

Opinion of the Court

**THE JUDICIAL BRANCH OF THE STUDENT  
GOVERNMENT ASSOCIATION OF THE UNIVERSITY  
OF TENNESSEE-KNOXVILLE**

*Case Number: 2018-11*

PATRICK MARDIS, PLAINTIFF V. KAYLEE SHEPPARD & OWEN FLOMBERG, DEFENDANT (2018-11)

**I. Introduction**

On December 7, 2018 a case was submitted to the Judicial Branch detailing an alleged campaign violation. The case 2018-11 contends that a campaign representing Mr. Owen Flomberg and Ms. Kaylee Sheppard is hosting an “interest meeting” for their election campaign on Friday, December 7, 2018 at 8:00 PM in Hodges Library, room 220E. This action is in violation of the 2018 Election Packet, which is still in effect and does not expire until the passage of the next years’ election packet, according to (2018 Election Rules and Procedures, prepared by the Election Commission, E.III.A. p. 11).

This irregularity of a charge filed outside of the campaign period has occurred in a previous case (2018-01,02,03). The unique features of this case submitted, similar to the previous one mentioned, requires the Court to consult the 2018 SGA Election Packet (EP2018), the SGA Constitution, and the Judicial Branch’s Bylaws for their proper disposal.

Based upon the reflection of these documents, and paralleling features of the 2018-01,02,03 case, the same questions from that case will act as a guide in helping determine what action, if any, is appropriate on the part of the Judicial Branch.

1. Does the Court have the requisite jurisdiction needed to hear the case?
2. Was the evidence submitted to the Court of a compelling enough nature to merit consideration and was it obtained/submitted legally?
3. Is there sufficient reason to believe that a violation of the election packet *may* have occurred?

In order for the Court to hear any case, each of these three questions must be answered in the affirmative. The remainder of this opinion will consider the merits of each guiding question.

**II. Jurisdiction**

The EP2018, which is the current election packet since EP2019 has not been approved, prescribes the Judicial Branch “all original judicial authority pertaining to student elections” adding further that the Judicial Branch “shall have the authority to adjudicate all controversies arising from or pertaining to campaign activities and any injury thus resulting.” (Section E, subsection II, clauses A and B). In light of these powers and responsibilities, the Court finds that they do - as a matter of content and subject - have the authority to hear, try, and rule on the case at hand.

However, the Election Packet goes on to place temporal restrictions on the Judicial Branch’s authority in adjudicating cases related to alleged campaign violations. As the Election Packet states, “the Judicial Branch’s authority only pertains to issues and disputes arising during the campaign period as described by the Election Rules and Procedures” (Section E, subsection II, clause B). The ‘Campaign Period’ is then later defined in the Election Packet as being, “the period from the Mandatory Candidate Meeting (February 28, 2018) until the results are announced (April 12, 2018)” (Section E, subsection III, clause B, subclause 1).

In light of these revelations, the Court concludes it would normally have the authority to hear these cases. However, at the present time, its jurisdiction is restricted by the Election Packet until the Campaign Period begins. ***Thus, we lack the authority needed to rule on election violations until the Campaign Period commences.*** This is an issue future election commissions should address when drafting the Election Packet, but for now the bounds of the Judicial Branch’s authority are clear based on the 2018 Election Packet. This reflects the same issue Case 2018-01, 02, 03 had and continues to be an issue SGA Senate should address. At that time, the Judicial Branch advocated for a change in the new election packet but no change has occurred soon.

The Court does make one final observation on the question of jurisdiction, though. Deriving from its mission to “enforce both the spirit and the letter of the law” and see to it that the SGA election is administered with integrity and fairness, we find it objectionable to conclude that campaign violations occurring before the actual ‘Campaign Period’ are immune from punishment. Election Packets only expire upon passage of a new Election Packet, thus - at any point throughout the year - there is an Election Packet (with its accompanying rules and procedures) in place. To say that violations of these rules cannot be prosecuted if the irregularity does not occur during the 6-week Campaign Period opens the door to a host of potential abuses and improprieties. A well controlled election period is vital to the administration of a fair election. Resultantly, ***the Court establishes that campaign violations occurring prior to the ‘Campaign Period’ are subject to penalty from the Judicial Branch (if not otherwise adjudicated) once the Judicial Branch’s jurisdiction takes effect, assuming that plaintiffs can***

*effectively make the case that ‘pre-Campaign Period’ violations resulted in some ‘injury’ (disadvantage) sustained during the ‘Campaign Period’.*

### **III. Examination of Evidence and Submission**

The Judicial Branch wants to make some details clear: the case and standing of the plaintiff should not be dismissed. If this Election Packet had been properly edited to reflect the true value of SGA elections after Case 2018-01, 02, 03, this would be a clear and swift ruling for the plaintiff and injunction against Mr. Owen Flomberg and Ms. Kaylee Sheppard based on the Instagram message evidence. It is not only against the spirit of the election pack and SGA to host this interest meeting outside of the campaign period, but will show a blatant disrespect to the Judicial Branch and the Election Commission if the defendants decide to host this interest meeting in light of this decision. We highly recommend considering to cancel this interest meeting and waiting for the appropriate campaign time period before engaging in a campaign interest meeting in accordance to the new election packet passed by SGA Senate. The old packet outlined the beginning timeframe for these interest meetings to begin at 5:00pm March 19th, 2018.

### **IV. Determination of Violations**

Based on the evaluation of the previous two points, the Court felt it would be inappropriate - at this time - to enforce any cases brought up outside the campaign period, as defined in the EP2018. We highly encourage EP2019 to fix this loophole immediately. Otherwise, both Judicial and the integrity of the SGA Elections as a whole remains vulnerable in an unfair manner. ***The Court at this time cannot enforce any sanctions, punishment, or injunctions against Mr. Owen Flomberg or Ms. Kaylee Sheppard.***

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THEREFORE, the Court rules that while we have the jurisdiction to rule on the cases as a matter of content, in terms of the timelines set forth in the 2018 Election Packet - we lack the authority to rule on any cases until the campaign period begins. Further, we recognize the possibility that infractions occurring *before* the campaign period can result in injuries suffered *during* the campaign period. We also acknowledge our responsibility to uphold the ‘spirit and letter’ of the law and to ensure the SGA election is run fairly and with integrity. ***Consequently, we invite the plaintiff to re-submit his case once the campaign period has begun, with information detailing how they (or another party) may be placed at a disadvantage (once the campaign period commences) due to the alleged infractions (that occurred before the campaign period).*** If this is

sufficiently accomplished, the Court feels it will have the jurisdiction needed to proceed with ruling on the cases (if needed) and issuing of relevant opinions.

*Is it so ordered.*

PAWLACZYK and STOGSDILL delivered the opinion of the Court, with DAVIS and MARSH joining.