

ASASU Supreme Court

Leveque 2020 Executive Ticket v. Elections Department

Chief Justice Walther, Opinion of the Court

Joined by Associate Chief Justice Haji, Justice Lombard, Justice Rios, Justice Murphy

Oral Proceedings heard on April 1st, 2020

Decision Filed on April 2nd, 2020

A. Fact Summary

On March 19th, 2020, the Leveque Executive Ticket published a complaint to the ASASU Elections Department with information related to potential infractions of campaigning rules by the Palmer Executive Ticket. After not hearing from the Elections Department for seven (7) days, Leveque followed up with another email on March 26th. On March 27th, the Elections Department responded to Leveque's petition and ruled in their favor on one (1) of their three (3) complaints, issuing three (3) infraction points to Palmer. This decision was rendered without holding a hearing on the Petition, as required by Undergraduate Student Government (USG) Election Code Chapter 8-5. Later that same day, the Elections Department retracted their decision, citing that it was unfair for them to punish Palmer, as they had not originally responded to Leveque's petition within the two (2) business days required by the Elections Code. On March 28th, Leveque submitted an appeal of the final Elections Department decision to nullify the three (3) infraction points to Palmer and dismiss all three (3) complaints to the Supreme Court.

B. Jurisdiction

According to Chapter 11-1 of the USG Election Code - "A candidate has the right to appeal a decision by the Elections Department to the Supreme Court via the appropriate online form. The candidate has one (1) business day after a decision is issued to appeal." Furthermore, according to Chapter 11-2 of the USG Elections Code - "The final decision regarding the disqualification of a candidate or interpretation of the USG Elections Code is reserved for the Supreme Court." Therefore, the Court has jurisdiction in this case.

C. Holding of the Court

Leveque presented three (3) main issues to the court:

1. Palmer was in violation of the Campaigning Rules of the Elections Code on three accounts, accruing nine (9) infraction points.

2. The Elections Department's decision to void all three complaints against Palmer is invalid.
3. Palmer's infractions caused sustained injury to Leveque.

The Court sides with Leveque in this case. After hearing Oral Arguments, the Court has decided that Palmer violated the Election Codes by seeking endorsements for the campaign prior to the start date of March 30th. According to Chapter 5-1.1 of the USG Election Code - "Campaigning or distribution of campaign materials cannot begin before the dates set by the Elections Department." While the dates of the campaign were moved due to complications from the COVID-19 pandemic, all candidates were duly informed that the start date of March 16th was to be changed to March 30th, to account for the transition for all ASU students to online platforms. This is a decision granted to the Elections Department and approved by the Council of Presidents. Furthermore, the decision to change the start date of campaigning does not require further approval from the USG Senate. The Court has found Palmer to have been in violation of Chapter 5-1.1 of the Election Code on two (2) accounts:

1. Palmer inappropriately solicited endorsements prior to March 30th, 2020.
2. Palmer inappropriately promoted campaign materials prior to March 30th, 2020.

Violation 1

The Palmer campaign was found to be distributing an online endorsement via text message as early as March 14th. Campaigning is defined in the USG Election Code Chapter 13 as "Any public action including signs, posters, websites, scheduling of speaking engagements, or other activities initiated by either a candidate or a member of his/her campaign staff to persuade members of the student body to vote for or against a candidate(s)." March 14th is prior to both the original (March 16th) and rescheduled (March 30th) campaigning date, showing them to be in negligence of Chapter 5-1.1. The solicitation of an active response from members of the student body to their campaign prior to March 30th demonstrates public action that gives Palmer an unfair advantage, and therefore violates the Election Code.

Violation 2

The Court found the Palmer campaign to again be in violation of Chapter 5-1.1 of the Election Code, specifically the “distribution of campaign materials.” This violation builds upon Infraction 1, as the promotion of their campaign website within the endorsement form, prior to the campaigning date set by the Election Department clearly presents a distribution of campaign materials. Websites fall under the category of campaign materials as defined in Chapter 13 of the election code. The ease of access of the Palmer endorsement form by members of the student body allowed their website to be broadcasted to the public prior to the start of campaigning. While the website may have been inaccessible, the knowledge of a website by one of the tickets presents an unfair advantage to any other tickets who had not yet distributed their campaign materials.

The Court acknowledges that the Elections Department was negligent in responding and handling the Complaints filed by Leveque. However, the Court has found that the Elections Department’s retraction of their original decision was not fair, as it is not stated in the Election Code that failure to follow the guidelines above immediately leads to a disqualification of the complaint. Therefore, we believe that the second decision issued by the Elections Department is unfair.

The Court also acknowledges that the violations listed above have caused substantial injury to Leveque. Through premature campaigning and solicitation of endorsements, Palmer obtained an unfair advantage within the student body, causing some students to have made a decision on a campaign before all campaigns launched on March 30th.

The Court also acknowledges the fault on the behalf of the Elections Department, and believes that much of this case could have been settled by them, were they to have followed the guidelines prescribed within the Election Code.

Both of these infractions are Level 1 violations according to Chapter 12-2.1 of the Elections Code. Chapter 12-3.1 states that all Level 1 infractions are subject to three (3) infraction points.

Therefore, the Court orders:

- A. The Final Decision of the Elections Department is void.
- B. The Palmer ticket will receive six (6) infraction points for two Level 1 violations of the campaigning guidelines.
- C. The Supreme Court will submit recommended changes to the Election Code prior to May 1st, 2020.

SIGNED BY THE ASASU SUPREME COURT

APRIL 1st, 2020 at 11:55 PM