



2011-2012

Election and Disputes Commission Student Government George Mason University

David J. Bier – Chairman

Associate Commissioners

Christina Lauderdale
Emily Daniel

Daniel Santiago

Randah Al-Hothali

Greg Mercer

Jessica Richardson

Danny Lee

I.

The issue as set before the Election and Disputes Commission (herein 'EDC') regards the whether or not the Executive campaign of Michael Jordan and Donald Garrett violated Section 5.24 of the Election Code. The question at hand is determined by whether or not the screen shot submitted with the petitioner's claim is to be considered campaigning.

II.

Several factors play into determining the intent of the picture in question. The Commission evaluated the picture using a holistic approach, taking into account testimony from both parties and not merely taking the respondent's claims regarding the picture at face value. The EDC considered several factors in determining the nature of picture. Each factor, when put together, determines how the public, and by extension the EDC, would interpret the picture.

Tags: The EDC holds that the tags were placed in such a way to associate the names of the candidates, Michael Jordan and Donald Garrett, with the letters M and D, respectively, in the photo. When the respondents were asked why the tags were placed, several incongruent answers were provided. Initially, Mr. Jordan stated that he was tagged to enable him to make it his profile picture. He claimed that the tag was necessary to access the picture, as Mr. Garrett's privacy settings require it. While there are a number of ways to distribute a picture both with and without using Facebook, the EDC holds that tagging the 'M' as Michael Jordan was not merely a coincidence arising from the need to enable wider sharing of the photo. The photo could have been emailed, downloaded using the secondary (right click) function found on computers, or any other means of online photo sharing. Later in the hearing, after Mr. Garrett arrived, he said that the picture was tagged in such a way as to liken his resignation from Student Government to an alleged mistreatment of Mr. Jordan during an earlier appointment procedure. The placement of tags on the picture in question was deliberate, and not a mere coincidence.

Color, Font, and Feel: The picture in question bears unmistakable resemblance to the respondent's current campaign ads. The picture in question and their current campaign ads utilize the same color green, the same font, and the same background color. These three facets of the picture draw an association between the two pictures. A neutral observer could reasonably pick these pictures out of a lineup as being similar.

4400 University Drive, MS 2D6, Fairfax, Virginia 22030

Phone – 703.993.2909 | Fax – 703.993.4566 | Email – SGEDC@GMU.EDU | Web – SG.GMU.EDU

Timing: The respondents assert that the picture is a reference to Mr. Garrett's attempted impeachment from Student Government. The petitioner's screenshot shows that the picture was posted on March 14 2012, well after the impeachment proceedings and substantially closer to the campaign period, after the candidate list was publically announced and several days prior to the scheduled start of campaign period. Based on timing, a neutral observer would associate the picture with the pending campaign and not with Mr. Garrett's attempted impeachment.

Each of these factors, individually and collectively, would lead public perception of the photo to believe that its primary purpose was to increase the respondent's likelihood of winning the election. Beyond that, Ms. Paige Davis, in an attempt to help support the respondents' campaign, changed her profile picture. Mr. Jordan testified that he instructed Ms. Davis to get the picture from his profile pictures. At the time Ms. Davis changed her picture, Mr. Jordan's default picture had been changed to their current campaign photo. Ms. Davis chose the photo in question to represent the campaign. This action shows that even someone supporting the respondents' campaign interpreted this photo as being campaign material. Additionally, in the petitioner's testimony, he stated that he and several friends all interpreted it to be a campaign advertisement, not as a reference to Mr. Garrett's attempted impeachment.

The fact that the petitioner and several of the petitioner's friends and Ms. Davis all interpreted the picture as being campaign related, in addition to the three aforementioned factors, leads the EDC to hold that the primary purpose of the picture was to increase the likelihood of the respondent's success in the upcoming election. Based on that holding, the fact that the picture was placed in an overtly public setting – the cover photo or profile picture of the respondents – and the fact that the picture was uploaded to these public places before the designated start of campaigning, as laid out in the Election Bylaws, the EDC has found the respondent guilty of a violation of Section 5.24 of the Election Code.

III.

In filing for candidacy, both respondents filed signed statements saying that they, "have read, understand, and promise to abide by the rules governing the elections in the Election Code." Section 9.3.3 states that a violation of Section 5.24 results in a Class Three Violation. Section 9.4.3 states that a Class Three Violation is penalized by disqualification. Furthermore, the EDC is prohibited from providing relief under the Election Code by Section 9.2. Therefore, the respondents, having been found guilty, are hereby removed from the ballot and disqualified for the remainder of the Spring 2012 General Election.

It is so ordered.

The vote on the matter was five (5) guilty, two (2) not guilty, one abstention.

This decision reflects the holding of Commissioners Mercer, Richardson, Lauderdale, Al-Hothali, Santiago.

Commissioners Daniel and Lee voted not guilty, and as such may issue a dissent, either conjoined or separate, if they so choose.

Chairman Bier abstained, as he was moderating the deliberation. Chairman Bier would have voted only in the event of a tie.