



## Associated Student Government Judiciary

ASGJ-2020-EC1

October 11, 2020

*Associate Justice Fernanda Alcantara authoring for the majority (3-2) decision where the majority rules with a Dissenting Opinion from Associate Justice Rebecca Carroll.*

### **I. Introduction**

The Majority has ruled on the election complaint designated ASGJ-2020-EC1, filed on October 9, 2020 by complainant Haley Goodebiddle (“Complainant”). Complainant alleged that defendant Jack West (“Defendant”), a Homecoming King Candidate, violated The Associated Student Government Code of Laws Title VI, §1, Sub. H. c. i concerning the use of trademarks and licenses the University maintains and their use for political campaigns or campus elections.

### **II. Facts of the Case**

During Opening Statements, the defendant laid out his argument for why the complaint against him was not valid and that he did not use the pictures with the goal of gaining an advantage over his fellow candidates.

For his defense, the defendant brought a witness to the hearing. The witness, Emma Knierem, was the person who had taken Jack’s pictures. She explained how she was in no way a professional photographer and the only reason she took the pictures of Jack with Old Main in the background was because she thought the lighting at the time was good.

The defendant had used two of the captured pictures where one of the Old Main towers is in the background as campaign graphics for the Homecoming King election.

### **III. Discussion**

The Judiciary began the discussion by reviewing Page 28-29, ASG Code of Laws, Title VI: Election Code, Section 1: General Guidelines for All Elections, Subsection H, Subsection c, Subsection i. and its following subsection ii., which we acknowledged creates a contradiction in clearly defining where pictures can be taken – including Old Main. Judicial Proxy Claire Manson brought up the point that “the front” of Old Main may not necessarily pertain to the physical front of it, but rather the concept of being in front of it.

The Judiciary recognized that it was clear and evident from the defendant’s statements that the defendant was unaware that including Old Main in his graphics could cause an issue. It was agreed that he did not intend any harm by doing so and that he was apologetic for the mistake. Regardless, the Judiciary acknowledges that being unaware of the rule does not excuse the action.

The Judiciary began discussion as to whether or not the graphics constituted a violation by considering what the Associated Student Government Code of Laws Title VI, §1, Sub. H. c. i covers in terms of Old Main. There was disagreement as to what constituted an image or silhouette. Associate Justice Fernanda Alcantara argued that by including the tower of Old Main in his graphics, the defendant included a “silhouette” of the building. Associate Justice Alisha Chatlani agreed that due to the towers of Old Main being incorporated into the University Logo, it was covered by the phrase “...variations of the image [and silhouette] ...”. Associate Justice Rebecca Carroll countered that the building itself should not be deemed a silhouette as a silhouette is defined as a dark shape or outline against a lighter background. Associate Justice Chloe Metheny-Morris and Judicial Proxy Claire Manson concurred that the tower of Old Main itself is not the same as a silhouette of Old Main.

Furthermore, there was uncertainty as to how the word “image” should be interpreted. Associate Justice Chloe Metheny-Morris claimed that there is a difference between an officially licensed photo of Old Main and a photo taken by an individual. It was brought up that students tend to use Old Main in the background of senior photos, but the Judiciary recognized that there is a difference between taking a photo for personal or individual use and taking a photo for a political or campus campaign or election. Nonetheless, Associate Justice Rebecca Carroll agreed that an individual taking a picture of Old Main is not the same as downloading an image of Old Main.

Lastly, it was debated whether or not the use of Old Main in his graphics gave the defendant an advantage over his fellow Homecoming King Candidates. It was generally agreed upon that the graphics in question were not used to suggest any sense of endorsement from the University and it is unlikely that students perceived it that way.

#### **IV. Conclusion**

It is the conclusion of the majority of the ASG Judiciary that even though Mr. West did not use the pictures with malice of gaining an advantage over his fellow Homecoming candidates, the facts of the case show that Old Main was included in his campaigning pictures, which is prohibited per The Associated Student Government Code of Laws Title VI, §1, Sub. H. c. i.

#### **V. Decision**

The ASG Judiciary finds the Defendant, Jack West, guilty of violating The Associated Student Government Code of Laws Title VI, §1, Sub. H. c. i concerning the use of trademarks and licenses the University maintains in political campaigns or campus elections due to the feature of Old Main's tower in the background of a picture used for campaigning. The ASG Judiciary renders the following sanction for the defendant:

- The defendant must suspend soft and hard campaigning with the graphics discussed in this decision. The defendant shall make a good faith effort to reach out to those who used said graphics and inform to cease their usage. Should the defendant discover the graphics continuing to be used, he will contact the individual using them immediately to notify them that they must not use those graphics.
- The defendant will not be disqualified from the 2020 Homecoming King Election, nor will he have votes deducted from the total number of votes he receives.
- The defendant will continue to be allowed to continue soft and hard campaigning without the graphics reviewed by the Judiciary in this hearing.
- The defendant will be required to write a letter of apology addressing his fellow Homecoming King and Homecoming Queen candidates. This letter will be subject to review by the Judiciary prior to being delivered to the other candidates. This letter must be submitted to the ASG Elections Commissioner before 12:00 PM on Monday, October 12<sup>th</sup>, 2020.

IT IS SO ORDERED

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Authored by Associate Justice Fernanda Alcantara \_\_\_\_\_

Joined by Assoc. Justice Alisha Chatlani \_\_\_\_\_

Joined by Judicial Proxy Claire Manson \_\_\_\_\_