ASUCI JUDICIAL BOARD

Tammy Dang

v.

Heriberto Mendez

Ruling

Dated: April 23, 2020

Abundis, C.J., delivered the opinion of the Board, in which Gandall K., Gerald Q., Naqvi K. and Bunda J. joined. Anayat T., took no part in the consideration or decision of the case.

Justice Abundis delivered the opinion of the Board,

CHIEF JUSTICE ABUNDIS delivered the opinion of the Judicial Board, in response to the submission of elections complaint by petitioner.

In the submitted elections complaint, the petitioner sought to challenge Candidate Mendez's campaigning for two different slates, finding that such campaigning violated the rules established in a previous version of the ASUCI Elections Code Art. XIX § D. The Judicial Board finds that no punitive measures shall be taken against Candidate Mendez.

I.

The Judicial Board firstly finds that there are no Election Codes currently binding the ASUCI elections. The prior version of the Election Code became non-binding and in effect, no-existent upon the entire revision of the code, done in Senate legislation R55-38. In creating a new binding authority, the prior election code lost the political will granted to it by the students of ASUCI as manifested by the actions of their representatives. In social contract terms, the previous Election Code no longer was consented to and so, regardless of the happenstance of the new iteration of the Election Code, could not be returned to, absent of another act of the Senate.

Setting aside the old Elections Code, the Elections Code empowered by the 2020 Elections Code Revision Act[1], is similarly non-binding for the current elections term, if only because *Knight v. Elections Commissioner*, published on April 17, 2020 overturned it on grounds of unconstitutionality.[2] Upon the striking of R55-38, elections became prescribed by the highest remaining authority, Robert's Rules of Order Newly Revised (RONR). Things holding all from the *Knight v. Elections Commissioner* case set the standard for which the petitioner's complaint shall be adjudicated. Given that there are no elections codes in effect other that RONR, then it is only upon prohibited behavior banned or regulated in RONR that could result in punitive action to be taken for the behavior alleged by the petitioner. The Judicial Board determines that there is no prohibition for campaigning for two different slates in RONR, and so Mr. Mendez's actions are not found punishable by the Judicial Board.

II.

It is noteworthy to consider, that in coming to this decision, the Judicial Board considered the effect of the conflicting information candidates received regarding

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[1] Senate Legislation R55-38 is the 2020 Elections Code Revision Act, which contain the new elections code approved by the Senate on Feb. 18, 2020.

[2] The requirements for candidates to run for elected office in the Elections Code contradicted the express and universal right of UCI students to run in elections. See *Knight v. Elections Commissioner*.

which Elections Code to follow. Each code had differences, that in the current matter of campaigning for two different slates, would have had an impact.[3] The disagreement in the language used by the two different codes would have made the appropriate behavior unintelligible. A candidate in good faith could have acted in a capacity expressly permissible under one code and have laid in direct contradiction with the other code. In cases such as these, where legal confusion due to the fault of the ASUCI government has misled students, students may not be punishable. As such, because it was ASUCI's fault in the lack of clarity of which Election Code was being enforced, Mr. Mendez is not subject to punishment.

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The Judicial Board rules as follows, upon the recommendation of the Elections Commissioner:

Mr. Mendez, the subject of the submitted Elections Complaint is not to be punished for his act of campaigning for two different slates. We therefore find in favor of the defendant.

It is so ordered.

[3] Where the previous election code had stipulated that, "Candidates may only be part of one slate at a time" and that "all candidates campaigning together. . . must do so in a slate," the 2020 Elections Code states that "all candidates campaigning together may. . .do so in a slate." 2020 Elections Code §12.4. The change from 'must' to 'may' in reference to their activity in a slate, effectively removes the mandate for candidates to only participate in one slate or to participate in one at all.

Michelle Abundis
Chief Justice

Quincy Gerald
Vice Chief Justice

Kulsoom Naqvi
Associate Justice

Kimo Gandall
Associate Justice

Jeremy Bunda
Associate Justice