

In the Iowa State University Supreme Court

No-2014-01

Barry Snell

v.

Adam Guenther

(February 26, 2014)

Mr. Michael Belding III, argued the cause for petitioner.

Mr. Adam Guenther argued the cause and for the Election Commission. With him on the brief as the Election Commissioner.

A petition was filed with the Court on Wednesday, February 19, 2014. Whereby the petitioner in the case, Senator Snell, brought to the attention of the Court a question of whether the “Petition for Signatures” is necessary or sufficient to participate in the presidential debates, and whether Commissioner Guenther’s decision to exclude him from the presidential debate was a violation of his rights. The facts brought before the court begin as follows, in accordance to the Bylaws, rule 13.3.1, the respondent, Election Commissioner Adam Guenther, held three seminars for students wishing to run for office. Senator Snell was in attendance for at least one of such seminars, as required.

After attendance to at least one seminar, and by February 7, the petitioner had registered as an official candidate via a statement of intent, as well as providing his necessary Candidate Information. At such point, the Election Commission published the petitioner’s information on the Government Student Body Website (GSB), and listed him as an official candidate for the 2014 presidential election. The information provided by the petitioner was made public in the student run newspaper, The Iowa State Daily, which recognized him as an official candidate. The petitioner formulated a campaign and continued to organize, and publicize, a coherent platform around key issues.

Following these events, and in accordance to Bylaw 13.3.2.1, the election commissioner provided the petitioner with a standard petition form for students seeking office at least two weeks before the petitioning deadline. Additionally, under Bylaw 12.5.2.4, the respondent provided the petitioner with an official advisor from the Election Commission. In the case at hand, the respondent, Commissioner Guenther, was assigned to serve as the advisor for the petitioner, Senator Snell.

While continuing the campaign and complying with all necessary outlined regulations, the petitioner's running mate was allowed to participate in the vice-presidential debate on February 17, at six p.m. The petitioner continued under the qualification of a formal candidate, and his information should have been provided to the Computation Center via the Election Commission in regards to the ballot, as outlined under 13.3.4. The following Friday February 21, at five p.m. the candidate petitions were due, both parties recognize that the petitioner failed to submit the formal petition with the required 500 signatures, as outlined in Rule 3.4 in the Election Code. The petitioner did, however, provide the Election Commissioner with a documented 184 signatures.

Upon failure to provide the designated number of signatures, it was the interpretation of respondent, the Election Commissioner, that the petitioner was no longer a serious and formal candidate (12.5.1.1). Since the petitioner was no longer distinguished as a serious and formal candidate, he was not to be placed on the ballot. The petitioner argues that such signatures are only necessary to be placed on the ballot, and that nowhere in the Bylaws or Election Code does it state that only balloted candidates may engage in the Executive debates.

Remaining a serious and formal candidate is defined by the respondent as having the presumed title up to and at whichever point such a candidate fails to meet the criteria laid out in 13.3 of the Bylaws as well as Chapter 2 of the Election Code. The Court upholds this definition for the following reasons. Students wishing to be considered as an Executive candidate must attend 1 of the abovementioned seminars (13.3.1 of the Bylaws and 2.1 of the Election Code) in which they receive a packet which includes a statement of intent and a blank petition form (Election Code 2.2). The timeline of this election cycle regarding serious and formal candidates begins January 23, 2014 at the conclusion of the final seminar.

At this point it can be presumed that all attendees of such seminars are potential serious candidates, however, only candidates that have turned in their statements of intent shall they be considered serious candidates for purposes of such classification. The deadline for such submissions is February 7, 2014 by seven p.m., at which time all properly submitted applicants shall be considered official candidates (emphasis added). The final condition to be met for the consideration of candidates as formal and serious requires a petition form signed by 500 students as outlined in 3.4 of the Election Code. Therefore, all candidates considered official at the point of submitting a statement of intent shall be considered serious and formal upon the deadline of the petition. At which point all formerly considered official candidates that fail to meet the 500 signature requirement are no longer considered serious and formal candidates.

Due to the failure on the part of petitioner to follow through with this final requirement, their classification as formal and serious candidates shall be revoked. Additionally, they shall not be placed on the ballot in accordance with Election Code 3.10. There are only two ways in which a name is to be placed on a ballot during the voting process, through the balloting procedure or through write-in. Although petitioner argues that he falls within an area between these two categories, no such claim can be supported by the very nature of this voting procedure, therefore, necessitating petitioner's classification as a write-in candidate. Because no other classification can be given, petitioner shall function as a write-in candidate for the remainder of this election cycle. Within the laws regarding write-in candidates, all students who are eligible to hold office may run as write-in candidates (Election Code 8.1).

The petitioner argues that, "write-in candidates should have - the precise same rights and privileges as balloted candidates, and to say otherwise is an express violation of those rights and privileges". The rights and privileges he raised in this context is the violation of the First Amendment. He argues that by barring him from participating in the Presidential Debate on Thursday February 27, 2014 he will suffer an undue effect on his standing as a write-in candidate.

The petitioner also argues that due to the vagueness of the Bylaws and election codes, the Election Commissioner wrongly interpreted bylaw 13.3.3, which states that the Election Commission shall sponsor at least two debates for the Presidential and Vice Presidential Candidates. Respondent's interpretation of the law restricts Presidential Debates to only balloted candidates. Petitioner argues that since bylaw 13.3.3 does not say balloted candidate, but only candidate, that all official candidates are allowed to debate. The petitioner believes that since he was published as a candidate, campaigned as a candidate, and believed himself to be a candidate that he remained an official candidate with the right to debate.

In analyzing the status of the petitioner as a candidate, the Court has applied the subjective and objective test of the Katz Standard. *See generally Katz v. United States*, 389 U.S. 347 (1967). Accordance to the Katz Standard, there are two prongs which must be met. First, the petitioner must pass the subjective standard. He must, and indeed did, think of himself an official candidate. Secondly, a reasonable student of the University must objectively see him as an official candidate. Since the candidate was published online on the GSB website as an official candidate, recognized by the Election Commission, and in the student newspaper, a reasonable student would infer that he was indeed an official candidate. Having passed both prongs of the test, it is the assertion of the petitioner that he remains a serious, albeit a write-in candidate, and under the bylaw

13.3.3, has a right to participate in the debate.

Upon determining the petitioner's standing as a write-in candidate, and hearing the issues presented, the Court found the First Amendment claim invalid on the grounds that his rights have not been violated. The petitioner remains free to exercise his freedom of speech and his rights of association, just as any other student, or write-in candidate. Within the context of the Presidential Debates, the First Amendment cannot be extended to allow every student to participate as formal write-in candidate. While the petitioner, and indeed every student is free to participate and ask questions in the debate, proceedings would be rendered impossible if time, place, and manner restrictions were not enforced for official candidates.

Bylaws establish a distinction between balloted and write-in candidates, and as such, the Court must apply the rules of the latter classification to this case. It is relevant to note that the petitioner claims to be a serious candidate, albeit a write-in candidate. The Court does not dispute that a write-in candidate may be serious, but only that a distinction exists in the Bylaws between a balloted candidate and a write-in candidate. As a write-in candidate, Election Code 8.1 notes that "[he is] not required to submit a petition to the Election Commissioner". As a write-in candidate, the Election Code defends the eligibility of all students, "even if they have not contacted the Election Commission" (*Id.*). Both parties are in agreement as to the vague language in regards to the definitions of a balloted and write-in candidate. Without clear legal definitions of the rights of write-in candidates, or the authority of the Election Commissioner, it is necessary for the Court to inspect present language of the Bylaws and Election Code.

The discrepancy in legal interpretations has allowed both parties to argue valid points. The issue for the Court, in accordance to *Hagelin, et. al. v. Federal Election Commission*, becomes whether the exclusion of the petitioner, as a write-in candidate, by the Election Commissioner, was capricious to the Election Code, Bylaws, and the rights of the petitioner. In Bylaw 12.5.1.1, the law provides deference to the Election Commission, granting them the "authority to promulgate additional rules and procedures within the guidelines of Government Law to address specific situations that may arise." Additionally, Bylaw 12.5.1.4 grants the Election Commission the authority to impose penalties to violations of Election Law. While Election Law remains vague in regards to debates, rule 4.1 of the Election Code notes that "candidates who fail to attend [the] debates are subject to penalties as outlined in the Financial Penalties (Appendix A)".

Bylaw 12.1.1 states that the mission of the Election Commission "shall be the fair and proper administration of all elections of the Government." In upholding this mission, Bylaw 12.5.2.2 invests the Election Commissioner with the duty to "act as the official

representative of the Commission”. In the case at hand, the Election Commission consulted with individuals on the Election Commissioner, and acted within the authority and discrepancy shown in Chapter 12 of the Bylaws.

If the Court were to entertain the petitioner’s request under the classification of a candidate as all potential write-in candidates, then in accordance to Election Code 8.1, all students at Iowa State would have the same right to participate in the debate. Such a contention is implausible, aside from the further application of a \$100 for all candidates that fail to attend the debate in accordance with Election code 4.1 (Appendix A). Although no definitive harm could be demonstrated by the respondent, the Court must rule in accordance to a balancing between the rights of the petitioner, and the interest of the Election Commissioner. The Court does find a reasonable interest in the respondent’s need to maintain order and protect the integrity of the elections. The Bylaws provide the Election Commission deference in carrying out their interest, and as the representative of the Commission, the acts of the respondent were not capricious or malicious. The petitioner failed to demonstrate a violation of his Constitutional rights, and his ability to participate in the processes of government have not been infringed.

The actions taken by the Election Commissioner were sensibly correlated to the reasonable interest of maintaining the order and integrity of the GSB elections. It is the duty of the Election Commission, endowed the authority of the Bylaws, to determine proper procedures for the elections, so long as such decisions do not violate students’ rights, the Constitution, or the Bylaws. Therefore, the Court has determined that the reasonable interest of the Election Commission’s outweighs the theoretical harm to the petitioner. The petitioner is still free, as outlined in Chapter 4 of the election code, specifically 4.2, to attend as an audience member, voice questions, and speak on relevant issues to the candidates.

The Court unanimously rules in favor of Commissioner Guenther for the abovementioned reasons.

It is so ordered.

Caytlin Grace Hentzel

Chief Justice Caytlin Hentzel

Ryan William Peterson

Justice Ryan Peterson

Katie Geneser

Justice Katie Geneser

Amanda Luketich

Justice Amanda Luketich

Jonathan Sukup

Pro Tempore Jonathan Sukup

Dylan James Camp

Justice Dylan Camp

David Fountain

Justice David Fountain