The Student Body Supreme Court of Indiana University

The Crimson Elections Ticket and The Fusion Elections Ticket
v.
The Big Red Elections Ticket
Docket Number: SBSC-04-02 (2004)

I.

Complaints were filed in the 2004 Indiana University Student Association Elections by The Crimson Election Ticket and The Fusion Election Ticket claiming a variety of violations of the *Indiana University Student Association Elections Code* by The Big Red Election Ticket. The Big Red Election Ticket petitioned this Court for appellate review, seeking redress from the Indiana University Student Association Elections Commission's decision to impose eight sanction points against their executive candidates for violations of both Indiana University Student Association Elections Code, Title VI, Section 602 and Section 604 (*see* EC-04-07 and EC-04-08), thereby disqualifying these members of the ticket. The Student Body Supreme Court issued a *writ of certiorari* and now presents its decision and opinion.

Mr. Chief Justice Brian Clifford, with Associate Justice Nicholas Capezza and Associate Justice John Waddell, delivered the unanimous decision of the Court.

II.

The Indiana University Student Association Elections Commission, under authority vested in it by the student body's elected representatives, has been entrusted with the authority and charged with the duty to enforce "all rules and regulations contained within this [Elections] Code" and to "hear all properly filed [Election] complaints." (*IUSA Elections Code*, §§ 104.6, 104.9). Through this properly enacted statute of the student body Congress, the IUSA Elections Commission is recognized as the body of general electoral jurisdiction, whose decisions will only be reversed by this Court with the greatest of caution. It is always the presumption of this tribunal that the determination of the Elections Commission, in regards to all matters under its authority, is correct. Therefore it is the burden of the petitioners to show that the Elections Commission adjudicated the issue before it in an improper manner. Specifically, for this Court to overturn an Election Commission decision, petitioner must show "clear error, blatant abuse of discretion, or personal bias" in the resolution of their complaint or defense. (*Action v. Crimson, et al*., SBSC-03-01 (2003)). Petitioners here before us, The Big Red Elections Ticket, failed to meet this burden.

III.

Turning to the issue before this Court in the appeal of the Elections Commission's decision in *The Crimson Elections Ticket and The Fusion Elections Ticket v. The Big Red*

Elections Ticket, EC-04-08 (2004), Petitioner asserts that the Elections Commission clearly erred in their reading of § 601 and that this error led to an unreasonable decision, specifically that Petitioner violated §§ 602 and 604 of the Elections Code. Section 601 defines a campaign expenditure as "[a]ny purchase or donation made ***for the purpose of***, or which is ultimately used for, promoting any candidate or referendum issue". *(Indiana University Student Association Elections Code*, § 601 (emphasis added)).

Petitioner would have the Elections Commission read this section to construe an expenditure as only something used in campaigning. The Elections Commission found Petitioner's contention to be ignoring "the first half of the crucial 'or clause' that mandates even expenditures made for the purpose of campaigning that are not ultimately used are considered campaign expenditures." (*Decision of the Indiana University Student Association Elections Commission*, Docket No. 04-08).

Section 601 also provides the Elections Commission with "the authority to determine whether any purchase is a campaign expenditure". (*IUSA Elections Code*, § 601). We find the Elections Commission's interpretation of § 601 not only reasonable, but the only reasonable interpretation possible.

There has never been any doubt that the 1200 shirts in question were for the purpose of campaigning. The shirts had The Big Red Election Ticket information printed directly on them. Furthermore, 600 of the 1200 identical shirts were declared as campaigning materials and used as such by the ticket. These shirts could have no other purpose other than campaign materials, and this fact was made clear in the record before this Court by the circumstances surrounding the original order of the shirts.

The central issue of the dispute, then, is whether unused shirts should be considered campaign expenditures. This was the question presented to the Elections Commission, and is one that they resolved, under their clear jurisdiction to do so, in the only reasonable way possible. The plain language of § 601 is clear – if an item is purchased or donated for the purpose of campaigning, it is a campaign expenditure. This determination is left in the hands of the Elections Commission as the most intimate and competent body in relation to the elections themselves.

The determination that the 600 shirts in question in this matter were a campaign expenditure was a reasonable interpretation of § 601, and one made within the proper authority of the Elections Commission. There is no "clear error, blatant abuse of discretion, or personal bias" (*Action*, supra) on the part of the Elections Commission in finding the shirts purchased by The Big Red Elections Ticket were a campaign expense.

IV.

Finding the Elections Commission correctly and reasonably found the shirts in question in EC-04-08 to be campaign expenditure, The Big Red Elections Ticket was required to report this item on the ticket's financial statement under § 604. There is no

dispute over the facts in this matter – it was stipulated by all sides that 1200 shirts were ordered and only 600 were reported. The actual member of the ticket who purchased the shirts, a fact frequently reiterated during the public hearing on this issue, is immaterial; § 602 clearly states that executive candidates, for the purpose of campaign spending, include "anyone acting on behalf of the group of executive candidates". (*IUSA Elections Code*, § 604). Furthermore, the fact that the purchase of the shirts in question occurred before the official filing date of the executive candidate or campaigning date is likewise immaterial; as the Elections Code defines campaign expenditures as any item purchased "for the purpose of, or which is ultimately used for, promoting any candidate" (§ 601, supra), the date of the purchase or donation is not important. Should an executive ticket use left-over items from their campaign the previous year to promote their current bid for office, clearly the purpose and the spirit of the Elections Code would be frustrated should the Elections Commission be unable to rule those items as campaign expenditures simply because they had been purchased before the official campaigning session had begun for the current year. These facts mean that The Big Red Election Ticket's final financial statement was false, as it did not include "an itemized list of ***all*** campaign expenditures" (*IUSA Elections Code,* § 604 (emphasis added)).

The dispute of the Petitioner is that the ticket did not "intentionally" turn in a false financial statement. This argument cannot be maintained. The leaders of the ticket were clearly aware of the "other" 600 shirts that were purchased with the intent of being used in campaign. The leaders of the ticket were also aware that their final financial statement only included half of the shirts ordered. The intentionality of this act cannot be reasonably assailed, and the Elections Commission committed no error in finding The Big Red Election Ticket in violation of § 604.

In briefs and statements to this Court, some members of the University community seem to propose that "intent" requires some sort of evil or malicious connotation. This finding was not a determination presented to or answered by this Court. "Intention" is defined as "a determination to act in a certain way" (*Merriam-Webster's Collegiate Dictionary*, 10th ed.). For example, when we volunteer our time to one of the many worthwhile causes on this campus, there is no question that we are "intentionally" helping others. Clearly there is no evil purpose in this activity, but it is done with "determination to act in a certain way". (*Id.)* It is clear from the information presented to this Court that the members of The Big Red Elections Ticket responsible for the activities of the ticket, including the creation, reviewing, and submission of the final financial statement, were aware that only 600 of the 1200 shirts purchased were going to be reported to the Elections Commission. The fact that the ticket proposed to have operated under a mistaken interpretation of the Elections Code, an interpretation determined by both this Court and the Elections Commission to be unreasonable and one that violates the clear meaning of the language of the Code, is of no reprieve from the intentionality of their actions to leave these items off of their financial statement.

Furthermore, it is important to note that the Elections Code has in place a system to adequately deal with situations which may arise similar to this matter. Pursuant to § 104.6, The Big Red Elections Ticket could have asked for an advisory opinion on what

the interpretation of the "or" clause was. They did not do this. The ticket decided that they themselves could interpret the Elections Code in the manner that they wished, and they determined on their own that their actions were not inconsistent with the Code. The Elections Code is very clear that it is the Elections Commission who is responsible for these determinations, and though a process is in place for a party to consult with the Elections Commission about matters of controversy, the Big Red Elections Ticket decided to take a risk and put the shirts in a storage unit. Upon discovery by the Elections Commission of the "other" 600 shirts it was clear that the risk they decided to take, one that they could have quashed through preemptive action as described in the Elections Code, resulted in the ticket's disqualification.

V.

Additionally, having determined that the Elections Commission correctly and reasonably determined the shirts in question in EC-04-08 were campaign expenditures, The Big Red Elections Ticket should have factored these expenses into their spending limits. There is no question that this expenditure, in and of itself an expenditure of over $3500, violated The Big Red Election Ticket's maximum spending limit of $2785. This expenditure alone, without the inclusion of all the other expenditures both reported and not reported on The Big Red Election Ticket's final financial statement, would place the party more than 10% of their spending limit. The Elections Commission determination that The Big Red Elections Ticket was in violation of § 602 was not in error.

VI.

The Elections Commission and this Court do indeed hold the candidates for the IUSA elections to high standards. The executives the Indiana University Student Association administer more than $150,000 dollars in the trust of the student body. The executive members of the Indiana University Student Association are among the most powerful members of the student community at Indiana University – Bloomington. This Court has no remorse in demanding that the candidates for these positions adhere to the standards set forth in the IUSA Elections Code, a code created, debated, and passed by the student body's representatives.

VII.

The Elections Commission, having properly found The Big Red Elections Ticket in violation of §§ 602 and 604 of the IUSA Elections Code, took the only action open to it – the issuance of eight sanction points and the disqualification of members of the ticket, pursuant to their authority and obligation under §§ 701.2-701.3. Debate over the appropriateness of this penalty for these violations is not within the jurisdiction of this Court. The Student Body Supreme Court of Indiana University is bound to faithfully apply the Elections Code as approved by the student body's representatives. The Elections Commission thus committed no error in disqualifying The Big Red Election Ticket's executive candidates, as it was the only action they could take by the duty given to them by the duly enacted Elections Code.

The decision of the Indiana University Elections Commission is hereby affirmed.

The Court, unable to reach a majority consensus concerning EC-04-07 and finding the resolution of EC-04-08 determinative to the 2004 IUSA Elections, declines to issue an opinion or decision on this portion of the appeal. Deliberation on the issue is judged as moot.

It is so ordered.

Associate Justice Laura Bennett, Associate Justice Crystal Brown, Associate Justice Kate Buckley, and Associate Justice Faris Jafar, joined in the opinion.

Associate Justice Meghan Dwyer, with Associate Justice Patrick Dumas and Associate Justice Lauren McVicker, concurring in the decision.

As unfortunate as the situation is, the Supreme Court does not have the authority to alter sanction points awarded for code violations. In this particular case, I believe that The Big Red Ticket did in fact violate the IUSA Elections Code. I do not however, feel that their violations, in either appealed case, merit disqualification. As a justice who holds the responsibility of representing the student body in extremely high regard, I find it excruciatingly difficult to render this decision. Simply put, we had no other alternative within the bounds of the IUSA Elections Code. However, I will suggest that the student body rally together in order to change the IUSA Elections Code, to alter the manner in which the Election Commissioners are appointed to avoid any possible perceived conflict of interest and ensure that code semantics do not mute student votes.

I therefore respectfully concur in the judgment.