

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Kevin S. Ryan,

Complainant,

vs.

ORDER FOR DISMISSAL

Rhonda Sivarajah,

Respondent.

On November 9, 2004, Kevin S. Ryan filed a Complaint with the Office of Administrative Hearings against Rhonda Sivarajah alleging violations of Minn. Stat. §§ 211B.07 and 211B.14. The complaint alleges that Rhonda Sivarajah, while seeking election to the nonpartisan office of county commissioner, illegally collocated her campaign signs with signs of other candidates identifying themselves as members of a political party and who were running for other elective offices. Mr. Ryan also alleges that Ms. Sivarajah illegally placed signs within the rights-of-way of public roads.

The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge on November 9, 2004, under Minn. Stat. § 211B.33. A copy of the Complaint was sent by United States mail to the Respondent the same day.

After reviewing the Complaint and supporting materials, the Administrative Law Judge finds that the Complaint does not set forth a claim against Rhonda Sivarajah that, if proven, would constitute a violation of Chapter 211B, and specifically Minn. Stat. §§ 211B.07 and 211B.14.

Based upon the Complaint and the supporting filings and for the reasons set forth below:

IT IS HEREBY ORDERED:

That the Complaint filed by Kevin S. Ryan against Rhonda Sivarajah is DISMISSED.

Dated this 10th day of November, 2004.

S/ Bruce H. Johnson

BRUCE H. JOHNSON
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

The Complainant essentially described the nature of his complaints as follows:

* * *

“Photos provided clearly demonstrate a direct disregard for campaign law as provided by the election officials. Photos also reveal a trend to align her [Respondent’s] campaign with a partisan political party and retained the image to mislead voters.”

“Signs clearly place throughout the district within road right-a-ways.”

* * *

Based on those allegations, the Complaint contends that Ms. Sivarajah violated both § 211B.07 and §211B.14. The first statute, Minn. Stat. § 211B.07 provides that:

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

The Complaint fails to establish a prima facie violation of Minn. Stat. § 211B.07 for several reasons. First, the statute cited above is directed toward a specific kind of political coercion—namely, *compelling* individuals *to vote* for or against a candidate. But the Complaint alleges no act of coercion, only an attempt by Ms. Sivarajah to associate herself in the eyes of the public with members of a political party. Second, Minn. Stat. § 211B.07 only prohibits coercion directed toward *the specific act of voting*.

The statute is not directed at preventing acts designed to induce voters to support or oppose a candidate in more general way. Finally, there is nothing in Minn. Stat. § 211B.07, or elsewhere in Chapters 211A and 211B, that prohibits a candidate from inferring an association with a political party while seeking election to a nonpartisan office, or that prohibits placing campaign signs in roadway rights of way. This office only has jurisdiction over violations of the statutes in those two chapters. Complainants must seek redress of violations of other statutes or of pertinent county ordinances in legal forums that have jurisdiction to hear those complaints. The Complaint therefore fails to establish a prima facie violation of Minn. Stat. § 211B.07.

The second statute that the Complainant alleges was violated, Minn. Stat. § 211B.14, provides:

The secretary of state, with the approval of the attorney general, shall prepare and print an easily understandable digest of this chapter and annotations of it. The digest may include other related laws and annotations at the discretion of the secretary of state.

The secretary of state shall distribute the digest to candidates and committees through the county auditor or otherwise as the secretary of state considers expedient. A copy of the digest and, if appropriate, a financial reporting form and a certification of filing form must be distributed to each candidate by the filing officer at the time that the candidate's affidavit of candidacy is filed.

Minn. Stat. § 211B.14 simply directs the Secretary of State to prepare summaries of the campaign laws found in Chapter 211B and to distribute them to candidates for public office and their committees. That statute contains no provisions prohibiting or regulating any kind of campaign activities. The ALJ therefore also concludes that the Complaint fails to establish a prima facie violation of Minn. Stat. § 211B.14

In conclusion, the facts presented in the Complainant fail to show initial evidence of violations of either Minn. Stat. § 211B.07 or Minn. Stat. § 211B.14. So the Complaint must therefore be dismissed.

B.H.J.