



THE STUDENT GOVERNMENT SUPREME COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

**In Re: 2018 First-Year Elections in the Case Porter v.
Al-Jadaa**

JUSTICE JEON delivers the opinion. CHIEF JUSTICE
BIRENBAUM, JUSTICE DARROW, and JUSTICE NGUYEN
join. JUSTICE SLAGLE abstains.

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

No. 2018 Fall – 007

Delivered September 26, 2018

The Petitioner, Daniel Porter, filed a complaint against the Respondent, Majd Al-Jadaa, regarding the Respondent's post on the official Class of 2022 Facebook group on September 12th, 2018 at 11:51 AM. Petitioner Porter claims that the post on the official Class of 2022 Facebook group violates the following sections of the Student Government Election Code: Section 4.5 regarding early campaigning and Section 4.8 regarding electronic media, as interpreted by this Court (see Advisory Opinion No. 2018 Fall -- 005). The Petitioner does not call for any specific relief if the Respondent is found in violation of the aforementioned sections.

FACTS

On September 12th, 2018 at 11:51 AM, Respondent Majd Al-Jadaa posted on the official Class of 2022 Facebook group the following:

Hey there, my name is Majd Al-Jadaa and I am running for your First Year Representative in Student Government and I put together this short survey that y'all can fill out to voice your opinions on a wide range of topics. I know some of you were upset about the lack of emergency communication during the stabbing that happened on Monday and if that's an issue you feel passionate about



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then I wanna hear what you have to say. Thank you all for your time and consideration! Hook ‘em Horns!

On September 12th, 2018 at 12:18 PM, Respondent Al-Jadaa contacted a first-year student Jeffrey Wang, who the Respondent did not know was also running for First-Year Representative. On September 13th, 2018 at 9:33 PM, Jeffrey Wang responded to Respondent Al-Jadaa and explained the prohibition against early campaigning.

On September 13th, 2018 at 9:38 PM, Respondent Al-Jadaa edited his initial Facebook post to say the following:

Hey there, my name is Majd Al-Jadaa and I put together this short survey that y’all can fill out to voice your opinions on a wide range of topics. I know some of you were upset about the lack of emergency communication during the stabbing that happened on Monday and if that’s an issue you feel passionate about then I wanna hear what you have to say. Thank you all for your time and consideration! Hook ‘em Horns!

To each of those posts, a Google Form survey was linked, titled “UT Change Survey.” It has required fields asking for the email address, name, major, and two questions: “What would you like to see changed at UT?” and “What do you dislike most about UT?” It also had optional fields for phone numbers and the year.

These facts are not in dispute.

ON EARLY CAMPAIGNING

Authorized campaigning for the 2018 First-Year Representative Elections began on September 19th, 2018 at 12:01 AM, and this was included in the Election Timetable given to the candidates at the time of their filing and at the required Candidate Seminar.

Moreover, Section 4.5 of the Student Government Election Code states, in part:

EARLY CAMPAIGNING OR ENDORSING. No campaigning or endorsing will be allowed until the official campaign period has begun [...]



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The Court finds that the Respondent's introduction as running for First-Year Representative is indeed campaigning. The Campus-Wide Election Code defines "campaigning" as the following:

Sec. 2.11 "CAMPAIGN" and "CAMPAIGNING" refer to statements, literature, activities or deliberate uses or distribution

of materials of any kind that have or are intended to have the effect of soliciting votes, support or interest for a candidate or elective office. Campaigning should only occur during the official campaign period as defined in this Code.

While the Campus-Wide Election Code is not governing in the case of First-Year Representatives election, the Court finds the definition in Section 2.11 accurate in this case as well. The Respondent's post on Facebook not only brought attention to the campaign explicitly, but also had the explicit effect of creating a connection between the candidate's name and the candidate's care for the concerns of the student body. In the end, name recognition is a major part of any campaign for office. As such, the Court rejects the Respondent's argument that he initially did not know the post would constitute campaigning.

This Court also rejects the Petitioner's argument that the survey, used to gather information about potential voters and help form a platform, should be considered campaigning. If gathering contact information about potential voters was barred by the early campaigning clause of the Election Code, no First-Year Representative candidate would be able to befriend or acquaint themselves with their fellow First-Year students, because it could be construed as creating a network for election season. That is an unreasonable limit these candidates. Further, the claim that the Google Form responses could be used in formation of a candidate platform, and thus constitutes campaigning, falls outside the scope of campaigning, for it does not directly create support or interest for a candidate. The Court does not accept the Petitioner's broadened definition of campaigning.

Additionally, judging by his swift edit of the post and removal of the declaration that he is running for First-Year Representative, the Court does accept the Respondent's claim that there was no deliberate intent to break the rule against early campaigning.

This Court finds that the Respondent's initial post was in violation of Section 4.5 of the Student Government Election Code, but his edited post was not.

ON THE USE OF ELECTRONIC MEDIA

Section 4.8 of the Student Government Election Code states:



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ELECTRONIC MEDIA. All campaign materials must be in compliance with University regulations governing the use of electronic media.

The Court has clarified the University regulations compliance clause in Advisory Opinion No. 2018 Fall -- 005. It states that use of “an information technology resource owned or controlled by the University or The University of Texas System” is prohibited for conduct including but not limited to “transmitting unsolicited e-mail,” which the Court extrapolated to include any unsolicited electronic messages of any kind.

In the same opinion, the Court explicitly states:

... any information technology, including social media, owned or *controlled* by the University or The University of Texas System is subject to the same regulation. This includes, but is not limited to, Facebook groups with University employee as administrators or moderators, Facebook groups that require a utexas.edu email to access...

The Court finds that, without a doubt, the Class of 2022 Facebook page falls under University-controlled information technology, and the Respondent’s post on the group, *ipso facto*, is in violation of Section 4.8 of the Student Government Election Code as construed by the Court in Advisory Opinion No. 2018 Fall -- 005.

However, the question remains: Are the actions of a candidate held retroactively accountable?

Section 4.8 of the Student Government Election Code provides vague guidance for candidates without the supplemental guidance by this Supreme Court. The University regulations, as referenced by the Code, only explicitly prohibits “unsolicited e-mail.” Only the Supreme Court, after deliberation, concluded that the regulations would also include other means of unsolicited electronic messaging through the University controlled or owned information technology. And that conclusion, in the form of an advisory opinion, only came on September 23rd, 2018, 11 days after the Respondent had posted on the Facebook group, and 10 days after he had removed the campaigning phrase. Based on these facts, the Court finds it unreasonable for Advisory Opinion No. 2018 Fall -- 005 to apply retroactively.

Therefore, the Court rules in favor the Respondent regarding the claims of unauthorized use of electronic media.



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FINDINGS AND RULING

The Court finds that the Facebook post by the Respondent on the official Class of 2022 Facebook group dated September 12th, 2018 is in violation of Section 4.5 regarding early campaigning. Due to the connection the post drew between the Respondent and his willingness to hear the concerns of the first-year class, the Court concludes that the first post can be considered campaigning and thus was in violation of the code. However, the edited post, which excluded the message that the Respondent was running for a position in Student Government, and the survey itself do not constitute campaigning, and thus are not found to be in violation of early campaigning rules.

The Court also finds that the use of the University owned or controlled media by the Respondent is, *ipso facto*, a violation of Section 4.8 of the Student Government Election Code as interpreted by this Court; however, it also acknowledges the relatively long delay between the post itself and the Advisory Opinion No. 2018 Fall -- 005. The Court finds it unreasonable to extend the reach of the Advisory Opinion into the past actions of candidates retroactively, without specific instructions doing so. As such, the Facebook posts are not found in violation of this part of the code.

The Court is hereby issuing a Class A violation against the Respondent Majd Al-Jadaa and is levying a 25% reduction in Respondent Al-Jadaa's spending limit.

It is so ordered.