

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

Case No. 20-01

*Neil PATEL*, Plaintiff  
v.  
*Carly BROADY*, Defendant

CHIEF JUSTICE BRYANT delivered the opinion of the Court.

**I**

This case requires us to determine whether a student organization’s circulation of an email to generate interest in an SGA Executive position violated the terms of the 2020 Election Packet. Upon review, we determine that while the email was sent without the Defendant’s knowledge or authorization, it nonetheless was a “partisan mass communication.”

**II**

We adopt the facts as stated by the Election Commission:

Carly Broady, who has the intention of running for Vice President for the Promise campaign (“Promise”), originally reached out to Clay [Cumbelich] and Colton [Carnahan], who serve as Co-Presidents of Financial Management Association (“FMA”) [on] Monday, March 2 at 11:42 PM to see if they knew of any “sophomores or juniors who would be interested in taking on a leadership role on campus next year.” Through a chain of emails between [Ms. Broady] and [Mr. Cumbelich] . . . [Mr. Cumbelich], without any specific direction from [Ms. Broady] regarding the best way for him to notify people who might be interested in the position, sent a mass email—including [Ms. Broady]’s contact information—to the FMA email list (which we now know from [Mr. Cumbelich] is between 200-300 people) informing them about a treasurer position within the Student Government Association. After [Mr. Cumbelich] sent the email on Tuesday, March 3 at 1:54 PM, two interested students, David Wu and Abbie Robinson, reached out to [Ms. Broady]. Walker Hoover, who has the intention of running for Student Body President for Promise, stated that they have not reached back out to either person and do not have any intention to. While representatives

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of [the Change campaign] claimed that although [Ms. Broady] did not directly mass communicate herself, [Mr. Cumbelich] did so on behalf of her which should still be considered a violation of partisan mass communication rules by their campaign. [Mr. Hoover] stated that it was never their intention for [Mr. Cumbelich] to send out a mass email and that he took it upon himself when asked to reach out to anyone who might be interested.

(Exh. 3). After a Preliminary Hearing, the Election Commission determined that there had been a violation and recommended that Ms. Broady (and, by extension, her Party) be precluded from retaining any individual who received the email on the Party's ticket. (*Id.*).

### III A

This case raises just one issue: whether the email in question represents a "partisan mass communication" as defined in the Election Packet. We conclude that it does.

In arriving at this conclusion, we first note that Article D, section III.G. defines a mass communication as "[c]ontacting more than one (1) individual through an electronic message." Subsections 1 and 2 specifically define partisan and non-partisan communications in terms of the particular message's content. Particularly, partisan communications are those "that endorse[ ] or mention[ ] a particular candidate or Party," whereas non-partisan communications are "general and about the election process, not referring to a particular candidate or Party." Section III.G. further states that

[n]on-partisan mass communication occurring after Thursday, February 20, 2020 at 8:00 PM EST is allowed with any individuals who have specifically given you their contact information for any purpose i.e. phone number, GroupMe or social media etc. Partisan mass communication i.e. group messages, GroupMe etc. may only occur while voting is open and only with those who have specifically given you their contact information for any purpose.

We have also previously held in other contexts that the actual content of the partisan message can be evidenced by the subjective intent of the person sending the message. See *Impact UT v. Vols Vote Vision*, No. 2019-12, at 2.

While we recognize that Ms. Broady did not ask Mr. Cumbelich to communicate with FSA members the manner he chose,<sup>1</sup> it is abundantly clear that an email to approximately

<sup>1</sup> Our case law makes clear that we are to determine not only whether there is a "letter" violation of a given Election Packet, but also whether there has been a violation of its "spirit." See, e.g., *Impact UT v. Vols Vote*

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two to three hundred individuals is the exemplar of a mass communication. Furthermore, the email was also a “partisan communication.” The text of the email stated, in pertinent part, “I wanted to reach out with an opportunity for a sophomore or junior interested in taking on a leadership role as Treasurer for the Student Government Association. . . . If you are interested, please reach out to Carly Broady . . . .” (Exh. 1).

The dissent contends that this message was non-partisan because it did not mention any Party or promote any particular candidate. We do not disagree with those facts; however, that is not the standard the Election Packet proscribes for determining whether a message is partisan or non-partisan. “Partisan communication refers to communication that endorses *or mentions* a particular candidate or Party.” Election Packet art. D, § III.G.2 (emphasis added). While the email did not mention or promote a particular Party, it did specifically mention to contact Ms. Broady—a particular candidate affiliated with a particular Party.

**B**

One other issue must be addressed to completely resolve this case. The email that we have determined constitutes a partisan communication occurred on Monday, March 2. (See Exhs. 1, 3). This is before the March 5 deadline for all candidates and parties to submit their Appendix A forms and be certified by the Election Commission. See Election Packet Timeline. One could make the argument, then, that prior to the certification by the Election Commission, neither Ms. Broady nor Promise were a “candidate” or “Party”—and therefore not either of the forbidden topics that make a mass communication partisan. We do not believe, however, that any principled reasoning can compel this conclusion.

When we interpret the meaning of any document that governs the Student Government Association, we must be careful to employ a mode of construction that avoids absurd results. A result is necessarily absurd when no reasonable person could anticipate the outcome, or it is clear that the relevant stakeholders who drafted the document (here, the Election Commission and Senate) would never have intended that result. An absurd result would clearly be reached here were that theory to hold any water.

*Vision*, No. 2019-25, at 8 (per curiam); see also *Impact UT*, No. 2019-12, at 2 n.1 (“We . . . hold that we *need not find any other violation* outside of violating the spirit of the Election Packet in order to institute sanctions against any campaign or individual.”) (emphasis in original). The nature of this claim, however—particularly the clear evidence that Ms. Broady neither encouraged nor intended for this partisan mass communication to occur—mitigates squarely against finding any violation of the spirit of the Election Packet.

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According to the Election Packet, non-partisan mass communications are allowed after February 20. *Id.* art. D, § III.G. And partisan communications necessarily endorse or mention candidates or Parties. *Id.* § III.G.2. If a candidate or Party does not come into existence until their appendices are certified, then it would be impossible for “partisan communications” to even exist until March 5. In the first instance, we find the idea that this result was intended to be implausible at best. Additionally, were that the case, the language of section III.G. concerning non-partisan communication being permissible would be completely superfluous. Another hallmark principle of statutory construction is the presumption that the document’s drafters intended every word to have meaning, and governing documents are not drafted with repetitive, duplicative, or unnecessary language. As such, we think it clear that both Ms. Broady and Promise were (and are) “candidates” and “Parties” for purposes of the Election Packet.<sup>2</sup>

IV

Since there has been a violation of the Election Packet, we must impose sanctions. *Id.* § VII.A.2.b. However, we are also cognizant that sanctions “should be proportionate to the severity of the violation found.” *Id.* § VII.C.2. While this Court generally has a great deal of latitude as to the nature of a particular sanction, past Election Packets and case law have required us to evaluate factors such as “the relative advantage gained by the violation, the level of damage from the violation to the integrity of the election process and repeatability of instances.” *Impact UT*, No. 2019-12, at 3 (quoting 2019 Election Packet art. E, § II.D). After careful consideration, we agree with the Election Commission that the appropriate sanction is precluding any individual who received the email from FMA from running for SGA Treasurer with the Promise campaign, absent affirmative evidence that the individual had discussed the position with the Promise campaign prior to the sending of the email. We agree with the Election Commission that “[b]y preventing Promise from using anyone who received this email as their treasurer, we nullify any advantage this email could have given their campaign.” (Exh. 3).

*It is so ordered.*

BEDFORD and CASEY, JJ., concur.

JUSTICE TURLEY, with whom JUSTICE ABRAMS joins, dissenting.

I

A mass email was sent out to over 200 individuals gauging interest for a Treasurer position for the Student Government Association. The email was sent by an acquaintance of the Defendant, Carly

<sup>2</sup> In reaching today’s result, we do not purport to establish a bright-line rule for when a “candidate” or “Party” begins their existence — only that both have occurred in this case.

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Broady. A complaint was filed by the Plaintiff, Neil Patel, based on a perceived violation of the Election Packet rules. Based on the facts of the case and the Election Packet Article D, § III, Subsection G, I believe that the message was non-partisan, which, therefore, warrants no punishment. I respectfully dissent.

**II A**

The Election Packet Article D General Rules and Procedures, § III, Subsection G, states,

Contacting more than one (1) individual through an electronic message. Non-partisan mass communication occurring after Thursday, February 20, 2020, at 8:00 PM EST is allowed with any individuals who have specifically given you their contact information for any purpose i.e. phone number, GroupMe or social media, etc. Partisan mass communication i.e. group messages, GroupMe, etc. may only occur while voting is open and only with those who have specifically given you their contact information for any purpose. Listservs may never be used.

Further, in the same subsection, the Election Packet states, “Non-partisan communication refers to communication that is general and about the election process, not referring to a particular candidate or party.”

**B**

According to the facts of the case, the dispute arises over the difference between partisan versus nonpartisan communication. Further, if it is non-partisan communication, it must be with individuals who have specifically given the individual their contact information. The Defendant emailed Clay Cumbelich, presumably someone who was previously acquainted with the Defendant, about spreading the word on a Student Treasurer position within the Student Government Association. It is apparent to me that the email did not contain any information endorsing any specific campaign, merely a position. The information and gauging of interest in a position within SGA, without any specific campaign listed, is non-partisan.

I acknowledge the majority’s emphasis on Article D, § III, Subsection G(2): “Partisan communication refers to communication that endorses or mentions a particular candidate or Party.” While the defendant was directly mentioned, her role was not outlined, making this an act of mentioning an individual but not a “candidate.”

**C**

The Election Packet also states in Article D, § III, Subsection G “. . . [non-partisan communication] is allowed with any individual who has specifically given you their contact information for any purpose.” With the facts of this case, the Defendant was not the one who the emails were given to, meaning that this is a violation of that clause. However, it does seem that Mr. Cumbelich acted on his own accord in this regard. Therefore, it should not penalize the Promise campaign.

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**III**

The Election Commissioner's recommendation is appreciated and noted. However, based on the facts of the case that I have, I would recommend no punishment at all. I respectfully dissent.