

*Special Committee on Judicial Election Campaign Intervention
2018 Judicial Elections*

2018-25 Opinion

The Special Committee on Judicial Election Campaign Intervention received a complaints filed by against Candidate G.

The Complaint alleges that campaign signs for Candidate G fail to have the required disclaimer.

Candidate G responded that he had been made aware of the missing disclaimer earlier this month, and his Committee printed stickers with the verbiage “Paid for the Committee to Elect Stan G and approved by the candidate” and placed them on approximately 600 signs remaining in our inventory. Candidate G also informed the Committee that he sent staff into the field to locate any signs that may not have had the required verbiage when they were previously placed. Candidate G admitted that he could not be “100% certain that every single sign with missing verbiage was located, but best efforts were made.” He also claims that the sign pictured in the email, was a photograph taken in his driveway, and it had a sticker with the disclaimer on the opposite side. Candidate G also added that he was not aware of a “regulation that requires the verbiage to be on both sides of the sign, but please correct me if I am mistaken.”

There are two statutes that are applicable. First, Mississippi Code Annotated section 23-15-1025 provides:

Distribution of campaign materials.

If any material is distributed by a judicial candidate or his campaign committee or any other person or entity, or at the request of the candidate, his campaign committee or any other person or entity distributing the material shall state that it is distributed by the candidate or that it is being distributed with the candidate's approval. All such material shall conspicuously identify who has prepared the material and who is distributing the material. The identifying language shall state whether or not the material has been submitted to and approved by the candidate. If the candidate has not approved the material, the material shall so state. . . .

Second, Mississippi Code Annotated section 23-15-897(2)(a) provides “[n]o candidate, political committee or other person shall publish, or knowingly cause to be published, any campaign materials unless it contains the following information [t]he name of the candidate along with a statement that the message is approved by the candidate.” . . .

The Special Committee concludes that it does not have sufficient evidence to determine whether Candidate G or his Committee has committed a violation of either of the cited statutes. The Special Committee has determined that Candidate G and his Committee have made a good faith effort to place the required disclaimer on every campaign sign. However, the Special Committee is of the opinion that section 23-15-1025 requires that “[a]ll such material shall conspicuously identify who has prepared the material and who is distributing the material.” This language requires that the disclaimer be on each side of a sign that has printed campaign related material. The Special Committee instructs Candidate G and his Committee to place the disclaimer on make a good faith effort to place the disclaimer on each campaign sign that has printed campaign material.

Also, in his response, Candidate G filed a complaint that his opponent was placing illegal signs in several cities that have ordinances that require no signs larger than 2 square feet in residentially zoned areas of the city limits. According to this complaint, Candidate F has signs of at least 18 square feet in residential areas of each of these cities.

In Opinion 2018-05, the Special Committee decided that the request for an opinion failed to include sufficient information to determine whether a candidate violated a law or committed an unethical or unfair campaign practice. The Special Committee noted that in *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015), the United States Supreme Court ruled unconstitutional a local sign ordinance that set time limits for display by political candidates. However, because of the lack of sufficient facts or information to determine whether *Reed* would apply to the sign ordinance referenced, the Special Committee declined to act on the request for an opinion.

Here, as in Opinion 2018-05, the Special Committee has decided that the complaint failed to include sufficient information to determine whether a candidate violated a law or committed an unethical or unfair campaign practice. Therefore, the Special Committee declines to act on this complaint.

This opinion is limited to the scope and authority of the Special Committee under the Mississippi Code of Judicial Conduct.

Any questions should be in writing and directed to:

Special Committee on Judicial Election Campaign Intervention

Attn: Darlene Ballard

Executive Director

Mississippi Commission on Judicial Performance

660 North Street, Suite 104

Jackson, MS 39202

Telephone: (601) 359-1273 • Fax: (601) 354-6277

Email: Ballard@judicialperformance.ms.gov