UNIVERSITY OF KENTUKCY
STUDENT GOVERNMENT ASSOCIATION
SUPREME COURT

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Case No. 2-Fall–2016

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BLAKE SIMS, NICKIE CASHDOLLAR, WILLIAM HUTCHINS, JACOB GOVEA, and HEATHER BEMIS;
CLAIMANTS

v.

MICHAEL ALEXANDER HAMILTON, BEN FLUKE, DYLAN BRYUM, AND JACOB RANKIN;
RESPONDENTS

[October 19, 2016]

CHIEF JUSTICE HANNAH SIMMS delivered the opinion of the Court in which JUSTICE KATELYN BROWN, JUSTICE HOUSTON BRAGG, JUSTICE MARK BUTLER, and JUSTICE GENTRY COLLINS joined. JUSTICE JANINE TATE filed a separate opinion concurring in part and dissenting in part. JUSTICE TREVOR NICHOLS filed a dissenting opinion.

CHIEF JUSTICE HANNAH SIMMS writing for the majority.

The legislative branch of the University of Kentucky Student Government Association revised the SGA Constitution to include a complete prohibition of the practice of "ticketing" in all student government elections. The legislative history of this revision reveals that it was a divisive change that involved much discussion and contemplation, but the measure ultimately passed and forever changed the nature of student government elections at the University of Kentucky.

At the heart of the ticketing prohibition was a desire to foster elections that were completely open and fair for students of all backgrounds and organization affiliations. The issue before us today is not a result of those honorable intentions, but rather stem from flawed follow-through and vague language used to amend the Constitution. The Ticketing Clause of the SGA Constitution reads, in whole, as follows:

> Section 8…
>
> D. No other tickets shall be permitted. Senatorial candidates may only seek office on independent platforms, and may not be affiliated with or endorse Presidential and Vice Presidential tickets.
>
> E. Presidential and Vice Presidential tickets and campaigns must be exclusive and divorced from all Senatorial campaigns, including on campaign websites, social media, and during handbilling.

We agree with the Respondents that the language used to amend the Constitution is vague. However, it is not completely devoid of meaning. We understand that all parties to this case were freshman students at the time of the election. They had not seen previous elections where ticketing was permitted, and certainly did not have as developed an understanding of the practice as the senators that drafted and passed the amendment. Although the Ticketing Clause of the Constitution was vague testimony from both sides revealed that great efforts were made to explain the practice during pre-election meetings.

Although Respondents contend they could not possibly have been expected to understand the ins-and-outs of the practice of ticketing, it is striking that they were the only candidates that did not have complete grasp of the prohibition. Testimony showed that ticketing was the main topic of the candidates meeting. Even the respondents said that the ticketing discussion went on so long it became "annoying." At that same meeting ticketing was described as the "number one thing" to avoid during the election. While the physical language available describing the practice was lacking, it was clear that great efforts were made to explain and stress the importance of the prohibition.

When asked how they would define ticketing, the respondents themselves defined it as actions that result in "un-doubtable grouping" of candidates. We are certain that ticketing includes actions that fall short of "un-doubtable grouping." To blindly accept that definition would be to sell short the intentions of the SGA Senate in passing the prohibition. The danger of ticketing is that it enables a select few to decide how an election should turn out. This erodes the most fundamental principles of a democratic system.

We hold that the respondents have violated the Ticketing Clause of the SGA constitution. Their actions amounted to constructive ticketing, even if they were careful with their chosen words. The Respondents would have the court draw a line between "material ticketing" and "verbal ticketing." We absolutely refuse to engage in such compartmentalization of the prohibition because it would completely undermine the original intentions of the Senate in passing the amendment. "Material" ticketing includes, but is not limited to, actions taken with regards to physical campaign materials that group candidates into an exclusive team or ticket. Examples of this include multiple candidates appearing together on handbills, consolidated social media accounts, and merged budgets. "Verbal" ticketing includes, but is not limited to, having indistinguishable campaign teams, conducting campaign activities at the same time and location, and exclusively endorsing a small group with a close affiliation.

The fact that the respondents were careful to use language that indicated they were only "endorsing other independent candidates" does not save them from the fact that their actions amounted to ticketing. They admitted to and intended to exclusively endorse each other. This closed off endorsement ring, while not the only decisive factor, is indicative of respondents' ticketing actions. It is our opinion that in order comply with the Ticketing prohibition candidates should make every attempt to run their campaigns with blinders. While we hope this direction is helpful to candidate and those who are already in power, we acknowledge that the ultimate authority to define the outer edges of the practice of ticketing falls on the Senate. We would encourage the adoption of further ticketing regulations in the Elections Act prior to the next campaign season to clarify prohibited actions for candidates and give this court more authority should further violations occur.

While we have found a violation of the Ticketing Clause, we will not be nullifying the respondents' votes. Rather we are choosing to fine the respondents pursuant to Election Act § V(A)(2). Each respondent is required to pay $25 in the manner and within the time to be set by the Elections Board. We would like to note that the punishment dolled out in this case is minor because of the vague wording of the Ticketing Clause. When the Senate should choose to further define the act of ticketing, a nullification of votes would absolutely be appropriate in a case such as this considering the importance and far-reaching implications of the ticketing prohibition.

It is so ordered.

JUSTICE JANINE TATE, concurring in part and dissenting in part.

I join the court's judgment that Michael Alexander Hamilton, Ben Fluke, Dylan Bryan and Jacob Rankin violated the campaign rules when they admittedly engaged in ticketing by endorsing each other. However, I respectfully dissent in the decision to punish them with a fine. I believe that their conduct was so egregious and blatant that each respondent should be stripped of their votes.

The respondents claim that they were unclear on the "exact definition" of ticketing. Despite the fact that each of the petitioners was aware that neither they, nor their campaign team, could endorse any other candidate, every single one of the respondents violated this rule. The respondents admit that they were told that they could not ticket during a meeting that they attended, but claim that the examples of ticketing that were given only included activities such as appearing on the same campaign websites, social media or handbills. But if the respondents understood that they could not endorse each other on material documents, it would seem clear that they would know not to violate the rule by coercing voters in person to vote for the group. After all, face-to-face interaction seems to be the most coercive voting tool as compared to other campaign strategies. And it appears to me that the e-mail that was sent in order to get "clarification" was no more than a ruse that the group would try to use as evidence of ignorance while straddling a dangerous line by coercing voters to vote for them as a group. It seems very suspicious to me that other petitioners were also part of the Greek community, but clearly knew that they could not take advantage of the same campaign practices that the respondents did.

I should not neglect to mention that the very result that this anti-ticketing campaign rule seeks to prevent was actually achieved. The number of votes that were cast for each senator shows that the number of votes that each of the respondents obtained were within a close number range (between 564 and 491) and Blake Sims narrowly missed victory by a difference of 10 votes. The respondents may try to argue that the same result would have been achieved if they had actually campaigned independently (instead of just using the word), but I am sure that Mr. Sims feels differently. It seems unfair that Mr. Sims may have succeeded in his campaign had the rules not been violated by the respondents.

I base my judgment almost entirely on the testimony of the respondents themselves. Absent evidence given by the petitioners' witnesses and video footage, the respondents admit to endorsing their Fraternity brothers and having their campaign team endorse them. No excuse—including "free speech" constitutional arguments or absence of concrete definitions are applicable here. I have made clear that I find it very difficult to believe that none of the respondents knew that they were violating the rules or at least acted negligently in failing to do anything except send a questionable e-mail. But even if they were miraculously unaware of what activities were included in the definition of "ticketing", more care could have been taken in ensuring that no endorsement of another candidate was taking place whatsoever. Would it be reasonable for a student to be told not to cheat on an exam by using a cellphone but

they use an iPod that is Wi-Fi enabled instead because it was not mentioned? Clearly not. And yet, the petitioners will be left with no relief. So while 5 of my fellow justices agree that the respondents violated the rules, I respectfully dissent from the punishment because I believe that the harm that resulted from the violation of the rules cannot be remedied by a fine or anything else but to nullify the tainted votes.

JUSTICE TREVOR NICHOLS, dissenting.

I respectfully dissent in the court's judgment that Respondents violated campaign rules. While the majority agrees with Respondents that the amended language in the Constitution was vague, the majority also mistakenly maintains a focus on subjective interpretation.

While in pursuit of earning a Freshman Senate position, Respondents asked for a definition of ticketing and yet were given none. I ask how a candidate who has never been exposed to such a campaign may be reprimanded for following a rule to the best of his knowledge when acting in such a manner is not an unreasonable response.

If the majority wishes to provide consequence for a particular action, I ask the majority to provide the literature that allows for such.

A senate election, in this regard, is similar to a race. I see no logical reason to blame the runners of a race for taking a shortcut when the same route was available for all of those who were competing. Although taking a shortcut may pull at an honorable participant's conscience, it is not the responsibility of the Supreme Court to rule on conscience. I can only judge the race by the parameters by which it was to be run. In the present case, ambiguity benefited some and was a potential disadvantage to others. However, this advantage is for the legislature to take into consideration.

It is the Court's responsibility to interpret law, not to create it, and I will not be so bold to infer language where there is none. Where it is legislature's responsibility to create law that can be objectively enforced, I believe it is the legislature's responsibility to amend the constitution to include such language.