



AUDITORIAL MEMORANDUM

Date: 04/06/2020

Re: Constitutionality Council v. BloomTU

ISSUES

- Whether the Elections Commissioner properly served BloomTU a warning under EC V, 2, 5, Elec. Commit. v. RiseTU, and Elec. Commit. v. BecomingTU when their campaign member and current TSG Director of Communications, Jess Torres, showed them support in the comment section of a TSG post.

I. STATEMENT OF FACTS

On April 2nd, 2020, Jess Torres, current TSG communications director and BloomTU's campaign member used TSG social media to endorse Quinn Litsinger, a candidate for BloomTU, by submitting comments that endorse BloomTU under a TSG post of the Executive Debate 1.

II. CONSTITUTIONAL ANALYSIS

A.

According to the Temple Student Government Constitution, it is the role of the Constitutionality Council to, “[b]y majority vote, adjudicate the potentially unconstitutional decisions of action or inaction by members of the Ethics Board.” These rules are supplemented by the Ethics Board Bylaws, which states, “[W]here The Ethics Board or its members contravene the Constitution, bylaws, or other enforceable regulation, Constitutionality Council must, upon using reck in consideration of relevant facts and composing a public Auditorial Memorandum expressing clear reasoning, overturn such unconstitutional actions by majority vote.” J I, iii. Furthermore, “[t]he power of judicial review rests in the Ethics Board...” J I, i, i, and “[t]he

Constitutionality Council must ensure the constitutional validity of the Ethics Board's actions” J I, i, iv. Still, it should be noted that Article One of the Ethics Board By-laws also includes this directive “The Constitutionality Committee must give deference to the reasoning of the Ethics Board Staff when considering the potential unconstitutionality of their decisions” J I, ii, v. The form of this deference is predefined: it must “involve[...] a strong consideration of the text in light of the reasoning posed by the officer whose decision is being reviewed J III, i.” IgniteTU v. EC, AM. It is pursuant to these governing rules that in order to limit conflict surrounding this case and that may arise in future cases, this precedential evaluation, which is Constitutionally, and statutorily authorized, must occur.

B.

According to the Election Code, Article V, Section 2, Clause 4, “Any Candidate/Campaign members who also serve on the current Temple Student Government administration **may**... use their own Temple Student Government position or title to endorse their own campaign and use their private social media to endorse their own campaign..” However, in Article V, Section 2, Clause 5, of the Elections Code it specifically states, “Any Candidate/Campaign members who also serve on the current Temple Student Government administration are **restricted** from... us[ing] Temple Student Government social media to show support.” Therefore, the current Elections Code is contradictory and will be voided, and the previous Elections Code will be restored. As to the instant case, as this was an appeal of a penalty, it would be right for us to reverse the penalty due to reasonable confusion. However, since only a warning was issued while a penalty was actually warranted, we will let the judgement stand, as long as it is not wildly unreasonable, IgniteTU v. EC, AM.

When determining whether the judgement was wildly unreasonable or not, we looked to the previous decisions that ruled upon similar facts. For example, in Elec. Commit. v. BecomingTU, the campaign was found responsible for a violation of the Elections Code when one of its campaign members showed support for them in a public space where TSG was hosting a town hall. In this instance, we see that even when TSG is holding a public event in a space that is not its own, it is considered a TSG space, therefore no support or campaigning by TSG members should be done in these spaces. Also, that decision clearly states “that use of Social Media shall be construed as a type of [disallowed] promotion.” Furthermore, in another decision, Elec. Commit. v. RiseTU, the campaign was served a violation when one of its campaign members, a Parliament Representative, showed support for the campaign in the Parliament Groupme. Based on these decisions, it is clear that campaign members who are also TSG members have never been allowed to show support in public spaces that TSG is occupying. Therefore, we hold that the judgement was not wildly unreasonable. As to the argument that vocal displays of support have always been allowed at TSG-hosted debates in the past, that assertion relies upon deficient enforcement, not a judgment vindicating the behavior. We find that it would create dangerous precedent to make a judgment based upon behavior which evaded the detection of the Ethics Board Staff.

III. CONCLUSION

In accordance with the above analysis, the Constitutionality Council has thus restored the previous Elections Code. As to the instant case where the Elections Commissioner served BloomTU a warning, this constitutionality council has remanded the decision back to the

Elections Commissioner so she may enter a final judgement, without having to write a memorandum. Her judgement will be made based on the now voided code, and all future decisions will be based on the restored Elections Code.



Rofiat Oseni, *Chief Judge*

Joined by,



Jenna Banatwala, *Vice Chief Judge*



Brianna Gordon, *Judge*