

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2023- 11

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 these complaints with the Supervisor of Elections (“Supervisor”)—who forwarded them to this Commission—alleging that Surge FSU, on-campus political party (“Respondent”), is responsible for the actions of its members who violated Student Body Statute outlined in (“SBS”) §§ 701.1(A)(1) which reads, “Solicitation of support shall be 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” and §§ 711.6 (B)(6) which prohibits having posted campaign flyers in the classroom. It is further stated that under §§ 711.6(B) a schedule 1 violation of this code shall be assigned when having any posted campaign flyers in the classroom defined in Section 711.6(B)(6).

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: Has the burden of proof been met clearly and convincingly that a member of the Surge party placed the campaign flyers in the classroom?

HOLDING

I. No. Although, the Commission found that it was more likely than not that a Surge member may have placed the campaign flyers in the classroom, the Petitioner did not meet the burden of proof that would establish Surge being in violation of the SBS clearly and convincingly.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about Tuesday, February 28th, 2023 at 6:31 PM, Forward FSU candidate Bella Suarez entered Bellamy classroom 0021 where she discovered three rows of Surge campaign flyers placed on a table within the classroom. The flyers were neatly organized into rows and columns and there were approximately fourteen flyers total. University policy prohibits the use of solicitation of support based on 701.1(A)(1), "Solicitation of support shall be 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." Furthermore, under 711.6(B) a schedule 1 violation of this code shall be assigned based on 711.6(B)(6) which states "having any posted campaign flyers in a classroom is in violation."

Petitioner argued that the clarity of the photos allows for the Commission to see that a Surge member was more likely than not to have brought the flyers in the classroom. Petitioner also argued that based on the flyers presentation, their concentrated area, and organization of the placement should show that a Surge member was the one in which placed the flyers in the classroom. Respondent argued that the evidence is not clear and convincing. Respondent also argued that the burden of proof cannot be met.

OPINION

VICE CHAIR TARANTO, with whom COMMISSIONERS, KENDALL, BRODIGAN, KENNAMER, and KOLASA join,

I.

The relevant statutes of SBS § 701.1(A)(1) read: “Solicitation of support shall be 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.” Additionally, § 711.6(B)(6) states “Having any posted campaign flyers in the classroom” as defined in Section 711.6(B) is a violation of code.

Based on the evidence presented from the three photos that showed the placement of the flyers in the classroom failed to find whether a Surge member was involved in the distribution and placement of these flyers. It was unclear to the Commission that Surge members were indeed the ones who placed these flyers within the classroom. The photos presented only gives us context as to the location of the flyers and how they were presented and organized. The photos do not provide proof that a member of Surge was the one who placed these flyers in the classroom nor do the photos provide evidence that a person was present at the scene.

There was too much uncertainty in determining who put the flyers in the classroom. Petitioner would have us believe a nonmember of Surge would not go out of their way to organize these flyers in such a way that presents solicitation of support. Petitioner argued that although there have been instances in the past where students have carried campaign flyers into the classroom, that this instance is highly unlikely due to the number of flyers presented and the organization of the campaign flyers. Respondents would have us believe it there is no way to prove that Surge member participated in this conduct of placing the campaign flyers in the classroom and that that the burden of proof cannot be established. This Commission declines to make assumptions about who placed the flyers in the classroom.

Based on the evidence presented, Petitioner did not meet the clear and convincing burden that a member of Surge was an active participant in this.

CONCLUSION

This Commission enters judgment 5-0 in favor of the Respondent for Violation 9. Surge FSU is not in violation of the Elections Code, as Forward FSU failed to meet its burden of proof for the violation it filed regarding the campaign flyers found in the Bellamy classroom.