

-----OPINION OF THE-----
University of Kentucky
Student Supreme Court

MADDIE SANDEN

Petitioner

V.

WILL NAPIER AND SURAJ RAMA

Respondent

MR. CHIEF JUSTICE BISCOPINK DELIVERED THE OPINION OF THE COURT.

This matter comes before the Court on Petition by Ms. Maddie Sanden, a candidate in the 2013 Freshmen Elections, against Respondents Mr. Will Napier and Mr. Suraj Rama, who were also candidates in the 2013 Freshmen Election. Ms. Sanden presented evidence to SGA Elections Investigator Mr. Taylor Clark that students associated with Mr. Napier and Mr. Rama solicited votes by going door-to-door in dormitories, setting up a polling station outside of Ovid's Café, and soliciting votes in the library.

Article IV of the Election Act governs the acceptable methods of campaigning. In particular, the Act bans campaigning in University of Kentucky Libraries, Election Act § IV(G), door-to-door campaigning in residence halls, Election Act § (IV)H, and students from setting up a computer to be used as a polling station, Election Act § IV(N). The Court concludes that students associated with Mr. Napier and Mr. Rama did in fact violate these sections of the Elections Act.

The true dispute at issue is whether these violations by associated students can be imputed to the candidates. Election Act § IV(O) states that “[a]ll candidates and their staff must adhere to all elections policies and applicable institutional policies during the election period.” The Court is left with the task to define the term “staff” as used by the Legislature.

At the outset, the Court notes that the Freshmen Election traditionally has a less formal campaigning process than the larger, university-wide Spring Election. Candidates in the Spring Election commonly have an articulable organized staff, which often include campaign managers; whereas candidates in the Freshmen Election have generally utilized friends and classmates to informally help them campaign. Without a clear delineation for who constitutes “staff” of a candidate from either the text of the legislation or the surrounding circumstances, the Court turns to other principles to aid its analysis.

The Court uses the principles of agency theory to help define the in the term “staff.” Black's Law Dictionary (9th ed. 2009) defines agency as “[a] fiduciary relationship

created by express or implied contract or by law, in which one party (the *agent*) may act on behalf of another party (the *principal*) and bind that other party by words or actions.” The students that committed the violations were pledge brothers of the candidates. Due to this relationship and the nature of Freshmen Elections, the Court has found that there is an implied agency relationship between the associated students and the freshmen candidates, and the Court holds that these violations are imputed to Mr. Napier and Mr. Rama. As the current legislation stands, this is a fact intensive test and should be decided on a case-by-case basis. The Court recommends that the Legislature address the issue of what constitutes “staff” of a candidate for purposes of the Election Act.

The Court was limited in the remedies it was allowed under the Election Act § V(A). As we did not find that these actions were egregious enough “to nullify all votes cast” for either candidate, the Court fines each candidate \$25.00, as permitted under § V(A)(2). (The form of which shall be the forfeiture of the \$25.00 entry fee, or, if that fee having been already forfeited by a candidate, an additional \$25.00 fine.) The Court further recommends that the Legislature consider alternative remedies of an intermediary nature, such as the possibility to nullify some, but not all, of the votes for a candidate.

MME. JUSTICE LEAHY JOINED BY MME. JUSTICE HOUSLEY, DISSENTING IN PART AND CONCURRING IN PART.

The fundamental question before the Court is: for the purposes of violations of election campaigning policies, are the impermissible actions of unidentified fraternity brothers imputable to Mr. Napier and Mr. Rama.

The relevant legislation declares that “[a]ll candidates and their staff must adhere to all elections policies and applicable institutional policies during the election period.” Election Act § IV(O). I agree with the Court that conduct prohibited by the Election Act occurred. *See* Election Act, § IV(G), (H), (N). I also concur with the Court that the more informal nature of the campaigning process in the Freshmen Election leaves unresolved the question of which party’s words and actions should be imputed to the candidates for the purposes of determining whether a campaign violation has occurred. However, I cannot agree with the Court’s mere cursory conclusion that the violators were members of the candidates’ staffs due to the violators being fraternity pledge brothers of the candidates, and I therefore respectfully dissent.

While there may be certain organizational and structural relationships that give rise to a presumption of “staff,” this court should exercise caution before imputing the unsolicited actions of others onto candidates. On the other hand, allowing candidates to knowingly turn their back on associates engaging in bad acts that are in furtherance of the candidate’s goal would exploit the letter and the intent of the Election Act. Future candidates would be wise to take precautions against future litigation of this nature, particularly those candidates involved in close organizations such as fraternities.

ERIC M. BISCOPIK, CHIEF JUSTICE