for the Respondent, in person or over the phone, asked his opinion on certain violations, pictures taken, and what is and is not a violation. Supervisor Greenwood testified that he either told them he was not sure or that it was up to the Elections Commission to decide. Megan testified that during a recess, Supervisor Greenwood told her that he is "sorry this is happening to you guys." Supervisor Greenwood clarified to the Commission that he meant the statement generally as the hearing ran until midnight in the Advocacy Center, with arguments lasting 7 hours just that night.

Counsel for the Respondent was the same representative that filed the 22 violations. Regarding Petitioner's false element, Respondent testified that every violation he filed, he believed had merit, sufficient evidence, and/or were distinguishable from precedent, even if the Commission and Supreme Court disagreed. Regarding the malicious element, Respondent also claims that he did not intentionally file the exact amount needed to disqualify Surge FSU. Petitioner counterargued that even if counsel for the Respondent did not personally do the math, that there still could be an influence and motivations to file violations from the party itself.

Respondent argued that the evidence is not clear and convincing. Respondent also argued that the burden of proof ultimately rests with the plaintiff and cannot be met because other, non-malicious reasonings explain the violations.

OPINION

COMMISSIONERS KENDALL, KOLASA, BRODIGAN
and KENNAMER join,

I.

The relevant statutes of SBS § Statute 711.6 C1, "Bringing false or malicious charges against another candidate or political party," can bear the interpretation to be a student's best remedy to frivolous suits and charges.

After reviewing the evidence presented, we do not consider the violations submitted to be false or malicious. It is our policy to avoid establishing a precedent that could discourage future representatives from reporting cases they believe have merit. Our decision is based on

the need to uphold the integrity and consistency of our organization, ensuring that all future violations are filed in good faith belief that each and every one has sufficient evidence and sound legal reasoning. Every year, one party files an enormous number of violations against the other, most with little evidence and lacking sound legal reasoning. The Commission does want to acknowledge the fact that the counsels of the parties have no formal legal training and are working with terribly written statutes, so it is not always their fault for the state of the violations.

It would be reckless line drawing for this Commission to say that in this case 22 violations, with 77% failing to meet their burdens of proof or so poorly supported that they had to be withdrawn, is considered false and malicious. Should the 19 violations from last year which were also poorly supported be considered malicious as well? Does the false or malicious standard only apply if the violations submitted total up to dissolution of a party? What would this mean for future parties that actually have so many true, entirely egregious violations that they could be dissolved— would they have a cause of action against the Petitioner party to claim malicious intent? There are too many questions left unanswered and without more guidance from the Senate, it is impossible for the Commission to line draw in the way the Petitioner is asking.

Finally, based on the evidence presented, there is a lack of certainty behind the motives of the Respondent in filing the 22 violations. Because of this, Petitioner did not meet the clear and convincing burden that FSU Forward filed these violations with the malicious intention to disqualify FSU Surge members. Nor is there evidence to prove that Forward FSU filed the violations believing the violations to be false. Perhaps a few were filed recklessly without a hard look at the evidence and evidentiary burden, but that does not amount to knowingly submitting false violations.

CONCLUSION

This Commission enters judgment 4-0 in favor of the Respondent for Violation 23A. Forward FSU is not in violation of the Elections Code, as Surge FSU failed to meet

its burden of proof of establishing these violations were false and malicious.

As always, the Commission urges the Senate to clarify the statutes.