



THE STUDENT GOVERNMENT SUPREME COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

In Re: Ibrahim v ESB

JUSTICE BINDEMAN delivers the majority opinion. JUSTICE BIRENBAUM and JUSTICE RICHARD join in full. CHIEF JUSTICE MOORE joins in the Statement of Facts and the Conclusion.

**SUPREME COURT OF THE STUDENT
GOVERNMENT OF THE UNIVERSITY OF TEXAS
AT AUSTIN**

No. 2018 Spring – 007

Delivered March 4, 2018

This Court heard arguments on March 3, 2018 from the Guneez Ibrahim/Hannah McMorris executive alliance and the Election Supervisory Board (ESB). The Petitioners, the Guneez Ibrahim/Hannah McMorris executive alliance (self-styled as the “Guneez/Hannah” alliance), appeal the decision of the ESB to issue a class B violation resulting in a moratorium that prevented the Guneez/Hannah executive alliance from campaigning during the last day of voting in the campus-wide election.

STATEMENT OF FACTS

The ESB has indicated that the exclusive basis of their decision concerned three actions taken by the Guneez/Hannah campaign: liking a tweet, posting a video, and stating their campaign platform.

The tweet was posted early in the campaigning period and was not written by the Guneez/Hannah campaign nor an agent or worker of the campaign. The tweet reads:

“hey kids vote @GuneezHannah for UT pres and vp! these two genuine WoC have a mission to cater to marginalized



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and tokenized voices and we're tired of straight white Zionist men in power !!!!!"

The only interaction the campaign had with this tweet is that it "liked" it through its Twitter account.

The campaign posted a video to its Facebook campaign page which clarified and emphasized certain portions of its campaign platform. The video ostensibly responds to allegations concerning tweets and clarifies that the campaign is about "equity" and "inclusivity." In the video, Guneez Ibrahim, the candidate for student government president, presents several plans to strengthen representation in campus policy for each identity group on campus.

During the ESB hearing on the issue, the ESB prompted the Guneez/Hannah campaign to present a statement of its platform. Parties agree that the platform presented at the ESB hearing was substantially the same as the one presented in the video.

Following the hearing, the ESB found that liking the tweet constituted an action that contradicted the messaging provided by the Guneez/Hannah campaign when discussing its platform. The ESB found that the campaign violated the Student Government-specific Election Code § 4.12, which reads:

DECEPTIVE OR MISLEADING CAMPAIGNING.
Candidates shall refrain from knowingly deceptive campaign activities, including any act or statement reasonably calculated to injure or compromise the rights or interests of any student, faculty member, or administrator.

The ESB stated that it did not assert that the campaign had made "any act or statement reasonably calculated to injure or compromise the rights or interests of any student, faculty member, or administrator." Instead, the ESB stated that the basis for its decision was that liking the tweet constituted a knowingly deceptive contradiction in its campaign activities. As the ESB determined that



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these actions violated only § 4.12, this Court reviews the decision under § 4.12 alone.

REVIEW

Having reviewed the same facts as presented to the ESB in the original hearing, this Court holds that liking the tweet, even in the context of the campaign's platform, was not knowingly deceptive as a matter of law.

The Guneez/Hannah Campaign's "Like" of the Tweet Does Not Amount to Total Message Adoption under § 4.12 of the Campus-wide Election Code.

The Guneez/Hannah campaign liked a tweet that it had not written. The tweet itself was a statement of support for the campaign by a University of Texas student. By liking the tweet, the campaign did not align itself so totally with the statement that it adopted every part of the message. The tweet uses different language for the campaign's position – "*these two* genuine WoC have a mission [...]" – compared with the statement writer's own position – "*and we're* tired of straight white [...]"

In showing gratitude for a voter's support, a campaign need not adopt every part of the voter's agenda as its own agenda. It is clear based on the wording of the tweet that the statement of the campaign's platform is separate from the personal importance to the writer of reducing the number of straight white Zionist men in power. As such, this Court finds that by liking the tweet, the campaign did nothing more than show gratitude for the support and affirm the statement related to the campaign's own platform.

Regardless of How Much of the Tweet was Adopted by the Campaign, the Tweet Does Not Constitute a Knowingly Deceptive Contradiction Within the Campaign's Platform under § 4.12 of the Campus-Wide Election Code.



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This Court prompted the Guneez/Hannah campaign to articulate its own understanding of the meaning of the statements found in the tweet. The campaign articulated its belief that the statement reflected frustration with unrepresentative leadership and a wish for more representation for every identity and community on campus. That the Guneez/Hannah campaign held this view in good faith was uncontroverted by the ESB.

This Court prompted the Guneez/Hannah campaign to define in its own words its interpretation of the meaning of “Zionism” and “Zionist.” The Guneez/Hannah campaign indicated that by its own good-faith belief and understanding, “Zionism” refers to support for the current state and government of Israel, as it exists in its current location today and within the context of the socio-ethnic conditions which exist in the region. The Guneez/Hannah campaign rejected any belief that the tweet’s “anti-Zionist” perspective reflected any disrespect, critique, or denigration regarding individuals who identify as Jewish.

By the Guneez/Hannah campaign’s own uncontroverted statement of its own platform, the tweet did not contain material which contradicted its platform. Nothing in the campaign’s platform would suggest that the campaign supports the state and government of Israel, nor does anything in the tweet, under the good-faith belief as articulated by the Guneez/Hannah campaign, reflect anti-Semitic animus that would contradict the campaign’s platform of inclusivity for all identities. As such, this Court finds that the tweet, as articulated within the hearing, does not contain material that could be interpreted as a knowingly deceptive contradiction as a matter of law.

CONCLUSION

This Court finds that the actions taken by the Guneez/Hannah campaign do not meet the threshold of “knowingly deceptive” under § 4.12 of the Student Government Election Code as a matter of law. This Court reverses the decision of the ESB, as articulated in ESB Resolution 2018-004, to issue a Class B violation and thus a



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campaigning moratorium against the Guneez/Hannah campaign on the final day of the voting period.

The election's results have already been announced. As such, the Guneez/Hannah campaign now has no opportunity to attempt to garner votes during the last day of voting, as it otherwise would have had without a campaigning moratorium.

The campaign was wrongfully deprived of the right to campaign during the crucial last voting day and could not take any action to rally and motivate its supporters, agents, and workers to maximize its electoral turnout. This Court notes that campaigning activities during voting days have a substantial effect on voter turnout and support. As such, it is not possible to quantify, under the circumstances, the injury suffered by the Guneez/Hannah campaign. This Court finds that the wrongful deprivation of the Guneez/Hannah campaign of critical campaigning time during the voting period violates Campus-Wide Election Code Title 1 § 1.1:

PURPOSE. This code exists to facilitate a fair and educational experience for student governance positions at The University of Texas at Austin. The election of students is designed to expand their knowledge on running for office, navigating political systems, and building community coalitions for the purpose of express advocacy.

This Court finds that the injury suffered by the Guneez/Hannah campaign violates the facilitation of a "fair and educational experience." This Court notes that the Student Government Constitution § 5.21 states as follows:

ADHERENCE TO CAMPUS-WIDE ELECTION CODE AND RESERVATION OF AUTHORITY FOR STUDENT GOVERNMENT-SPECIFIC ELECTION CODE. Student Government shall approve and adhere to the provisions of the campus-wide election code, as annually published by the Office of the Dean of Students, in so far as much as it does



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not contravene the standing provisions of the Student Government-specific campus-wide election code.

This Court finds that there is no provision in the Student Government Election Code that supersedes the Campus-Wide Election Code in this instance. As such, this Court finds that the executive alliances election certification is in violation of the Campus-Wide Election Code and the Student Government Constitution. Per Student Government Constitution § 5.16(i):

The Supreme Court shall have the power to declare null and void any act of Student Government that materially violates this Constitution or the Student Government Code of Rules and Procedures, or substantive rules, controlling authorities, regulations or bylaws approved by a two-thirds (2/3) majority vote of total sitting representatives in the Assembly.

Finding the certification of the results for the executive alliance race to be invalid due to the wrongful moratorium placed on the Guneez/Hannah campaign, this Court holds the certification of the results of the executive alliance race to be unconstitutional. With the authority granted to this Court in the Student Government Constitution, this Court declares the certification of the results for the executive alliance race to be null and void.

This Court is charged under § 5.5 of the Campus-Wide Election Code to “fashion an equitable remedy appropriate to the circumstances of the case.” This Court finds that the only equitable remedy for a campaign which was wrongfully deprived of the opportunity to participate in a crucial period of the electoral process is for a new voting period to be called for the executive alliance race. This Court refers to Student Government Constitution § 5.16(h):

Upon a finding that there has been a material violation of this Constitution or the Student Government Code of Rules and Procedures, or substantive rules, controlling authorities, regulations or bylaws approved by a two-thirds (2/3) majority vote of total sitting representatives in the Assembly,



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Supreme Court shall have the power to issue appropriate writs (including writs of injunction and writs of mandamus) as necessary.

With the authority granted to this Court in the Student Government Constitution and Campus-Wide Election Code, this Court mandates the Election Supervisory Board hold a new voting period for executive alliances and directs the relevant ESB and Dean of Students authorities to notify all appropriate parties and make preparations for a new voting period *for executive alliances only* to be held. The new voting period shall not take into consideration any votes cast in the election so far and shall be held as if the nullified voting period had not been held. The new voting period shall be held according to the same procedures afforded to participants of the prior voting period. Executive alliances that were qualified to participate in the prior voting period shall have the same opportunity in the new voting period. The voting period shall be the same length as the prior voting period and shall be held as soon as is practicable. This Court finds that the new voting period shall be held as if the executive alliance campaigning period and election is still ongoing until the conclusion of the voting period, to be determined by the ESB and Dean of Students authority. This will allow the executive alliances to continue campaigning until the conclusion of such voting period.

This Court invalidates the results of the prior voting period and suspends the conclusion of the campaigning period until the above-specified special voting period is concluded.

It is so ordered.