

## SGA Supreme Court Opinion

### Violation of 2010 SGA Student Government Election Legislation Art. VI Section Q(5)

Mr. Justice Smith delivered the opinion of the court.

Today the court revisits a statute which we once before voided for vagueness. In an attempt to rectify a statute deemed vague, the senate has in our opinion, created a monstrosity which not only is vaguer, but also against public policy.

The facts of the complaint allege that Ryan Smith, Kelsey Hayes, and Scott Ashcraft violated Art. VI Section Q(5) of the 2010 Student Government Election Legislation. The pertinent portion of the statute states, "Posters may not be placed on any glass, elevators, or painted surfaces. A painted surface is anything that has had paint applied to it at any time during its presence on campus."

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.

It is the court's 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. Furthermore, provided that a surface is currently not painted, an individual would have no idea if that surface has been painted at any point since the university's inception. If at any point since this university has graced our commonwealth a surface had been painted, a candidate would be in violation of this statute by posting on it. Even with the most knowledgeable historian, or a time machine, a candidate would have no way to accurately know whether a surface has been painted or not, "at any time during its presence on campus."

Our understanding is that the focus of the legislation was to ensure that delicate painted surfaces such as indoor walls and similar surfaces that could be damaged by sticky substances would not be harmed. Our suggestion for the legislature is to narrowly define the term "painted surfaces" to apply to a certain criteria of surfaces. Specifically we 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 Physical Plant Division as "sensitive"

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

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 that a reasonable person could understand and know what is being regulated.

Within the bounds of the language currently, each of the candidates are in violation of the statute. However, 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.

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Eric W. Smith, Associate Justice