

The Student Body Supreme Court of Indiana University

Request for Appellate Hearing Concerning the 2008 Indiana University Student Association Elections

Big Red vs. Adam Pozza and the IUSA Kirkwood Ticket
Docket Number: SBSC-2008-01

I.

The Kirkwood Election ticket (“Kirkwood”) and the Big Red Election ticket (“Big Red”) have petitioned this Court for appellate review of the Elections Commission (“Elections Commission”) decision entered March 27, 2008. Kirkwood and Big Red filed timely appeals in response to the decision reached by the Elections Commission wherein it determined that Adam Pozza, a former member of Kirkwood, violated the following sections of the Indiana University Student Association Elections Code (“Elections Code”)- Title V, Section 502: Improper Use of E-mail and Section 505: Interference with Campaign Materials. The final terms of the adjudication process included Pozza’s disqualification from Kirkwood and the levy of a fine totaling 20% of the ticket’s final financial expenditures.

In an appeal filed March 28, 2008, Kirkwood contends that Pozza did not violate section 502 and section 505 of the Elections Code and consequently should not be found guilty. Kirkwood also alleges that the requirements for Section 801(4) of the Election Code were not realized and as such, the ticket as a whole should not be sanctioned for Pozza’s actions.

In a separate appeal filed March 31, 2008, Big Red contends that the Elections Commission failed to fulfill its mandate by failure to hold a fair hearing. Comes now the Student Body Supreme Court of Indiana University and remands this case.

Per Curiam.

II.

The Student Body Supreme Court of Indiana University has the authority to reject any appeal of decisions by the Elections Commission pursuant to *Indiana University Student Association Elections Code*, Title IX, Section 902. 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).

As Petitioner Kirkwood has not set forth any improper basis in the exercise of discretion by the Elections Commission in the resolution of Petitioner’s complaint, the Court now exercises its authority under *Indiana University Student Association Elections Code*, Title IX, Section 902 and denies the petition by Kirkwood for judicial review. The reasoning for this is detailed in Section III.

Additionally, in Section IV, the Court accepts Big Red's petition for *writ of certiorari* without judgment and remands the case.

III. Appeal by Kirkwood

Kirkwood asserts that the Elections Commission erred in its application of both Section 502 and Section 505 of the Elections Code. According to Kirkwood, the e-mail correspondence of Luke Fields, candidate for IUSA President with the Big Red Ticket, does not constitute "campaign materials." However, it is the Court's determination that the improperly accessed e-mail correspondence possessed electoral value in that they could be construed as memos that detailed the Big Red Ticket's campaign strategy. Accordingly, Pozza was in violation of Section 505 of the Elections Code. Kirkwood also states that since Pozza did not send any e-mail to multiple voters that did not have all e-mail addresses in the blind carbon copy line, he was not in violation of Section 502. However, Pozza's actions represent an improper use of e-mail and, consequently, are in violation of Section 502. The Elections Commission did correctly interpret and apply the Elections Code to the facts of the case in finding Mr. Pozza and Kirkwood responsible for said violations.

Of particular interest to the Court is Kirkwood's employment of a peculiar logical device, one that necessitates scrutiny. Kirkwood initially claims that Pozza's actions do not, in fact, constitute a violation of Sections 502 and 505 of the Elections Code. However, it concludes its appeal by suggesting that Pozza alone should be held financially responsible for these violations. The Court found fault with this reasoning.

IV. Appeal by Big Red

Big Red alleges that e-mail evidence, reproduced by University Information Technology Services (UITS), implicates two members of the Kirkwood election ticket. According to a UITS examination of network activity that involved the cooperation of Kirkwood Chair of External candidate Eric Gibson, Adam Pozza forwarded at least two e-mails on March 2, 2008, from his Gmail account (iufinance@gmail.com) to both the IU Webmail account of President-Elect Joe Weis (jgweis@indiana.edu) and the Gmail account of Mr. Gibson (ejgibson09@gmail.com). Further investigation by UITS is pending to determine actions of those individuals upon their receipt of the e-mails in question. By failing to seek all information available from UITS, the Elections Commission neglected to examine all facts relevant to the case. The Elections Commission must consider this new evidence.

V.

Petitioner Kirkwood, in its request to this Court, has not set forth reasons showing that the Elections Commission improperly exercised its discretion. Consequently, the Court denies the petition by Kirkwood for judicial review.

Petitioner Big Red has met the burden required for this Court to accept jurisdiction over this complaint. As a result, the Court accepts Big Red's petition for *writ of certiorari* without judgment and remands the case to the Elections Commission.

It is so ordered.