



Decision Rationale

Hudson Lees v. ASB Department of Justice

October 6, 2023

Overview

On October 6, 2023 the ASB Judicial Council convened to hear an election violation appeal brought forth by the ASB Attorney General against Freshman Maid candidate Hudson Lees and her campaign team (hereafter referred to as the “Appellant”). The Appellant’s appeal was on the grounds that the Appellant’s initial disqualification by the Election Review Board (ERB) for a violation of Title V, Subtitle C, Section 121, Subsection C of the ASB Code and Constitution was: 1) too harsh of a sanction given the nature of the offense, and 2) lacking relevant new evidence that was not submitted to the ERB.

The ASB Judicial Council serves as the supreme judicial body of the Associated Student Body, to include lower courts established in the executive and legislative branches of government, according to Article V, Section 1 of the ASB Code and Constitution. Furthermore, the Council serves as the primary hearing body for all appeals pertaining to ASB elections, according to Title III, Section 107, Subsection A; Title V, Section 120, Subsection A; and Title V, Section 120, Subsection C of the ASB Code and Constitution. Such authorities were utilized to hear and decide this case. The Council operates in the interest of fairness and impartiality.

ASB Judicial Council reviewed the following evidence provided to arrive at its unanimous decision: 1) testimony of the Appellant; 2) testimony of the ASB Attorney General; 3) evidence provided by the Appellant; 3) evidence provided by the ASB Attorney General; 4) the ASB Code and Constitution during the October 6, 2023 appeal hearing.

Ruling

The ASB Judicial Council ruled unanimously that the Appellant was responsible for the charge of “forc[ing] a person to vote or campaign in any form” as stated in Title V, Subtitle C, Section 121, Subsection C. As a result, the ASB Judicial Council affirmed the decision of the Election Review Board and Attorney General to disqualify the Appellant. The ruling was made in line with how the campaign rules and definitions are laid out in the ASB Code and Constitution.

Findings

Relevant Sections of ASB Code and Constitution:

Title V.c § 120(a):

“‘Campaigning’ shall be defined as any act by a candidate or their representatives intended to present that person to the general public as a candidate.”

Title V.c § 120(b):

“The ‘general public’ shall be defined as two or more persons.”

Title V.c § 120(d):

“A ‘campaign material’ shall be defined as any material, apparatus, or other property used by a candidate for the purpose of campaigning as defined above. All campaign material shall include the name of the candidate, and that person shall be identified as such.”

Title V.c § 121(c):

C) Any attempt by a candidate, campaign representative, or organization to coerce, bribe, incentivize, intimidate, or force a person to vote or campaign in any form, shall result in the candidate’s immediate disqualification.

1) Candidates benefitting in any way from an organization or campaign representative penalizing members for not voting or campaigning in any form shall be immediately disqualified.

2) Neither candidates, nor representatives, from the campaign shall utilize organizations to penalize members for failing to participate in voting or campaigning.

Title V.d § 126(d):

D) The decision of the Elections Review Board/Attorney General shall be upheld by the ASB Judicial Council unless the ASB Judicial Council finds the decision was clearly erroneous. Under this standard, the ASB Judicial Council must have a definite and firm conviction that a mistake has been committed.

Facts and Judicial Council Opinion:

In the process of determining the logic of the ERB’s decision-making, the judicial council first reviewed the rationale written by Attorney General Helen Phillips, who acted as non-voting Chair of the ERB. The council followed their logic from the source: the definition of key terms such as “campaigning,” the “general public,” and “campaign material.” The incidents considered by the council, as alleged by the Department of Justice, were instances of individuals being forced to wear Hudson Lees’ campaign stickers without their consent on the Union Plaza. The council

agreed with the ERB's application of Title V.c § 120(a), Title V.c § 120(b), and Title V.c § 120(d), from which they determined that a sticker can be accurately characterized as a "campaign material," the Union Plaza can be accurately characterized as a "public space," and the act of giving out and wearing candidates' stickers on the Union Plaza can be accurately characterized as an act of "campaigning."

These incidents of forced stickering were shown in video clips submitted to the council by the Department of Justice. The council found one of the videos particularly persuasive, as it showed an individual seemingly pushing off a member of the respondent's campaign team as they were stickered in a space in front of the boundary set by the Department of Justice for Maid candidates of all years.

In response to this video, Lees admitted that the individual that was stickered appeared to her to have had a negative response to the attempted placement of the sticker on them, but that she did not see the incident at the time and would have immediately spoken with the member of the campaign team responsible if she had. She also mentioned that, as a freshman student, this was her first experience with public campaigning, as well as the fact that this alleged violation occurred on the first day of campaigning on the Union Plaza. Additionally, she mentioned that all of the forcible stickering videos available to the council as evidence involved members of her campaign team and not her. All of these reasons contributed to Lees' overall rationale that disqualification was too harsh of a punishment in relation to her context as a first year student. Finally, the new evidence that she submitted was an apology written by the campaign team member that was seen in the video mentioned above forcibly stickering a student.

While evaluating these reasons given for appeal, the judicial council empathized with the respondent and her argument. Unfortunately, though, the standard of evaluation under Title V.d § 126(d) is clear and a member of Lees' campaign team, or a "campaign representative" as stated in the violated policy Title V.c § 121(c), did "force a person... to campaign" in the video mentioned above, in the opinion of the council. As mentioned above, the act of wearing stickers is considered accurately from the point of view of the judicial council as an act of campaigning. Since this standard was met, a clear penalty is imposed by the second half of Title V.c § 121(c), that any instance of forced campaigning "shall result in the candidate's immediate disqualification." As such, the ERB did not erroneously err in determining a sanction for the considered violation.

As a result, the judicial council did not find sufficient evidence of "clearly erroneous" decision-making by the ERB as the standard is established in Title V.d § 126(d). As disqualifications under Title V.c § 121(c) of the ASB Code and Constitution have become more frequent in previous years, however, the ASB Judicial Chair recommends that the ASB Senate consider the language of this clause, specifically that of the requirement for disqualification that is not conditioned on any other factors or alterable in response to extenuating circumstances.

Drafted By: ASB Judicial Chair Harrison Stewart on behalf of the ASB Judicial Council