



## Associated Student Government Judiciary

ASGJ-2018-GE1

### Campaign Violation Decision

March 2nd, 2018

*Associate Justice Brandon Turner authoring for where the unanimous (5-0) decision rules.*

#### I. Introduction

The Associated Student Government Judiciary (ASGJ) has ruled in a unanimous decision confirming the allegation of a campaign violation committed by three members of an executive ticket in the 2018 ASG General Election. This campaign violation was filed by a member of the ‘For The Hill’ campaign staff and alleged the prohibited use of university equipment for the purpose of campaigning. We move to rule that J.P. Gairhan, Abigail Walker, and Isamar Garcia did violate the ASG Code.

#### II. Facts of the Case

The court was asked to determine if a campaign violation had been committed.

The violation complaint was filed by ‘For the Hill’ (FTH) campaign staff member, Anna Cunningham, against the ‘Make Your Mark’ (MYM) executive candidates J.P. Gairhan, Abigail Walker, and Isamar Garcia. Ms. Cunningham alleged that they had used a university computer and projector to present a slideshow at the chapter member meeting of the Delta Iota Chapter of Delta Delta Delta sorority in Hillside Auditorium—a violation of the **ASG Code**.

- The violation was claimed to have taken place in Hillside Auditorium Room 202 at approximately 6:10pm on Monday February 26<sup>th</sup>, 2018. The candidates were made aware of the meeting’s location at approximately 4:00pm that same day.
- **ASG Code Title VII, § D (J):**
  - “Candidates may not use any ASG, RSO, or departmental property such as, but not limited to, phones, computers, copy machines, office space, printers, and any other supplies or equipment purchased with University funds, for the purpose of campaigning;”

The defendants produced a copy of an email from a Delta Delta Delta executive member explaining how they may send a PowerPoint to her, that would be presented to the chapter, *if* they had one.

The candidates felt that they needed to create a presentation based on the language of the email, so they put one together and submitted it to the executive member for later use that evening.

- The candidates argued that the language within the email ‘induced’ them to create a presentation that, based on the location of the chapter meeting, would cause them to commit a campaign violation from using the computer and projector in order to view it.
- The candidates also argued that the location and language of the email was evidence of ‘entrapment’.

Ms. Cunningham admitted that, while she is an officially registered campaign staff member for the opposing executive ticket, she was unaware that the use of university property for campaigning was prohibited. The defendants stated that they were aware, prior to the chapter meeting, of the provision that prohibits such usage.

- It was claimed by Ms. Garcia that [the provision] “...did not cross our minds at the time” of the alleged violation.
- The defendants admitted, during the hearing, to having used the computer and projector for the PowerPoint presentation. Ms. Garcia and Ms. Cunningham both concurred that there was approximately 8 minutes of technical issues with the ticket’s presentation from the time MYM was introduced to the chapter, until they began speaking before the members of Delta Delta Delta.

Ms. Cunningham informed the ASGJ that Trevor Villines, a registered campaign staff member of the FTH ticket, had requested that she record the presentation on her cell phone during the meeting. She did not provide his reasoning, if there was any, as to why she needed to record it.

- The video was submitted as evidence by the complainant and was reviewed by ASGJ. The video showed a PowerPoint being presented to the chapter meeting with an executive member of Delta Delta Delta, Madison Hoy, being responsible for clicking through slides on the computer. Ms. Hoy is a member of the For The Hill campaign staff and was seen wearing a campaign shirt in the video.

Once the MYM ticket finished their presentation and left the chapter, Isamar Garcia received a text message from a friend, Lauren Dunn, timestamped at 6:26pm, claiming that their presentation may have been a campaign violation. Ms. Cunningham claimed to have sent the video to Mr. Villines around 9pm that same evening, which is when he informed her that their presentation was a prohibited use of university property.

- While Anna Cunningham is the original complainant, it is important to recognize that there were other ASG agents that witnessed this violation take place: Anna Cook and Sally Gairhan, who are both members of the Make Your Mark campaign staff—neither of them filed a campaign violation.

- Ms. Cunningham filed a campaign violation against J.P. Gairhan, Abigail Walker, and Isamar Garcia for violating ASG Code Title VII, § D (J).

### III. Discussion

The court was first concerned with the simple question of, did J.P. Gairhan, Abigail Walker, and Isamar Garcia commit a campaign violation by using university property to campaign at the Delta Delta Delta chapter meeting? All Justices concurred that they *did* commit a violation based upon Ms. Cunningham's testimony and the video she submitted, showing the defendant's committing the violation. We confirmed that the three candidates were speaking in front of a presentation on their campaign at the Delta Delta Delta chapter meeting located in Hillside Auditorium using a university computer and projector.

We shifted discussion to the intent to defraud and entrapment arguments presented by J.P. Gairhan. The ASGJ Justice's present found the evidence presented to us to be circumstantial for proving entrapment. The definition of 'entrapment' that was presented by the defendants was **not** the definition ASGJ used when deliberating the issue. Associate Justice Brandon Turner argued that for entrapment to be withstanding, there must be a certain level of force exhibited towards the defendants. Based on testimony and evidence submitted, all Justices agreed that the argument of entrapment was not valid for consideration of dismissal on the issue for which the complaint was originally filed. The ASGJ found that the invitation to create a presentation, wearing of campaign shirts, and recording of the presentation by opposing staff members was not enough to warrant entrapment.

Our final point of discussion was the question of who bears the highest responsibility in defending a candidate from committing a campaign violation. In communications sent to prospective candidates, and also at the candidate orientation sessions provided by ASGJ, candidates are informed of their responsibility to read, understand, and comply with the ASG General Elections Packet and ASG Constitution and Code. This responsibility extends to a candidate(s) staff member(s) or those who generally support and promote any candidate. All ASGJ Justices found that absolute highest responsibility falls to the candidate themselves, then to registered campaign staff members, and finally, non-registered supporters bear the lowest threshold of responsibility. It is important to note that ASGJ discussed the level of responsibility that an ASG agent bears during elections, campaign affiliated or otherwise. We hold there to be a 'basic level of responsibility' to defend against campaign violations. This basic responsibility includes, but is not limited to, speaking out about witnessing a possible violation, filing violations, and/or making suggestions to end the action(s) of a candidate that would constitute a violation.

**IV. Conclusion**

It is the conclusion of a unanimous decision that J.P. Gairhan, Abigail Walker, and Isamar Garcia committed a violation of ASG Code Title VII, § D (J); the prohibited use of university supplies and equipment. The evidence and testimony made by the complainant and defendant(s) solidified our decision, notwithstanding the claim of entrapment made by J.P. Gairhan. Negligence and momentary lapse in judgement is not a sufficient defense for the violation committed, as it is the candidate's ultimate responsibility to campaign in accordance with the rules and regulations set forth by the ASG Code and Constitution, and the General Election Packet.

**V. Decision**

The court voted in a unanimous decision (5-0) that a violation of Title VII, § D (J) was committed by J.P. Gairhan, Abigail Walker, and Isamar Garcia on Monday, February 26<sup>th</sup>, 2018. Therefore, the ASGJ rules that JP Gairhan, Abigail Walker, and Isamar Garcia be required to end all tabling efforts two hours prior to the official end of hard campaigning.

IT IS SO ORDERED

**Authored by Justice Brandon Turner**

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**Joined by Justice Julianna Tidwell**

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**Joined by Justice Pierce Teeuwen**

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**Joined by Justice Justyce Yuille**

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**Joined by Proxy Bennett Waddell**

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