

Preface:

(1) All bylaw references will be coded Title (if applicable) ##, Article ##, Section ##, Clause ##, part (if applicable) ##, as “T##A##S##C##P##.” For example, Article 1, Section 1, Clause 1, will be coded as “A1S1C1” for reference;

(2) Any referenced website links may or may not be active by the time future individuals review this write-up.

Complaint #21-11

Petitioner(s): Maryam Alghafir (further referred to as “Maryam”, she/her),

Representing N/A

Respondent(s): Elliot Carter (further referred to as “Elliot”, he/him),

Representing Rise Up

Allegations (filed February 23rd, 2021 at 11:29AM):

(1) Elliot violated A3S3C1 of the Election Code:

“All candidates are held accountable to the provisions of this code, Student Government Association Constitution and Bylaws and all other University policies. All candidates, by way of registering and running for office, are agreeing to abide by potential sanctions and policies the Attorney General, Election Commission, Supreme Court, and/or designated lower court deem appropriate based on their interpretation of the Student Code of Conduct and University Policy. No sanction will extend beyond the context of an individual or party’s involvement with Student Government and/or Student Government practice.”

(2) Elliot violated A4S4C2 of the Election Code:

“Candidates must act in accordance with the Student Government Association governing documents.”

Defense (filed February 23rd, 2021 at 2:29PM):

“PRETRIAL DEFENSE ORDER¹ A. JOINT DEFENSE PRETRIAL STATEMENT:²

1. **Parties and Counsel:** Elliot Carter and Chey Johnson are the accused.
2. **Nature of the Case:** Mr. Carter and Ms. Johnson stand accused of violating A3,S3,C1, and A4,S4,C2. These clauses are based on a claimed violation of the Student Code of Conduct.

3. **Claims and/or Defenses:** The plaintiff provides several tweets from both individuals. Elliot Carter's being political viewpoints expressed on his page, and Chey Johnson's being the use of the word "faggot" in the year 2014.

4. **Exhibit List:**

First and foremost it must be said that #RiseUpUH is a party made up of people of

every race, religion, creed, sexuality, and political affiliation. We believe diversity in every form of the term is important for finding common grounds, and further educating mislaps in judgement through constructive conversation.

Mr. Carter's beliefs are reflective of his own, and do not represent the viewpoints of the #RiseUp Party. Obviously, our party and Mr. Carter's individual beliefs differ, as we have advocated for turning TDECU into a mass vaccination site. Furthermore, he is guaranteed the right to express his views via the Constitution of the United States, as outlined in the first amendment. Obviously, it is out of the jurisdiction for the SGA to

² If the parties have no statement or submission concerning any one of the items required in Section A (e.g., if the parties have not stipulated to any facts), the Joint Pretrial Statement shall so indicate.

punish Mr. Carter for expressing his basic right of freedom of expression and religion as a devout Catholic.

In addition, it is crucial to note that retweets do not equate to an endorsement, as Mr. Carter is simply sharing someone else's ideas. We suggest the petitioner turn their attention towards Candace Owens or Ben Shapiro instead, as it is their tweets that were sent in.

ELLIOT CARTER PERSONAL STATEMENT:

UH prides itself on the diversity of it's student body. Diversity is valuable not only because it means a diversity of backgrounds, but also because it means a diversity of opinions. The petitioners complaint is deeply problematic, because it equates conservatism with hate speech. Stating discomfort with sexual orientation being given too much importance in the stories of children is not homophobia, but rather a political concern.

Those dearest to me, as well as members of my party, know that I would never seek to berate or belittle individuals that are members of the LGBTQ+ community in any way. Even if I disagree with certain cultural events due to the guidelines established by my religion, that does not in a million years mean that I view LGBTQ+ individuals as lesser than myself. I would be extremely proud to represent the LGBTQ+ community at UH and fight for their equality and equity regardless of what others deduce of my character from screengrabs of my social media. To limit my quality as a person and suggest that I am bigotted because of my religious beliefs is simply upsetting. I believe God loves all people equally, and that he wants me to reflect that love onto others as well, regardless of their beliefs or sexual preferences.

Retweeting tweets that don't support Black Lives Matter is not hate speech, but rather expression of a diverse opinion. Demonizing the defendant over retweets is harmful to the vibrant discourse this university seeks to promote. I am constantly seeking to improve as a human being, and this involves personal reflection and constructive conversations. Shaming and painting me, a human being with my own vast, personal experiences, as a bigot simply because I differ in opinions that someone else, is deeply hurtful.

Even as a member in a party with an overwhelming leftist presence, I feel very proud to share these platforms with them. #RiseUpUH has helped me challenge my personal beliefs in a constructive manner, and it is moments like these in our society that hinder personal development in such a way. I hope that the petitioner reevaluates their perspective, and in the mean time, I will continue to seek personal growth and further my cultural awareness.

CHEY JOHNSON PERSONAL STATEMENT:

The LGBTQIAAP+ community is something that is close to my heart and I will forever advocate for. At 14, in Collin county, we did not have a lot of LGBTQIAAP+ representation and was not aware of the origination of the slur “fag”.

Since growing up and exploring the world, I have since realized the horrendous meaning and history behind the slur and absolutely do not stand behind my actions of my

14 year old self. Presently, I identify within the sphere of the LGBTQIAAP+ community, as I identify as asexual. As a result, I can guarantee that my present self is far more critical of my 14 year old self's tweets than the petitioner.

5. Deposition Testimony:

The Introductory paragraph of the Student Code of Conduct specifically states

that “The Student Code of Conduct emphasizes the University’s commitment to promote the freedom, intellectual development, and personal responsibility of its students.” Freedom of speech and expression undoubtedly falls under this category. Moreover, as previously mentioned, it is outside the SGA’s jurisdiction to punish someone for their political stances, as free speech is a right guaranteed by the first amendment to all citizens in this country.

According to SGA legal precedent via Chiamaka’s case mentioned in Quentin Edmiston’s appellate form from earlier this week, individuals cannot be held liable for tweets or social media posts made in their adolescence. It is crucial to note that Chey Johnson was 14 years old at the time of the presented tweets. We believe this will be an easy decision to make, considering not only precedent in Chiamaka’s case, but in Quentin’s as well, as it contains a very similar accusation.

Like several of the meritless complaints brought forth in the past week, the two claimed breaches in the SGA Election Guidelines depend solely on the violation of the Student Code of Conduct to hold firm. In both cases here, neither constitutes a violation of the Code of Conduct, and

therefore, the claim that A3S3C1 & A4S4C2 were violated is clearly invalid. This should as a result disqualify this complaint from advancing any further.”

-Q/ Rise Up

Course of Investigation: I examined the Petitioner’s evidence and reached out for a defense statement. I analyzed the respondent’s defense statement as well. I went through the Election Code and identified if a violation was present. I decided to look through the respondents twitter as well, to make sure that all posts were legitimate, though I believe that they may have been taken down since, I found the following post that made me not doubt the nature of the complaint (this did not effect my decision but it did mean that these weren’t just retweets, but held political opinions.



After this I had enough to come to a decision.

The evidence below was filed with the complaint:





Claudia Godinez @Nikki_Godin · Jun 2, 2019

Not being heterophobic, but why does almost every single character in a movie/show have to be part of the Straight community?



Brandon @brandenlobi · Jun 1, 2019

Not being homophobic, but why does almost every single character in a movie/show have to be part of the LGBTQ+ community?
twitter.com/ayoitzenika/st...



1



12



E #RiseUp @ElliotCarter03 · Jun 2, 2019

If they want to have characters of the LGBTQ community, then make new characters to add to the story instead of forcing life long characters to change. It seems like they are trying to be "politically correct" when these characters have always just been a symbol of childhood.



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5



E #RiseUp
@ElliotCarter03

Replying to @ElliotCarter03 and @Nikki_Godin

3

A child characters sexual or Romantic preference doesn't need to be shown out for children, straight or gay, it shouldn't be on display profoundly.

9:52 PM · Jun 2, 2019 · Twitter for iPhone

3 Likes



Claudia Godinez @Nikki_Godin · Jun 2, 2019

Replying to @ElliotCarter03

While I agree that a children's character doesn't need to have sexual/romantic preference shown, since this movie series ALREADY shows heterosexual relationships then they should be able to show LGBTQ+ relationships.



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E #RiseUp @ElliotCarter03 · Jun 2, 2019

They shouldn't force it tho

E #RiseUp

2,778 Tweets

Tweets

Tweets & replies

Media

Likes

E #RiseUp Retweeted



Ben Shapiro @bensha... · 2/4/21

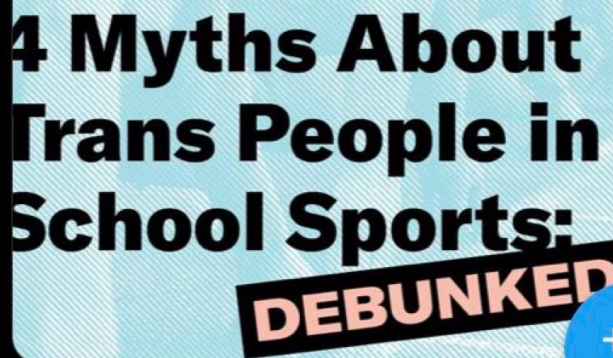
There is not a single scientific fact in this entire thread

ACLU @ACLU · 2/3/21

Attacks on trans youth in sports are showing up in dozens of state legislatures nationwide.

These bans are discriminatory, harmful, and unscientific. Here's why

Show this thread



275

1,226

8,736



4

Sad that this is normalized by the left 🙄

5

 **ELIJAH SCHAFFER** ✓ @Elij... · 8/25/20

"It's emotionally hurtful, but we didn't do anything to anybody. Why did we deserve it?"

Near tears, a store owner explains how his family business of 40 years was destroyed by #BLM & Antifa arsonists last night

The city is hurting this morning #KenoshaRiot







Decision (February 23rd, 2021 at 10:17PM): Maryam’s complaint HAS merit and this IS a violation of the Election Code.

Sanction: This is a class B penalty and Elliot Carter will be assessed a 48-hour campaigning ban on Tuesday and Wednesday (the second and third day of campaigning). Cheyenne will receive no punishment due to her lack of involvement and her young age.

Further Analysis:

RESPONSE TO DEFENSE STATEMENT FILED BY RISE UP IN ORDER OF APPEARANCE

- 1.) *Accurate summary of the case at hand-*
- 2.) *Accurate summary of the case at hand-*
- 3.) *Accurate summary of the case at hand-*
- 4.) **Individual Accountability:** A3S3C2 states that, “Candidates will be held responsible for any activities by their supporters that are in violation of the provisions of this code if evidence supports that a candidate had actual or constructive knowledge of illicit activities and/or authorized or acquiesced in such activities.” This means that Elliot will be tried individually for this case in lieu of being tried as a representative of the entire Rise Up party.

Freedom of Speech:

“He is guaranteed the right to express his views via the Constitution of the United States, as outlined in the first amendment. Obviously, it is out of the jurisdiction for the SGA to punish Mr. Carter for expressing his basic right of freedom of expression and religion as a devout Catholic.”

While it is true that Elliot Carter reserves the right to freedom of speech per the first amendment of the Constitution of America; this does not mean freedom of speech without consequence. A first amendment violation is only applicable when the Federal Government of the United States of America stifles a citizen’s speech. This complaint is not a request to stifle the speech of the respondent, but rather to ensure that all candidates are being held to the same standard of accountability. Elliot chose to run in this election, implying that he was aware that his actions may have consequences in the eyes of the SGA, specifically regarding the adherence to election code and the University Student Code of Conduct that he is not immune to. The consequences for his insensitive and harmful speech are not levied upon him by the USFG, therefore the consequences assigned by the Attorney General do not constitute a violation of the first amendment. I will provide an example in the case of potential confusion or to provide clarification:

If an employer is looking to hire a new IT specialist and finds a good candidate, but then discovers that they engage in hate speech online, they have a right to not hire them. In the same regard as the fact that an employer can chose not to hire the individual based solely on their opinion of preferring one color over another. While this is an exaggeration, it still enforces the notion that when you decide to be a part of something larger than yourself (ie. Organization, business, club, university, etc..) you are under a new set of rules that have repercussions, and as a student that is running in this election, Elliot will be held to the same standard as all other candidates that wish to seek office.

The claim that Maryam is trying to stifle Elliot’s religious expression is not applicable because it there is explicit mention of religion on it’s own in the tweets attached, and a religious identity does not excuse any discriminatory or derogatory speech toward the LGBTQIA+ community.

“In addition, it is crucial to note that retweets do not equate to an endorsement, as Mr. Carter is simply sharing someone else’s ideas. We suggest the petitioner turn their attention towards Candace Owens or Ben Shapiro instead, as it is their tweets that were sent in.”

It is reasonable to deduce that if you retweet an individual like Candace Owens or Ben Shapiro often and add no additional commentary and your beliefs are in line with theirs.

ELLIOT CARTER PERSONAL STATEMENT:

As stated beforehand, from what has been deduced from the complaint, it is clear that Maryam seeks not to equate conservatism to hate speech, but rather to punish the dangerous language that is used by the respondent. This is not a matter of political ideology, as many conservative members of the current SGA have not made these kinds of hateful comments based solely on their values. Political ideology is not a protected class, and government agencies, universities, places of business, and student organizations have sanctioned people for espousing offensive beliefs in the past. Political affiliation is not protected under the anti-discrimination clause-

*“As a Registered Student Organization at the University of Houston we adhere to the University of Houston’s Non-Discrimination Policy. The University of Houston is an Affirmative Action/Equal Opportunity institution. The university provides equal treatment and opportunity to all persons without regard **to race, color, religion, national origin, sex, age, genetic information, disability, or veteran status except where such distinction is required by law.** Additionally, the System prohibits discrimination on the basis of sexual orientation, gender identity or gender expression.” -Article IX, Section 9.02, UH SGA Constitution*

&

*“The right of a University of Houston student to be a candidate for any Student Government Association office will not be denied by the Student Government Association on the basis of **race, color, religion, national origin, age, or sexual orientation, or gender pursuant** to Title IX of the Education Amendments of 1972, Title VI & Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1963, or other Federal or state laws governing discrimination.”*

Elliot Carter’s religion is a non-issue, religious affiliation does not necessitate hateful speech.

&

By NO MEANS is Elliot being discriminated against because he is catholic. Catholics absolutely do not need to trans or gay bash. There are many progressive Catholics and religious people in general that do not engage in this behavior.

ALSO- THE UNIVERSITY IS ABSOLUTELY WILLING TO SANCTION AN INDIVIDUAL FOR THEIR SPEECH IN CONJUNCTION WITH THEIR DUTIES AS AN AMBASSADOR OF THE UNIVERSITY

“2.7 Protected Class – A class of persons who are protected under applicable federal or state laws against discrimination and harassment on the basis of race, color, sex (including pregnancy), genetic information, religion, age, national origin, disability, veteran status, sexual orientation, gender identity or status, gender expression, or any other legally protected status”

“Examples that could satisfy this legal standard include, but are not limited to: epithets or slurs, negative stereotyping, threatening, intimidating or hostile acts, denigrating jokes and display or circulation (including through e-mail) of written or graphic material in the learning, living, or working environment.”

“The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Academic freedom and freedom of expression shall be strongly considered in investigating complaints and reports of discrimination or harassment, but academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or this Policy.”

“The sanctions for committing an act of discrimination or harassment will be commensurate with the offense and may include, but are not limited to, the following... Ban from participating in campus organizations or activities”

Plainly, if the court were to decide the SGA has no ability to sanction its own members for violations of its election code (in this case using offensive language), then the court is taking an action counter to the ideology and precedent of the University itself, and the court is also saying, fundamentally, that they will perpetually punt any/all issues like this should they arise. This would be the equivalent of the University of Houston refusing to expel a student for abusing his girlfriend on campus because the city policy handle matters like that. This is faulty for a number of reasons, but most notably it’s because *your association with any one group is not a right. A university cannot throw you in jail for abusing your girlfriend, but a university can expel you from attending. A student government cannot expel you for using racist language, but a student government can limit you from campaigning for speech it deems as hate speech.*

CHEY JOHNSON PERSONAL STATEMENT:

As stated before in past complaint responses, I don’t believe Cheyenne ought to be held accountable for her posts as a 14 year old. I do hope that Cheyenne does indeed stray away from this kind of speech in the future.

- 5.) As for the depository statement, I have already addressed all points made above. Elliot should be held accountable for his actions as an adult running in this election.

EVIDENTIARY BASIS:

As a precursor, the post referring to the doctor that stated that gender is assigned at birth, though not included in the original complaint, was equally troubling and perturbing. The petitioner’s implied support of the claim that gender is assigned at birth is incredibly harmful to queer/trans individuals, and this “belief” is discriminatory and invalidates the identity of transgender individuals. This is incredibly harmful because Elliot holding this “opinion” would negate the ability of SGA to remain a safe space for all queer individuals should he take office in the next administration.

Even sans the above remark and tweet, the field evidence remains equally as troubling and is enough to deduce the same conclusion on-

(the analysis of the retweets are below)

1. The claim that the global pandemic that has since killed countless Americans since its insurgence is a hoax, is tremendously dangerous, and puts UH students at risk. The endorsement of the belief that COVID-19 is a hoax will spread misinformation to potential voters, and if Elliot were to take office, would excuse dangerous behaviors that would put lives on campus at risk.
2. MAGA is a political statement. The endorsement of Trump is not by itself discriminatory.
3. The statement that a children's romantic preference ought not to be displayed "profoundly" on children's television overturns all statements that Elliot has made regarding his support of diversity. If a straight child is allowed to have a love interest, there is no reason a gay child should not. It is discriminatory to not allow equal representation on media based solely on the basis of sexuality. Claiming that this representation is "forced" is exclusionary and homophobic.
4. Elliot's retweet of transphobic political commentator, Ben Shapiro, in order to support the ban of transgender individuals in sports to compete with in the event of their gender expression is hate speech to say the least. The implication of wanting to keep queer people out of sports is harmful and dangerous.
5. Elliot not supporting BLM is a personal political opinion, therefore not hate speech on its own.
6. Alluding to all victims of police brutality in the BLM movement as "violent men" as indicated in the tweet that Elliot retweeted is not only simply untrue
 - *"George Floyd was sentenced to five years in prison for his involvement in an armed robbery in 2007.*
 - *The woman robbed, Aracely Henriquez, was injured by another man, and there's no evidence she was pregnant at the time of the incident.*
 - *Despite captions stating otherwise, a photo going around social media of a woman with bruises on her face is not Henriquez."* –

<https://www.politifact.com/factchecks/2020/jun/16/instagram-posts/no-photo-doesnt-show-woman-george-floyd-allegedly-/>

(sources included for the fact check:

NBC, [George Floyd: From aspiring rapper to symbol of police violence against black men](#), June 3, 2020

El Pais, [American student attacked and raped in Madrid neighborhood of Aluche](#), Dec. 26, 2018

Andrea Sicignano [Facebook post](#), June 12, 2020

Harris County district clerk [search](#), Accessed June 16, 2020

Police [probable cause report](#), Accessed June 16, 2020)

Not only is Elliot retweeting fake news, but this retweet also serves as an incredibly racist statement that reduces all African American individuals that have lost their lives to “violent men.” Elliot’s endorsement of incredibly racist statements is indicative of discriminatory speech and is a breach of student code AND election code.

7. Disregard. I drop Cheyenne’s involvement in this case.
8. Calling supports of BLM “cowards”, “Domestic terrorists”, and a “racist hate group” is racially insensitive to say the least.

Definition of hate speech: abusive or threatening speech or writing that expresses prejudice against a particular group, especially on the basis of race, religion, or sexual orientation.

-Oxford Dictionary

Elliot’s retweet of this statement shows racial insensitivity to the murder of countless of African Americans.

Conclusion: There are many instances of hateful speech that was retweeted by Elliot Carter that satisfy instances of discrimination on his behalf in regard to peoples of different racist and gender identities and expression. I urge Elliot to stray away from this kind of language (misinformation about COVID-19 and hate speech) in the future in order to stop the spread of fake news as a political representative as well as ensure a safe space for all students.

Delivered to the Chief Election Commissioner: February 24th, 2021 at 12:10AM