

THE STUDENT GOVERNMENT SUPREME COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

In Re: Mismash vs. Samson

JUSTICE BINDEMAN delivers the majority opinion. CHIEF JUSTICE MOORE, JUSTICE STADLER, and JUSTICE RICHARD join. JUSTICE BIRENBAUM abstains.

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

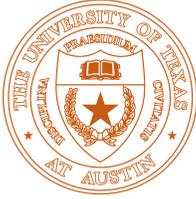
No. 2017 Fall – 003

Delivered September 23, 2017

In this matter, Candidate Mismash brought claims of defamation and prohibited affiliation, as per the student election code and the student discipline and conduct rules of the University, against Candidate Samson.

Candidate Mismash represented himself with the aid of his campaign manager. Candidate Samson represented himself with the aid of his chief of staff, his chief strategist, and his outreach director.

This matter concerns messages sent via the mobile application GroupMe in various group conversations. Candidate Mismash messaged the “UT21” group and stated that he was running for the office of first year representative, briefly presented his platform, and included a promotional image that featured a picture of Hillary Clinton. The use of this image does not immediately appear partisan or motivated by political beliefs. It is undisputed that the “UT21” chat is accessible by all freshmen students at the University of Texas at Austin.



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Candidate Mismash thereafter posted a similar message, in another GroupMe group conversation, that was identical except for the withholding of the Hillary Clinton image. It is undisputed that this second group conversation was generally available to Republican students at the University of Texas at Austin, the membership including College Republicans, Young Conservatives of Texas, and other Republican and conservative students.

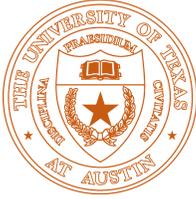
In response to this post in the Republican group conversation, Candidate Samson stated that alternatively, the members of the group should vote for Candidate Samson, who had already been endorsed by both the College Republicans and the Young Conservatives of Texas. Candidate Samson also messaged a screenshot of the full message sent to the “UT21” group conversation, including the Hillary Clinton promotional image. It is undisputed that the screenshot had not been edited or changed in any way and was presented in its full form. Candidate Samson did not comment on the image or editorialize its presentation in any manner.

Candidate Mismash believes this use of his campaign messaging constitutes defamation and prohibited affiliation.

We will first consider the matter of prohibited affiliation. The rule, found in Chapter VII, Subchapter C of the Student Government Election Code (entitled, “*Financial Disclosures*”), reads:

Sec. 7.16 PROHIBITED AFFILIATION. Except in cases of a bona fide executive alliance as provided for in this Code, no candidate is allowed to contribute financially or provide any other form of tangible support, including but not limited to campaign materials, to another candidate’s campaign.

- (a) Sharing campaign money, campaign materials, and resources between and amongst candidates who are not in a bona fide executive alliance is strictly prohibited.



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Candidate Samson’s use of Candidate Mismash’s image was not intended to, nor did it in fact, provide any support to Candidate Mismash, either financially or otherwise. This Court finds that the use of Candidate Mismash’s campaign materials does not fall under this election rule.

Candidate Mismash also argues the use of his campaign materials constitutes a violation of election code and campus-wide defamation rules.

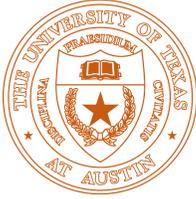
Chapter 13 of the Institutional Rules on Student Services and Activities states in pertinent part:

Sec. 13–202. Defamation

- a. No person will make, distribute, or display on the campus any statement that unlawfully defames any other person.
- b. A statement unlawfully defames another person if it is false, if the false portion of the statement injures the reputation of the other person, and if the speaker has the constitutionally required state of mind as set forth in decisions of the United States Supreme Court.

Candidate Samson argues that no violation occurred because the screenshot posted was unedited and presented without comment. He argues further that there must be a distinction between defamation and differentiation. This Court agrees.

The campus defamation rule requires that the statement in question be false. The statement was a full, unedited, not commented on, and indisputably accurate presentation of Candidate Mismash’s earlier messaging. Therefore, this Court does not reach the issue of Candidate Samson’s intent or belief in displaying the message. Defamation requires falsehood, and this Court finds there is no falsehood in this case. The Court also does not reach the question of whether the messages in question were constructively “on the campus” for purposes of the defamation rule.



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This Court affirms the right of the candidates' campaigns to participate in campaigning. Demonstrating the difference in messaging between campaigns and engaging in adversarial presentation of platforms and endorsements are fundamental parts of campaigning. To deprive candidates of the right to differentiate themselves from each other would be an unreasonable limitation on their ability to campaign.

However, all candidates are advised that Section 13-204 of the Institutional Rules on Student Services and Activities prevents students from directly targeting other students with hostile speech, and this Court will not tolerate targeted hostile messaging or "smear campaigns" against other candidates.

This Court resolves both claims brought by Candidate Mismash in Candidate Samson's favor. Therefore, no remedy will be issued in this case.

It is so ordered.