

SGA Supreme Court Opinion

Violation of 2009 SGA Freshman Election Legislation Art. IV Section 9

Mr. Justice Wright for the court, joined by Mr. Chief Justice Worley

The facts of the complaint allege that Sara-Elizabeth Bush; Alex Clements, Emily Fisher, Ronald Francis Kloska III, Mary Katherine Kington, Hunter Montell, Buster Parsons, Ethan Ritter, Nico Schulz, and Trevor J. Turner violated Art. IV Section 9(Q)(5) of the 2009 Freshman Election Legislation. The pertinent portion of the statute states, “posters may not be placed on any ... painted surfaces”.

The above-mentioned parties hung posters in the Commons Complex area. The Election Investigator found good cause that the parties did commit a violation. This Court finds that statute unconstitutionally vague and voids it for vagueness.

The intent of the statute has been determined by the Election Investigator to protect historic buildings after posters damaged painted surfaces on Memorial Hall in a past election and SGA was required to pay for the repair. While we do not question the intent of the statute and its necessity, we find no way of reading the statute that would allow a consistent interpretation.

The words “painted surface” are inherently vague for the vast majority of campus consists of surfaces that are indeed painted. This includes but is not limited to concrete, classroom walls, exterior columns, etc. If this statute were taken on its face, there would be very few places that candidates could hang their posters and undoubtedly many of the locations utilized in current elections would be illegal. Further, “painted surfaces” is not a phrase that a reasonably prudent person could interpret or know the correct meaning of in the statute. While ignorance of the law is no defense, the law should read in a manner that a reasonable person could understand and know what is being regulated. Any statute that does not enable the people it intends to regulate to understand its meaning is void and any statute that is void is therefore unenforceable.

Accordingly, the statute is void due to vagueness. The law should be a family of regulations that provide the citizens they pertain to the ability to understand and comprehend what is asked of them. Such is the difficult task that has been bestowed upon the legislature.

Mr. Justice Smith joined by Mr. Justice Hart, Concurring in the judgment.

Here we have a situation where a law is ambiguous in its application. 2009 SGA Freshman Election Legislation Art IV Section 9(q)(5) states that, "Posters may not be placed on any glass, elevators, or painted surfaces. All posters must also comply with applicable university, municipal and state policies or laws." The problem is there are many painted surfaces across the university campus that are "painted" under the definition of the legislation.

It is my opinion that almost every surface across the university is painted in some form or fashion, and therefore the term "painted surfaces" must be narrowly defined to achieve the purposes of the Student Body Senate. My understanding is that the focus of the legislation was to ensure that delicate painted surfaces such as indoor walls and similar surfaces that would be damaged by sticky substances would not be harmed.

My suggestion for the legislature is to narrowly define the term "painted surfaces" to apply to a certain criteria of surfaces. Specifically I would suggest:

- Interior painted walls of residence halls and buildings
- Interior and Exterior Pillars, walls and painted surfaces of historic university buildings and monuments (Specifically Memorial Hall and the like)
- Surfaces subject to "dulling" or damage by tapes, adhesives and other materials.
- Any Surface deemed by the Facilities Operations Supervisor as "sensitive"

This is not an all-inclusive list, however this may spark some ideas as to how the Senate could proceed and draft a section that would be unambiguous to those participating in their elections.

Mr. Justice Garcia, Dissenting.

One would have to be singularly unmindful of the treachery and versatility of our language to deny that as a mere matter of the English language, words may carry more than one meaning, but that matter is not to be discussed in our current situation as it is hard to fathom that a reasonable person would not be able to understand that "Painted Surfaces" is painted surfaces, any surface which has paint on it, plain and simple. I am not against the majority in allowing Legislation to thoroughly define what they truly mean by the words "Painted Surfaces" but as the rules read now, the candidates have clearly violated the policies outlined by the SGA Election Legislation.

Madame Justice Cross and Mr. Justice Burns took no part.

Preston C. Worley, Chief Justice