

As Written by Justice Benjamin O. Allen

JUDICIAL PANEL  
UNDERGRADUATE STUDENT GOVERNMENT  
THE OHIO STATE UNIVERSITY

MICHAEL FRANK and SPENCER DIRRIG

Plaintiffs

v.

STEPHEN POST and LAUREN TODD

Defendants

21 February 2017

In the matter of *Frank & Dirrig v. Post & Todd*, the plaintiff alleges that the defendants have violated *Article II Section A Subsection 2 Subsection c Subsection ii*, and *Article II Section A Subsection 1 Subsection d* of the Undergraduate Student Government Election Bylaws.

II.A.2.c.ii

“Candidates, candidate teams, and slates may produce campaign materials and create a website at any time but may not be visible at any time before campaigning begins.”

II.A.1.d

*“All websites maintained by a candidate, candidate team, or slate are subject to review by the Judicial Panel and must adhere to the rules and regulations in these bylaws. Such websites must have a visible link to the Judicial Panel Elections webpage on each page of their website. This is a type I bylaw.”*

It was brought to the attention of the Judicial Panel through the evidence presented by the plaintiff that the defendants had created a YouCaring page requesting financial assistance for their an undisclosed mission on 16 February 2017. This page was linked to in Facebook posts shared by the defendants. Included in this post was video a text referring to the defendants’ mission to improve the university.

*Held:* The Judicial Panel finds that the Defendants are in violation of *Article II Section A Subsection 1 Subsection d* of the Election Bylaws and not in violation of *Article II Section A Subsection 2 Subsection c Subsection ii*. The bylaw states that any websites maintained by candidates must include a visible link to the Judicial Panel Elections webpage on each page of their website. The bylaws do not forbid candidates from fundraising before campaigning over many different media, including electronically.

The Judicial Panel found that the YouCaring page, set up by the defendants for the purpose of raising funds before the campaign, constituted a website “*maintained by a candidate*” and for this reason it was incumbent upon the defendants to include a link to the Judicial Panel Elections webpage on each page of their website. For this reason the Judicial Panel finds the defendants’ guilty of not displaying a link to the Judicial Panel website.

The Judicial Panel found that the video and associated Facebook text post did not constitute early campaigning. The Election Bylaws forbids *overtly* acting to gain votes. In order to define overt the Judicial Panel referred back to *Frank et Dirrig v. Jackson et Chang*. This case judged that the defendants had engaged in overt acts to gain votes based upon three points: (1) the actions were taken before the seventh Wednesday of Spring

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semester at 8:00pm, (2) the campaigning must be publicly available to any student of OSU, and (3) the language encourages students to vote for a certain candidate. The Judicial Panel used this three-point test in determining if the Election Bylaws had been violated.

The evidence introduced by the plaintiffs makes it clear that the defendants' website and post meets the first point as it was put up well before campaigning was to begin. The plaintiffs' evidence also proves that the link to the website was publicly available to any student of OSU, thereby meeting the second requirement. Finally does the website or the post use language that encourages students to vote for a certain candidate?

Referring back to precedent once more the Judicial Panel found that the fact that proved language had been used to encourage students to vote for a certain candidate was the title of the defendants' website in that it included an imperative "Vote for Andrew and Sophie". In the case before the Judicial Panel here the word vote was never used and a campaign was never mentioned. For this reason plaintiffs' assertion of a rule violation fails to pass the three point test laid out in *Frank et Dirrig v. Jackson et Chang* and the Judicial Panel finds the defendants' innocent of violating *Article II Section A Subsection 2 Subsection c Subsection ii*.

The Judicial Panel orders that a link to the Judicial Panel Election webpage be added to the YouCaring website within 24 hours of this majority opinion being issued. The Judicial Panel, moreover, orders that the defendants receive a penalty of twenty (20) dollars. Per IV.A.1, this amount must be deducted from the defendants' slate campaign spending limit, as denoted on the Campaign Value Report (CVR), to thirty-nine hundred and eighty (3980) dollars.

It is so ordered.

Signed:

The Judicial Panel

On the first, second, third, and fourth charges the opinion of the Judicial Panel was divided as follows:

Majority:

Acting Chief Justice Seth Lamp, Presiding  
Justice Benjamin Allen  
Justice Ben Eyssen  
Justice Nasra Warsame  
Justice Justin Stover

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On the fifth charge the opinion of the Judicial Panel was divided as follows:

Majority:

Acting Chief Justice Seth Lamp, Presiding  
Justice Benjamin Allen  
Justice Ben Eyssen  
Justice Nasra Warsame

Dissenting:

Justice Justin Stover