



UNIVERSITY OF  
**GEORGIA**  
*Student Government Association*

# SUPREME COURT OF THE UNIVERSITY OF GEORGIA

*Empower vs. the Elections Committee*  
No. | 18-001

*Oral Arguments: March 4, 2019*  
*Decided: March 4, 2019*

## *Syllabus*

The Plaintiff filed an appeal arguing that the Election Committee's decision to not impose disciplinary action on the ACT executive ticket failed to sufficiently remedy the actions of an allegedly unregistered staff member. As such, the Plaintiff claimed that the Elections Committee failed to adhere to its guiding document when coming to its decision.

*Concurring Opinion*  
*(Delivered by Chief Justice Margaret Shin)*

The Elections Committee of the Student Government Association decided on March 03, 2019 that the ACT executive ticket was not in violation of the Elections Code. This decision followed an official complaint filed by the Empower Executive Ticket in which it alleged that the actions of Tarun Ramesh were tantamount to improper campaigning by an unregistered campaign staff member. As such, they claimed the ACT executive ticket violated Chapter 704, Article 8, Sections A, D, and E of the Elections Code. The Elections Committee decided to dismiss the complaint as “the complainant failed to adequately argue that Ramesh undertook actions that were ‘actively representing’ the ACT executive ticket.”

The Plaintiff appealed the Elections Committee’s decision on the grounds that their failure to discipline the ACT executive ticket violates Chapter 707, Article 8, Section E and Chapter 707, Article 3, Section A of the Elections Code.

The Plaintiff claims that Ramesh’s text messages to Jessica Ma, an executive board member of a student organization, are an attempt to solicit support for the ACT executive ticket. Pursuant to Chapter 704, Article 1, Section A of the Elections Code, “all actions intentionally undertaken with the purpose of promoting, publicizing, and securing support for a candidate(s) as defined by the Elections Committee” are considered campaigning. As such, the Plaintiff argues that Ramesh’s attempt to secure an organizational endorsement for the ACT executive ticket equated to “active representation.” According to Chapter 704, Article 8, Section A of the Elections Code, “all individuals who are actively representing an individual or party are considered to be staff,” and as such, it is the Plaintiff’s contention that Ramesh should have been registered as a staff member. Because he was not, the Elections Committee had a duty pursuant to Chapter 704, Article 8, Section E of the Elections Code to issue disciplinary action—a duty the Plaintiff alleges was neglected.

In its argument, the Elections Committee defends its decision on two main points. First, it argues that the Plaintiff failed to meet their burden of proof, due primarily to their inability to produce testimony or evidence of how Ma felt upon receiving the text messages from Ramesh. Namely, they failed to prove that Ma felt that Ramesh was actively representing the ACT executive ticket when he texted her for an endorsement. Second, it argues that Ramesh was not acting as a representative of the ACT executive ticket but rather as a fellow member of the aforementioned student organization’s executive board when he contacted Ma.

I find the Elections Committee’s characterization of the Plaintiff’s burden of proof problematic. To ask the Plaintiff to prove Ramesh’s intent or Ma’s perceptions of Ramesh’s actions is not only speculative but also far exceeds the burden of proof appropriate for these proceedings. The Plaintiff need only prove by a preponderance of the evidence that Ramesh’s actions constituted that of an unregistered staff member.

The second argument presented by the Elections Committee contains more merit than its first. Ramesh’s actions were clearly intended to benefit the ACT executive ticket through the procurement of an organizational endorsement. It is also undisputed that solicitation of support constitutes campaigning. However, what is in contention is whether solicitation of support also constitutes active representation. I believe that under most circumstances, the answer to that

question would be yes. However, under these very specific circumstances, I am inclined to believe it is not. As a member of the same executive board, Ramesh has the right to contact his fellow executive board member to see if their organization would be interested in endorsing an executive ticket. Without any evidence to the contrary, it can be inferred that Ramesh was acting as a representative of a student organization rather than as a representative of the ACT executive ticket at the time of his text messages.

An argument that was not raised by the Elections Committee but upon which, I partially based my decision was the need for proportionality of response. It is the duty of the Committee to “interpret, execute, and enforce all election laws” (Chapter 707, Article 3, Section A) as well as to “act in good faith” (Chapter 707, Article 3, Section B) to facilitate a collegial and effective elections process. I believe that it is part of this duty for the Committee to ensure that any remedies or sanctions it levies is proportional to the offense, being careful not to unduly impact or penalize individuals who were not responsible for the offending conduct. Because neither party in these proceedings can conclusively link Ramesh’s actions to any direction or instruction provided by the ACT executive ticket, one must assume that Ramesh was acting of his own volition and initiative. To penalize the ACT executive ticket for actions that they likely were unaware of would violate the spirit of the Elections Code.

This case suffered from a want of evidence, testimony, and clarity. These issues were compounded by the deficiencies of the Elections Code, namely its lack of clarity, which made it possible for the Elections Committee and the Empower executive ticket to vastly differ in their understandings of the Code. However, it is my ultimate opinion that the Elections Committee properly exercised its authority of interpretation as provided for in Chapter 707, Article 3, Section A in determining what constituted both “campaigning” and “active representation” in the Elections Code, as imperfect as that code may be. Therefore, I join the majority in finding the Elections Committee did not err in its decision to find the ACT executive ticket not in violation of the Elections Code.