

STUDENT GOVERNMENT ASSOCIATION SUPERIOR COURT

LEE v. SGA ELECTION BOARD

April 29, 2020

Oliver, CHIEF JUSTICE, delivered the unanimous opinion of the Court.

Petitioner Louisa Lee brings this appeal of the decisions of the Election Board (“Board”) regarding fifteen (15) grievances filed during the Spring 2020 SGA Election. Petitioner challenges the Board’s decision to: (a) uphold grievances 43237696, 43246071, 43246086, and 43256823, (b) deny grievances 43241933, 43254748, 43248251, 43251866, 43256996, 43258060, 43258172, 43258833, and 43258870, and (c) consider grievances 43229759, 43237696, 43246071, 43246083, and 43246086 as Unofficial Election Notifications. We hold that the Board’s decisions regarding grievances 43256996, 43258060, 43258172, and 43258833 were erroneous, see no error in its decisions regarding grievances 43237696, 43246071, 43246086, 43256823, 43241933, 43254748, 43248251, 43251866, and 43258833, and determine the Plaintiff lacks standing with the Court regarding requests to consider Unofficial Election Notifications. Accordingly, we **REVERSE** the Board’s decisions regarding grievances 43256996, 43258060, 43258172, and 43258833, **AFFIRM** the Board’s decisions regarding grievances 43237696, 43246071, 43246086, 43256823, 43241933, 43254748, 43248251, 43251866, and 43258833, and **DISMISS** the Plaintiff’s claims regarding Unofficial Election Notifications.

This appeal arises out of the recent election for Student Government Association (SGA) Campus Activities Council (CAC) Chair between Louisa Lee and Lafonzo Spinger. During the campaign and election process, forty-three (43) grievances were filed against both the Lee and Spinger Campaigns. The Court has grouped the appeals categorically for convenience.

I.

Pursuant to SGA Constitution, Art. V, § 5, SGA Code Annotated (SGACA) Tit. IV, Ch. 2, § 4, and SGACA Tit. VI, Ch. 4, § 57, the Court has jurisdiction and is the final appellate review over this matter. Furthermore, questions of law before the Court are subject to de novo review and questions of fact are reviewed for clear error. (Echols v. SGA Election Board, SC 2016-002).

II.

A. Appeals for Grievances filed against Louisa Lee

1. Grievance 43256823 (OU MSA Members Chat)

Jayke Flaggert filed a grievance against Louisa Lee alleging the use of unsolicited messaging. The Board unanimously voted to uphold the grievance and penalized Louisa 0.5 points.

SGACA, Tit. VI, Ch. 3, § 47(d)(iv) prohibits unsolicited electronic messages. Unsolicited messages are defined in SGACA, Tit. VI, Ch.1 as:

Any unrequested electronic message sent through an OU maintained messaging service, including OU email and Canvas, or **sent using a closed messaging group maintained for the purpose of conducting official university or university-affiliated student organization business for the purpose of explicitly requesting a vote or support.** Whether or not a closed messaging group is maintained for the purpose of conducting official university or university affiliated student organization business shall be at the discretion of the Election Chair and shall be uniform across all rulings. (emphasis added)

The OU MSA (Muslim Student Association) is listed as an “active” University-affiliated student organization. The OU MSA Members Chat constitutes a closed messaging group maintained for the purpose of conducting university-affiliated student organization business.

The Court finds no error in the Board's decision to uphold grievance 43256823. Therefore, the Board's decision is affirmed.

2. Grievances 43246086 and 43246071 (CAC shirts)

Jayke Flaggert filed grievances against Louisa Lee alleging the use of a CAC logo printed on t-shirts depicted in campaign posts. The Board unanimously voted to uphold the grievances and penalized Louisa a total of 1.0 points (0.5 points per grievance).

The t-shirts in question appear to violate SGACA, Tit. VI, Ch. 3, § 47(d)(xi) which states in part:

Candidates shall not use the letterhead, logo, or **any symbol that represents the University of Oklahoma or University entities**. No Candidate may prominently display the logo of the Student Government Association or any Branch of the Student Government Association in any campaign material. (emphasis added)

This section does not require that a logo or symbol be "official" or "registered" with the University, rather the logo or symbol must "represent" the University or University entities. Candidates must remember that symbolic representation is evaluated both subjectively and objectively. A candidate with organizational familiarity may recognize such depictions as "unofficial." However, it is perhaps more important to consider that an average student is not likely to make the distinction between "official" and "unofficial" logos. To them, a t-shirt depicting an unofficial "CAC" logo is simply a CAC t-shirt. Although the shirts in question may not depict official logos, there is no question that the depictions are intended to represent the CAC and CAC-sponsored activities that inherently represent the organization itself.

The Court finds no error in the Board's decision to uphold grievances 43246086 and 43246071. Therefore, the Board's decisions are affirmed.

3. Grievance 43237696 (Soonerthon logo)

Jayke Flaggert filed a grievance against Louisa Lee alleging the use of a Soonerthon logo in campaign post. The Board unanimously voted to uphold the grievance and penalized Louisa 0.5 points.

The SGACA does not require that a logo or symbol be "official" or "registered" with the University, rather the logo or symbol must "represent" the University or University entities. "Soonerthon," also known as "CAC Soonerthon" is a prominent annual event that is widely known to be sponsored by CAC. Although the shirts in question may not depict official logos, there is no question that the depictions are intended to represent the CAC and CAC-sponsored activities that inherently represent the organization itself.

The Court finds no error in the Board's decision to uphold grievances 43237696. Therefore, the Board's decisions are affirmed.

4. Grievances 43246083 and 43229759 (Grievances in "bad faith")

Jayke Flaggert filed grievances against Louisa Lee alleging the use of the Soonerthon logo in campaign posts. The Board unanimously voted to deny grievances. The Petitioner requests that the original grievances are considered Unofficial Election Notifications pursuant to SGACA Tit. VI, Ch. 3, § 47(f)(a)(i).¹

¹ The Court suspects this citation and other portions of § 47 include multiple Scribner's errors.

In order to be considered an Unofficial Election Notification, the complaint must not be filed with an objective belief that the alleged misconduct violated a provision of Title VI of the SGACA. The SGACA does not require that a logo or symbol be “official” or “registered” with the University, rather the logo or symbol must “represent” the University or University entities. Candidates must remember that symbolic representation is evaluated both subjectively and objectively. Although the shirts in question may not depict official logos, there is no question that the depictions are intended to represent the CAC and CAC-sponsored activities that inherently represent the organization itself.

Therefore, regarding grievances 43246083 and 43229759, the Plaintiff has failed to establish standing by failing to show that the Board’s decision to deny grievances 43246083 and 43229759 caused a distinct and palpable injury to herself pursuant to SGACA Tit. VI, Ch. 4, § 64. The Plaintiff’s request to consider grievances 43246083 and 43229759 as Unofficial Election Notifications are duly dismissed.

5. Grievances 43237696, 43246071, and 43246086 (Grievances in “bad faith”)

In order to be considered an Unofficial Election Notification, the complaint must not be filed with an objective belief that the alleged misconduct violated a provision of Title VI of the SGACA. The Court found no error in the Board’s decisions to uphold grievances 43237696, 43246071, and 43246086. Therefore, the Plaintiff’s request to consider grievances 43237696, 43246071, and 43246086 as Unofficial Election Notifications are duly dismissed.

B. Appeals for Facebook Grievances against Lafonzo Spinger

Grievances 43248251, 43251866, 43241933, and 43258870

Louisa Lee filed grievances against Lafonzo Spigner alleging the use of unsolicited messaging through Facebook. The Board unanimously voted to deny the grievances.

The SGACA, Tit. VI, Ch. 3, § 47(d)(iv) prohibits unsolicited electronic messages. For the purposes of defining unsolicited Facebook posts, SGACA, Tit. VI, Ch. 1 states in part:

[Messages] sent using a closed messaging group maintained for the purpose of conducting official university or university-affiliated student organization business for the purpose of explicitly requesting a vote or support.

The evidence presented fails to show that the messages sent through Facebook were sent using a closed messaging group maintained for conducting official university or university-affiliated student organization business.

The Court finds no error in the Election Board's decision to deny grievances 43248251, 43251866, 43241933, and 43258870. Therefore, the Board's decisions are affirmed.

C. Appeals for GroupMe Grievances against Lafonzo Spinger

1. Grievance 43258172 and 43258060 (Camp Crimson GroupMe)

Louisa Lee filed a grievance against Lafonzo Spigner alleging the use of unsolicited messaging regarding posts made on the Rachael Dodd Camp Crimson GroupMe and the Emma Kemp Camp Crimson GroupMe. The Board unanimously voted to deny both grievances.

The SGACA, Tit. VI, Ch. 3, § 47(d)(iv) prohibits unsolicited electronic messages. For the purposes of defining unsolicited GroupMe posts, SGACA, Tit. VI, Ch. 1 states in part:

[Messages] sent using a closed messaging group maintained for the purpose of conducting official university or university-affiliated student organization business for the purpose of explicitly requesting a vote or support.

“Camp Crimson” is the University’s official orientation camp for incoming Sooners. The GroupMe accounts in question appear to be closed messaging groups maintained for the purpose of conducting official university or university-affiliated student organization business. The messages in question depict Mr. Spinger and explicitly state “Lafonzo for CAC” when encouraging group members to vote. Although the message body itself does not explicitly solicit votes, the text clearly visible in Spinger’s campaign graphic qualifies as an explicit request for vote and/or support under the SGACA. Furthermore, the Court previously held that candidates are responsible for all campaigning done on their behalf (*Shurbaji v. SGA Election Board*, SC 2017-006).

The Court finds clear error in the Board’s decision to deny grievance 43258172. Therefore, the Board’s decision is reversed and the Spinger campaign shall be penalized a total of 1.0 points (0.5 points per grievance) in accordance with Board point assessment for similar grievances.

3. Grievance 43258833 (Camp Kesem GroupMe)

Louisa Lee filed a grievance against Lafonzo Spigner alleging the use of unsolicited messaging regarding a post made on the Camp Kasem GroupMe. The Board unanimously voted to deny grievance.

The SGACA, Tit. VI, Ch. 3, § 47(d)(iv) prohibits unsolicited electronic messages. For the purposes of defining unsolicited GroupMe posts, SGACA, Tit. VI, Ch. 1 states in part:

[Messages] sent using a closed messaging group maintained for the purpose of conducting official university or **university-affiliated student organization** business for the purpose of explicitly requesting a vote or support. (emphasis added)

“Camp Kesem,” also known as “Camp Kesem at the University of Oklahoma,” is a non-profit organization with a chapter located at the University of Oklahoma. Camp Kesem does not appear to be an “active” student organization registered with the University of Oklahoma. However, Camp Kesem’s appears to be an official student organization at universities such as James Madison University. Camp Kesem at the University of Oklahoma advertises itself as a university-based chapter and holds close relationships with other university-affiliated student organizations.

Therefore, an average student could reasonably consider Camp Kesem a university-affiliated student organization despite it not being registered as “active” with the Center for Student Life. The GroupMe account in question appears to be a closed messaging group maintained for the purpose of conducting official university or university-affiliated student organization business. The messages in question depict Mr. Spinger and explicitly state “Lafonzo for CAC” when encouraging group members to vote. This qualifies as an explicit request for vote and/or support under the SGACA. Furthermore, the Court previously held that candidates are responsible for all campaigning done on their behalf (*Shurbaji v. SGA Election Board*, SC 2017-006).

The Court finds clear error in the Board’s decision to deny grievance 43258172. Therefore, the Board’s decision is reversed and the Spinger campaign shall be penalized 0.5 points in accordance with Board point assessment for similar grievances.

4. Grievance 43256996 (OU Black Connections GroupMe)

Louisa Lee filed a grievance against Lafonzo Spigner alleging the use of unsolicited messaging regarding a post made on the OU Black Connections GroupMe. The Board unanimously voted to deny grievance.

The “OU Black Connections GroupMe” is an official message platform for members of the Black Student Association, holding “active” registration with the University. The messages in question depict Mr. Spigner and explicitly state “Lafonzo for CAC” when encouraging group members to vote. This qualifies as an explicit request for vote and/or support under the SGACA. Furthermore, the Court previously held that candidates are responsible for all campaigning done on their behalf (*Shurbaji v. SGA Election Board, SC 2017-006*).

The Court finds clear error in the Board’s decision to deny grievance 43256996. Therefore, the Board’s decision is reversed and the Spigner campaign shall be penalized 0.5 points in accordance with Board point assessment for similar grievances.

5. Grievance 43254748 (Amigos GroupMe)

Louisa Lee filed a grievance against Lafonzo Spigner alleging the use of unsolicited messaging in regard to a post made on the Amigos GroupMe. The Board unanimously voted to deny grievance.

The SGACA, Tit. VI, Ch. 3, § 47(d)(iv) prohibits unsolicited electronic messages. For the purposes of defining unsolicited GroupMe posts, SGACA, Tit. VI, Ch. 1 states in part:

[Messages] sent using a closed messaging group maintained for the purpose of conducting official university or **university-affiliated student organization** business for the purpose of explicitly requesting a vote or support. (emphasis added)

Insufficient evidence has been shown to establish that the “Amigos GroupMe” is a closed messaging group maintained for the purpose of conducting official university or university-affiliated student organization business. Membership of the group appears to include students, alumni, and non-university affiliated individuals for the purposes of social networking. Therefore, messages sent through the “Amigos GroupMe” cannot be considered as “unsolicited electronic messages” within the limits of the SGACA.

The Court finds no error in the Board’s decision to deny grievance 43254748. Therefore, the Board’s decision is affirmed.

IT IS ORDERED