



2019– 2020

STUDENT GOVERNMENT ASSOCIATION
STUDENT GOVERNMENT COUNCIL - MMC
MAJORITY OPINION OF THE SUPREME COURT

NOTICE: The following document represents the majority opinion of the Supreme Court of the Student Government Association of Florida International University’s Modesto A. Maidique Campus and constitutes a binding decision on all parties concerned within this decision.
STUDENT SUPREME COURT OF FLORIDA INTERNATIONAL UNIVERSITY – MMC

FILED REVIEW – S.C.001 (Spring 2020)
Decided 1 April, 2020
Majority Decision issued 13 April, 2020

By 3-2 Majority Decision

Associate Justice PEREZ, J. delivers the decision of the Court, in which Chief Justice DE LA OSA, N., and Associate Justices RODRIGUEZ, K., ROSARIO, M., and REAL, M., join.

Petitioner Valdes A., on behalf of the Future is You! Party brought this writ on April 1, 2020 at 8:29 P.M. in review of the Florida International University Student Government council Modesto A. Maidique Campus Statutes and Constitution.

ISSUES:

1. Whether Candidate Hiba Khalil should be disqualified for violating the SGA-MMC Elections Code.
2. Whether Senator Khalil’s actions constitute an impeachable offense.
3. Petitioner Alexandra Valdes claims that Candidate Hiba Khalil wore a Political Party pin inside the SGA Senate Chamber, therefore using SGA services to campaign.
4. Ms. Alexandra Valdes states that Hiba Khalil is breaking the Elections Code by using her position in SGA as an advantage, therefore constituting immediate disqualification, as it was clearly stated to be prohibited by the

Elections Commissioner during the info-sessions as well as in the statutes.

5. In addition to disqualification, Petitioner Alexandra Valdes seeks Senator Hiba Khalil's actions as an impeachable offense due to malfeasance, by utilizing the pin as a SGA campaigning tool in the Senate.

FACTS:

1. According to Senate Rules and Procedures, Rule IV Floor Rules, section 4.04 Dressing Standard (a): "While in the chamber, members of the Senate must not wear any apparel that demonstrates any exterior affiliation, including greek associations, political parties, and other universities including but not limited to t-shirts, stickers, pins, and buttons."
2. According to Senate Rules and Procedures, Rule IV Floor Rules, section 4.04 Dressing Standard (c): "Members of the Senate determined to be in violation of these standards shall be dismissed at the discretion of the Speaker of the Senate or with a two-thirds (2/3) majority of the Senate and marked absent in the roll."
3. According to Article VIII Code of Ethics, section 8.02 Regulations (d): "No Student Government Official shall use, authorize to use, or condone in any way the wrongful use of Student Government property or Activity and Service Fee funds, defined as the use of funds in violation of the Finance Code, including, but not limited to, the use of Student Government property or Activity and Service Fee funds to aid Student Government political campaigns."
4. According to the Elections Code section 6.08 Violations (ii): "Tier Two: defined as Mid-Level Offenses, which include but are not limited to repeated Tier One violations, repeated Posting Policy violations, tardiness in the submission of Estimated Campaign Finance Reports, violations committed by Campaign Volunteers (when evidence of Candidate or Party involvement is not clear), early campaigning and/or violating the campaigning timeline restrictions, and failure to report a campaign event."
5. According to Elections Code Section 6.08 Violations (iii): "Tier Three: defined as Disqualifying Offenses, included but not limited to failure to attend meeting session as mandated by this Elections Code, exceeding allowed campaign spending or donation limits, misrepresentation or forgery of any required election paperwork, attempted or successful fraud in the voting process, campaigning in clearly marked restricted areas during voting hours, destruction or defamation of personal /private/ University property, mechanical amplification within five hundred (500) feet of voting stations, threat or use of verbal or physical abuse against any FIU student/ employee /volunteer/designee/administrator, use of SGA staff/services/funds to campaign, disparaging another candidate or Party via any form of communication, having been impeached and removed from a

Student Government Office less than one semester prior to the date of the elections.”

DECISION:

Associate Justice J. Perez for a majority opinion (3-2),

The Supreme Court of Florida International University’s Student Government Association at the MMC Campus will have jurisdiction over the SGC-MMC Constitution, Statutes, Elections Code and all other governing documents and the upholding of each. Such being the case, and in order to fully discuss the issues in question, The Court must first recognize the SGC-MMC Constitution as the supreme law, as is stated within the Constitution’s Authority and Sovereignty.¹ Additionally, it must also be noted that the same is also made clear on the first page of the governing Statutes.²

In consideration of the facts, the court under the jurisdiction of the Constitution and MMC-Statutes has the authority over cases that violate the Constitution and violate any constitutions or laws within the sovereignty of SGA.³ The Supreme Court of FIU SGC-MMC also has the authority to, “Rule to censure or remove SGC officials and/or group(s) of officials upon the outcome of a hearing.”⁴

¹ Authority (III) – “In conformance with the aforementioned laws and codes, this constitution is the supreme law of SGA.”

² ” Through the authority of the SGA Constitution, the Student Government Council – Modesto A. Maidique Campus hereby establishes its statutory policies and procedures.”

³ Constitution- SGA 11 Article V §. 4(A)

⁴ SGA Constitution Article V Section 5(A)(6)

According to the writ filed by Ms. Valdes, Roar! Party candidate Hiba Khalil was seen, as confirmed by multiple witnesses, to have been wearing her political party’s pin inside the SGA-MMC Senate chambers. The Court found in the subsequent hearing that multiple witnesses could confirm this.

However, upon conducting the hearing and collecting statements, the Court found significant facts not detailed in the filed writ of certiorari. Such as, the fact that Ms. Khalil was wearing the pin on her backpack, not on her person at the time of the alleged offense. The time she was seen wearing the pin was also prior to the Senate session being commenced. Finally, upon being notified that there was a political party affiliated pin on her backpack, Ms. Khalil removed the pin. Again, this all happened before the Senate session commenced.

The Court reviewed multiple statutes of the Elections Code, Ethics Code, and Senate Rules and Procedures. The Court disregards the first two sets of rules in favor of the latter. This is because the Senate Rules and Procedures already addresses how to handle this kind of situation. Pursuant to rule 4.04(a), “While in the [Senate] chamber, members of the Senate must not wear any apparel that demonstrates any exterior affiliation, including greek associations, political parties, and other universities including but not limited to t-shirts, stickers, pins, and buttons.” However, it’s important to note this rule does not make the distinction between wearing it on your person, and wearing it on a bag. Either way, the prescribed course of action for any alleged offense of this nature is contained in rule 4.04(c) which reads, “Members of the Senate determined to be in violation of these standards shall be dismissed at the discretion of the Speaker of the Senate or with a

two-thirds (2/3) majority of the Senate and marked absent in the roll.” If the Speaker of the House wished to address the behavior he could have moved to discipline Ms. Khalil that same Senate session as per the Senate Rules and Procedures dictate. On the other end, the Senate could also have voted with a two-thirds (2/3rd) majority vote to mark Ms. Khalil was absent on the attendance record, which would have counted against her allowed absences as a Senator. It’s important to note that neither course of disciplinary action was taken.

Upon listening to statements from the accused and other respective parties, this Court finds that Ms. Khalil did not act with any malicious or malfeasance intent. As soon as she was made aware of the pin on her backpack, which was not visible to her while she was wearing the backpack, she removed it immediately. We do not seek to impose the harshest punitive measure against a Senator, i.e., impeachment, against Ms. Khalil, for the simple fact that the crime would not fit the punishment. Thus, the Supreme Court rules to not take any disciplinary actions against Hiba Khalil.