

The Student Body Supreme Court of Indiana University

Request for Appellate Hearing Concerning the 2009 Indiana University Student Association Elections

Btown Ticket v. Elections Commission

Docket Number: SBSC-2009-01

I.

On March 25, 2009 the Elections Commission fined the Btown Ticket in the amount of \$106.47 for the improper submission of financial documentation per the IUSA Elections Code. Specifically, the Commission determined that Btown violated section 603 of the Election Code which states,

“A signed financial disclosure affidavit must accompany all financial statements. For this section, an affidavit shall consist of an itemized list of all contributions and their respective signature(s), date of contribution, and candidate or ticket affiliation.”

On March 27, 2009 the Btown Ticket submitted their appeal to the IUSA Supreme Court regarding the fairness of the Commission’s ruling and the ambiguity of the aforementioned section.

Per Curiam.

II.

The Student Body Supreme Court of Indiana University has the authority to reject or accept any appeal of decisions by the Elections Commission pursuant to *Indiana University Student Association Elections Code*, Title I, Section 101. The Court has set forth clear precedent regarding its role in appellate review of election decisions. For this Court “to overturn an Elections Commission decision, [the] petitioner must show ‘clear error, blatant abuse of discretion, or personal bias’ in the resolution of their complaint or defense” *The Crimson Elections Ticket and The Fusion Elections Ticket v. The Big Red Elections Ticket*, SBSC-04-02 (2004), citing *Action v. Crimson, et al.*, SBSC-03-01 (2003).

The Court finds that the Btown ticket was denied due process since the ticket was not given the opportunity to defend itself against accusations of submitting improper financial statements. As such, this shows blatant abuse of discretion by the Elections Commission. The Court grants a *writ of certiorari* and remands the case to the Elections Commission with instructions to vacate the original judgment.

III.

The Elections Code provides specific guidelines concerning the Supreme Court’s power to accept an appeal. Section 1005, Clause 2 states, “Anyone wishing to submit a reply brief must do so by 4:00 p.m. of the first class day following receipt of the copy of the complaint.” Additionally, the Code provides that “the Supreme Court shall set its own guidelines for determining whether to accept an appeal, regardless

of whether the appeal is filed properly or improperly.” Liz Retana, Elections Commissioner, posted the Elections Commission’s decision regarding the Btown Ticket at approximately 6 PM on March 25. The Btown Ticket filed their appeal with the Supreme Court by 4 PM on March 27. The internal guidelines of the Supreme Court define a ‘business day’ from 9 AM to 5 PM. Due to the fact that the Elections Commission’s decision was released outside of the March 25 business day window, the posting is considered by the Court to have occurred on March 26. As the ticket’s appeal was posted by 4 PM on March 27, the Court concludes that the response was filed properly.

IV.

It is the determination of the Court that the Elections Commission neglected to provide due process by not allowing the Btown ticket an opportunity to respond to the question of improperly prepared financial statements. Due process is guaranteed by both the IUSA Constitution (Article IV, Section 3, Duties of the Supreme Court) and the United States Constitution (Amendment 5, Trial and Punishment, Compensation for Takings).

By Article IV, Section 3, Duties of the Supreme Court, of the IUSA Constitution, the Supreme Court is granted authority to ensure due process:

“The Supreme Court will adopt internal rules of procedure to protect due process. Such internal rules may not be in conflict with commonly accepted legal precedents, this Constitution, or University policy regarding student rights.”

The Elections Commission is an independent regulatory agency, created by the IUSA Congress and appointed by the IUSA Student Body President. As such, the Elections Commission falls under the purview of the IUSA Constitution. Therefore, the Supreme Court has the duty to ensure that due process is provided to tickets as it relates to the role and responsibilities of the Elections Commission.

Furthermore, the Elections Commission, as part of student government, is sanctioned by Indiana University, which is a state-funded institution. Thus, the Elections Commission, acting as a punitive body levying a fine on behalf of a state-funded institution, is subject to the due process requirements enumerated in the Indiana State and United States Constitutions. Specifically, the United States Constitution, Amendment 5 states:

“No person shall be... deprived of life, liberty, or property, without due process of law”

V.

Since it will likely arise in the hearing, the Court would like to address the issue of the interpretation of Section 603 of the Elections Code. It is the opinion of the Court that Section 603 is ambiguous regarding the requirement to provide the signatures of each individual campaign contributor on the financial

statement. Section 603 does not explicitly mention the signatures of contributors. The second sentence of Section 603 states that “A signed financial disclosure affidavit must accompany all financial statements.” However, the Elections Code fails to clarify whose signatures are required. In addition, a grammatical issue in the final sentence of the section exacerbates the ambiguity of the signature requirement. The statement “their signature(s)” in the phrase “an itemized list of all contributions and their respective signature(s)” refers to the word “contributions”. Note that this is not explicitly linked to the contributors, and could therefore be interpreted in a variety of ways. The Court does not here provide an interpretation of this section of the Code; however, it is important to consider that it is the mandate of the Elections Commission, when asked, to provide clarification of the requirements of the Code. The Court instructs the Elections Commission, when hearing this case, to consider both the ambiguity of Section 603 and the Commission’s responsibility to clarify that ambiguity.

VI.

The Court accepts Btown’s petition for *writ of certiorari* and remands the case to the Elections Commission with instructions to vacate the original judgment.

It is so ordered.

Justices Howard and Isaacs recused themselves from this case.
