

IN THE STUDENT GOVERNMENT ASSOCIATION ELECTIONS COMMISSION  
FLORIDA STATE UNIVERSITY  
LEON COUNTY, FLORIDA

AMPLIFY PARTY

CASE NO.: FALL-2019-1

v.

LEGACY PARTY

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SUMMARY OF ALLEGATIONS

The Amplify Movement alleges that The Legacy Party has violated SBS §711.6(C)(4) by campaigning prior to one week before the election. The alleged violation occurred on the 2<sup>nd</sup> of October, 2019 at 12:38pm on the Landis Green. Amplify asserts that The Legacy Party was selling and distributing t-shirts displaying the party's name and logo on them, thus constituting the shirts as campaign materials, for a self-reported 3 hours on the Landis Green. Legacy advertised this event via posts on the party's public Instagram story.

JURISDICTION

The Elections Commission has the power to investigate and make findings of fact regarding alleged violations of the Elections Code pursuant to Student Body Statutes 703.2(G) and 703.2(F-11). Chapter 700 of the SBS states "The Election Code will be enforced three (3) weeks prior to an election" and "Once the date for an election has been determined, according to 705.4 and 706.5, the election code used for that election cannot be changed."

OPINION

*Ducey, J.* for the 6-1 majority opinion of the Elections Commission,

The Elections Commission finds The Legacy Party in violation of the elections code under SBS § 711.6(C)(4) by acts of campaigning, as defined by solicitation of support, under §701.1(A)(1). The Commission finds two schedule 2 violations in the present case, the first for the party's selling and distribution of t-shirts prior to one week before the

election, and the second for its announcements via social media (Instagram). The first violation carries a penalty of 3 points and a fine of \$100. The second violation carries a penalty of 4 points and a fine of \$200. The total penalty assessed for The Legacy Party is 7 points and a fine of \$300.

The preliminary question the Commission considered was whether or not the t-shirts being sold were considered campaign materials under §701.1(E). To be considered a campaign material under §701.1(E), the item in question must satisfy two requirements: 1. publicize a political party or candidate for an elected office of the student body & 2. calling the action to vote. The first requirement is satisfied by the printing of The Legacy Party's name and logo on the t-shirts. However, the Commission did not find the 2nd requirement satisfied because the shirt did not display anything other than the word "Legacy" and the party's logo (shown in evidence submitted), neither of which can be conveyed as calling the action to vote.

The Commission does find, however, that The Legacy Party violated §711.6(C)(4) of the Elections Code when it reported the t-shirts as a campaign expense, defined in 701.1(D) as "The fair market value of any goods or services paid for or received by the campaign for the purpose of advertising candidates, advertising political parties during campaigning, violation penalties accrued during an election, and/or calling for the action to vote." Legacy listed the shirts as a campaign expense in its report to the Supervisor of Elections. If the shirts are considered a campaign expense, then Legacy's distribution of them constitutes campaigning. Under §701.1(A), campaigning is defined as "The distribution of campaign materials, use of campaign materials, or the solicitation of support for or against a ballot item, political party, and candidate for an elected office of the Student Body...". Under §701.1(A)(1), solicitation of support is 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."

The Commission first notes that the language in §701.1(A)(1) is both confusing and poorly written, specifically, "advocate the election or of defeat of a candidate." The plain English interpretation of the phrase separates the act of advocating for the election from the advocacy of the defeat of a candidate. Interpreting the statute as it is written, the Commission finds that Legacy solicited support by including the sale and distribution of the shirts as a part of its "platform week". Legacy stated that the purpose of its platform week is to announce the objectives of its candidates campaign in the upcoming election. Since the purpose of platform week is to announce specific candidates views for the election, including the shirt-printing event in the week is an appeal to vote to those who purchased one. We find that the sale of the shirts published the name of the political party, was directly advocating for the election, and is an appeal to vote; the shirt sale/distribution

meets the requirement for solicitation of support under §701.1(A)(1), constituting a violation under §711.6(C)(4).

The second issue the Commission considered under §711.6(C)(4) is the Instagram story that was posted by Legacy, on its public page. Under 701.1(A)(1) (stated above), the Commission finds, in accordance with the statute's plain meaning, that Legacy solicited support via the pictures posted by 1. publishing the name of the party and pictures of the shirts 2. expressly advocating for the party by announcing its platform week in association with the shirt distributions & 3. the words "come get y'all shirts" is an appeal to vote (for the reasoning that the Commission found the shirts to be appealing a vote). The Commission finds that the pictures posted on The Legacy Party's Instagram story satisfy the requirements of campaigning and constitute a violation under SBS §711.6(C)(4).

#### HOLDING

The Legacy Party is in violation of the Elections Code as they were campaigning, defined by solicitation of support, under 701.1(A)(1) by advertising and selling t-shirts prior to one week before the election. The Commission therefore sustains two violations (social media and t-shirts) in the instant case. Both will be a schedule 2 violation under 711.6(C)(4). The first violation carries a penalty of 3 penalty points and a \$100 fine. The second violation carries a penalty of 4 penalty points and a \$200 fine. This will be a total of 7 penalty points and a \$300 fine.

Consistent with SBS 711.7(B), fines must be paid by *October 11th 2019*. Failure to do so may result in disqualification.

#### RIGHT TO APPEAL

Any decision made by the Elections Commission may be appealed to the Supreme Court no later than twenty--four (24) hours after said decision has been issued, sustained, dismissed or overturned at the Elections Commission meeting. No appeals of decisions made by the Elections Commission shall be accepted after this twenty--four (24) hour period.

*Richmond, T. Dissenting*

I do agree with the majority that the t-shirt and social media post do not fit the definition of "campaign materials" as defined in SBS § 701.1(E). However, I disagree with the majority's interpretation "solicitation of support" as defined in SBS § 701.1(A)(1) and

therefore enter the following dissent. Under SBS § 701.1(A)(1), solicitation of support is 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.*” I think §701.1(A)(1) is very specific when defining “solicitation of support”. What makes this clear are the expressions “expressly advocate” and “cannot be interpreted as something other than an appeal to vote for or against a specific candidate.” In no way did the Legacy Party’s t-shirts or Instagram post expressly advocate the election or defeat of a candidate. There are many other ways that the t-shirt or Instagram post can be interpreted, and it is NOT a clear appeal to vote for or against a specific candidate. The t-shirt simply had the Party symbol and “Legacy” printed on the shirt. The Instagram post only advertised platform week and the print screening on the green. To me, the Legacy Party is only advertising for platform week (which, from my understanding, is a standard and approved practice). No material or advertisement expressly advocated for an appeal to vote. There were no express calls to vote for Legacy Party or a candidate. There were no express calls to vote against any opposing party or candidate.

The majority opinion additionally fails to follow our own precedent. In *The Legacy Party v. The Amplify Movement* the majority opinion found themselves in a similar situation. (SPRING-2019-1). In the *Legacy* case the alleged violation occurred at a banner making event attended by sorority members of Sigma Delta Tau and an Amplify party member. *Id.* at 1. During the event the Amplify Party candidate for Student Body Treasurer recorded and uploaded a video to Instagram showing a partially completed banner bearing the phrase, “SDT Supports Amplify.” *Id.* The majority in *Legacy* case found no violation based on these facts. To quote the majority “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.” *Id.* at 2. In the instant case the distribution of t-shirts, and a social media post advertising platform week and t-shirt printing, are even more vague in their intentions than the banner in *Legacy*.

For the foregoing reasons, I dissent.

*Decided October 8th 2019 in conference at the College of Law Advocacy Center in Leon County Florida. Decision electronically filed on October 9th 2019 on the Elections webpage. Opinion electronically submitted on October 10th 2019.*

