

**Per the Supreme Court of the Wichita State University Student
Government**

Hungate v. Election Commission

Appeal of the WSU SGA Election Commission's decision to ban
'United We Stand' party from campaigning for one day.

Case: 2017-00004, Decided March 15, 2017

Per Curiam

The Court of the Association received many arguments during the approximate thirty-five minutes of speaking time delivered by Senator Paige Hungate who represented the 'United We Stand' party and Chief Election Commissioner Taben Azad. While the Court acknowledges many of the issues and points raised by each party, the Court serves the primary purpose of keeping cases heard as applicable to The Legislative Journal as possible. Interpreting and deciding a case on grounds outside of constitutional criteria is inappropriate when matters of constitutionality are involved.

The Court heard this appeal submitted by Hungate on behalf of her party after the party was suspended for one day of the campaign period. This suspension was on the basis of documented members of Hungate's party and non-member students submitting statements via social media that showed support of Hungate and the right for her originally disqualified ticket members to remain on the upcoming election ballot.

Azad and Hungate both argued points surrounding the specific social media submissions and their intent, or lack thereof, respectively, to campaign and announce candidacy and thus put the opposing ticket at a strategic disadvantage given the election rules listed in the Journal. More importantly, Azad and Hungate both briefly discussed the topic of freedom of expression as promised by the Student Bill of Rights and also guaranteed by the Kansas and United States Bill of Rights. The Court favored these arguments above all others.

Hungate first brought up that one member of her ticket did submit a tweet in question and while party leaders do sign an agreement saying they are responsible for the actions of their ticket members, she is in no position to regulate their freedom of speech and dictate what they submit to social media. Further, Hungate voiced her and other candidates' especial inability to prevent non-candidate members from discussing issues of the Association and its elections and the overall

fact that the campaigns are not to be discussed publicly at all prior to the designated campaign period.

Azad brought up the point that the Student Bill of Rights, Article III Section 2, Clause 1, only protects freedom of inquiry and expression if doing so does not disrupt the regular and essential operations of the University. He argued that non-candidate and candidate members announcing candidacies before the campaign period causes an unfair election, which would in turn would disrupt an essential and regular operation of the University.

The Court decided early on in deliberations that the discussion and decision would be based upon the matter of freedom of expression and not the circumstances nor mechanics surrounding the reason the original infraction against 'United We Stand' was filed or how the case was handled before reaching the Court. Without hesitation, the Court decided that freedom of expression was limited, and in some circumstances, completely denied by several sections of the Journal. Regardless if the rules stop someone from expressing themselves, candidate and non-candidate students had been punished for discussing and expressing their opinions regarding a political matter. The Court then had to decide if Azad's argument had any grounds. A question was posed: "Do you believe that they cannot run a fair election unless they withhold candidates from announcing their intent to run?" If the answer to this question was 'Yes' then it could be said that the social media in question was not protected. However, the Court decided that an election does not have to prevent announcing intent to run and campaign for it to be fair. Furthermore, the Association derives its power and jurisdiction from the University administration. However, the Association does not dictate University policy. For this reason an election process prohibiting the pre-announcement of candidacy would be hard pressed to be considered a disruption to the University operation and mission of being "an essential educational, cultural, and economic driver for Kansas and the greater public good" (Wichita State University mission statement).

The Court noted that elections hosted at the local, state, and national levels never allow rules that severely limit participants freedom of speech, let alone deny it completely. Such rules would never stand or be accepted by the courts or the populations which participate in their elections. Not only are the election rules of the Association designed to take precedent at all times of the year but they are written so that they attempt to restrict a student's ability to meet off campus.

These regulations are unrealistic and unjust, and they are impossible to enforce in both a practical and constitutional sense.

For the reasons stated above, the Court rules in a 5-0 unanimous vote that sections 2.4, 3.5.2, 3.5.3.7, 3.5.3.9, and 3.5.8 of S003, Regarding the Associations Election's are in direct conflict with the Student Bill of Rights and thus deemed unconstitutional. Therefore, the Court officially orders the Election Commission and its observers to cease the enforcement of these sections immediately. The decision of the Election Commission to ban the 'United We Stand' party, Senator Brayden Hosman, Senator Garin Edgerton, and Dalton Glasscock from campaigning a varying amounts of time for participating in political speech that was considered campaigning by the Election Commission was made based upon the above rules and is thus null and void.

This does effectively grant election parties the right to campaign at any time, including the election period, though many other election rules still stand. The Court further recommends that the Association, in conjunction with the University Administration and the Court, work on amending and updating the Journal without the objectionable components and perhaps with new ones that complement these decisions.

Submitted By:

A handwritten signature in black ink, appearing to read "Reece Burns". The signature is stylized with a large, sweeping initial "R" and a long, horizontal flourish extending to the right.

Reece Burns, Chief Justice, WSU Supreme Court