

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

Appeal for Case No. 21-11

FORWARD, Plaintiff

V.

WALKER HOOVER, Defendant

JUSTICE MAJORS delivered the opinion for the Court.

The Judicial Branch granted a hearing to hear two issues regarding an appeal in Case No. 21-11, specifically on the perjury charge. We reverse in part and affirm in part.

I. Whether the Court erred by not holding a separate hearing for the perjury charge against Walker Hoover?

During the April 21, 2021 hearing, the Judicial Branch found that the Defendant committed perjury by knowingly giving the court incorrect information. Additionally, because the perjury was committed during a dispute over a violation of the 2021 Election Packet, the Court rendered a sanction based on the Defendant providing misinformation that could have impacted the outcome of the election (See Article VII.C.1., which indicates that the Court can implement sanctions on candidates including restriction of campaigning, disqualification, and fines). Accordingly, we found that the perjury committed by Walker Hoover could have materially changed the outcome of the election because, if the misinformation was not discovered, it would have affected our sanctions against candidates. Thus, impacting the fair outcome of the 2021 SGA Election.

The SGA Judicial Bylaws states explicitly what the procedure is for the administration of the witness oath, as well as some of the sanctions available. It is stated in Article IV.5.C.2.B.:

- a) All witnesses must recite an Oath before taking the witness stand. If a witness is found guilty of violating the Oath they are susceptible to member probation or impeachment.*

- b) *The Court must hold a hearing with all Justice of the Court to determine whether someone has violated the Oath. The defendant is guaranteed a presentation process similar to the Hearing Format where they can express their argument and viewpoint.*

Initially, the court held that the hearing was sufficient in order for the Court to make a determination of guilt, given that at least one Associate Justice explained to the Defendant the implications of lying under oath. However, we are persuaded by the Defendant's argument that the Court erred by not granting the Defendant a separate trial. In the pursuit of fairness and justices to all parties, members shall be given notice that they are facing perjury charges and shall be given the opportunity to defend themselves (See Article IV.5.C.2.B., stating that the Court must hold a hearing with all the Justices to determine whether someone has violated the Oath; the defendant is guaranteed a presentation process similar to the Hearing Format where they can express their argument and viewpoint). **The court reverses its decision in Case No. 21-11 in part. A defendant must be given a separate hearing before a Defendant can be found guilty of perjury.**

We are not persuaded by the Defendant's argument that the Judicial Branch lacks jurisdiction to charge the Defendant with perjury. We recognize that the Judicial Branch does not have the authority to convict persons of criminal offenses in violation of the *Tennessee Code Annotated* (T.C.A.) or the *United States Code* (U.S.C.). However, the Defendant was not charged with a criminal offense; rather, he was charged with the definition of perjury under the UT Knoxville Student Government Association which is outlined in Article IV.5.C.2.B. of the Judicial Bylaws. This student court defines perjury as violating their sworn Oath to tell the truth. As a student organization, we are a legally separate entity from the University of Tennessee at Knoxville, the State of Tennessee, and any other official Court. This Court did not convict the Defendant of committing a crime under the *T.C.A.* Therefore, the argument that this court lacks jurisdiction to charge members under our own internal definition of perjury is without merit.

II. Whether the Court erred by holding that Walker Hoover committed perjury at the trial?

The Court gave notice to the Defendant on April 26, 2021 at 5:43PM of this Court's decision to grant an appeal of the perjury charges against the Defendant. The hearing took place nearly five days later on May 1, 2021. This court granted an appeal for two issues: (1) whether the court erred by not giving the Defendant a separate trial, and (2) whether the court erred by holding that the Defendant committed perjury. Thus, this hearing was intended to cover both issues, including the perjury charge itself.

The Defendant did not submit any evidence or make any oral arguments to dispute the issue of the perjury charge levied against him by the Judicial Branch. Instead, the Defendant spent his argument time focusing on the procedural error by Issue #1. Additionally, the Defendant claimed that he should be granted another hearing that focuses on the perjury charge levied against him by this Court. We do not find this argument persuasive. The Defendant received ample notice

that this hearing was regarding the perjury charge levied against him; yet, he did not produce any arguments to dispute the perjury charge. The Defendant did claim he was innocent multiple times. Unfortunately, without any clear and convincing evidence in favor of the Defendant, we cannot acquit him of wrongdoings because the evidence supporting the perjury conviction from the April 21, 2021 hearing was both clear and convincing. Also, no appeals or challenges were made to the validity of the evidence; thus, we considered all the evidence of from the original hearing before making our determination.

We do sympathize with the Defendant on the issue regarding the process of how this Court imposed disciplinary sanctions for perjury. Currently, there is no “Attorney General” or “Prosecutor” in the Student Government Association who prosecutes members for alleged perjury, paralleling the state or federal court system. In situations similar to Case No. 21-11, when there is no designated person with any ability to bring forth a perjury charge, this Court is put into a difficult situation. We would urge the Student Government Association to consider creating such a position to ensure a more fair election process for campaign members in the future. Still, this Court can only ratify and pass amendments to its own Judicial Bylaws, not the SGA Constitution or Bylaws. We cannot unilaterally create new processes simply because someone believes that a process ought to be a certain way. This Court is not a legislative body, but we do recognize the need for an independent party who can prosecute members for certain violations. Thus, we can only suggest that the Student Senate and/or Executive Cabinet take up this issue. Should any branch within SGA make any changes to the Constitution or to its respective Bylaws, any amendment would not apply retroactively in the interest of fairness.

The court noted its error by granting this appeal to give the Defendant another separate hearing for the perjury charge. However, the Defendant did not utilize this opportunity and instead requested another hearing on this case. We find this to be unprecedented, unnecessary, and unreasonable given that the Defendant has already been provided with the opportunity to defend himself of the charge. **Accordingly, we affirm our perjury charge levied against the Defendant.**

It is so ordered.

CHANCE, PATEL, and SELMAN, JJ., join the majority opinion.

CHIEF JUSTICE TURLEY, with whom JUSTICE ADAMS joins, concurring in part and dissenting in part.

I.

The decision for Case 21-11 was one of the worst decisions that I believe the Court made. I am glad that the Court agreed to hear the appeal based on the procedural error. Furthermore, I am appreciative that the Court realized its error and is reversing the decision in part.

The Court fairly kept the conviction of the negative campaigning, for what Case 21-11 was about. Additionally, I agree firmly with the Court in the assessment that the Defendant is entitled to another hearing on the basis of perjury itself. However, the Court is still affirming the perjury charge against the Defendant without giving him a proper separate hearing. I sympathize with the fact that the Court informed the Defendant that there were two questions that were to be discussed during the trial and one of which was if the Defendant committed perjury. Nevertheless, a separate trial solely on the matter of perjury is entitled to the Defendant.

The proper decision should be to hold the decision rendered by the Court regarding the negative campaigning, reverse the perjury charge and the disqualification of the Defendant. After such a decision, the Court should then subpoena the Defendant for a trial into the perjury itself. From the evaluation of the evidence presented in the trial, decide whether the Defendant did violate the witness oath.

II.

I also want to emphasize an important point that the majority made regarding a request for a position classified as an ‘Attorney General’ or similar of the sort for the Student Government Association. This would offer clarity in situations where it is unclear who must file violations to the Court. Furthermore, this position would uphold the integrity of the SGA by enforcing the rules via bringing claims to Judicial.

III.

Additionally, I want to discuss the issue of perjury itself. Perjury will be defined by the Court as intentionally giving dishonest information. The Court rendering a decision regarding this situation must consider it with the utmost seriousness. Since these claims are damaging to the individual's ability to be a part of SGA and quite possibly to one's reputation itself, there needs to be a preponderance of evidence that this individual committed this offense.

In this case, I am not compelled that the individual intentionally gave dishonest information and without a trial inquiring on the matter, I would feel uncomfortable determining that the Defendant did, in fact, commit perjury.

IV.

In conclusion, I concur with the majority on the decision to reaffirm the negative campaigning decision, requesting a Student Government Association legal council, and recognizing error by not having a separate trial. However, I respectfully dissent on the issue of affirming the perjury charge against the Defendant.

MACHARIA, J., took no part in the consideration of this case.