




FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 11, 2005

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Recommendation to Close the File -- **ADR 228**

On January 26, 2005, the ADR Office (ADRO) received from OGC/CELA a complaint to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 228**, is inappropriate for ADR and recommend that the case be closed. Following the procedures approved by the Commission on March 3, 2003, this matter will be closed by ADRO if the Commission approves the recommendation in this memorandum. The Office of General Counsel (OGC) concurs in the description of this matter and also concurs that this matter will not be returned to OGC for further action.

ADR 228/MUR 5471: Complainant alleges that station WBZ-TV (the "Respondents") provided free TV time to Senator Kerry when the program interviewed him on May 26, 2004 without providing President Bush with equal time. Complainant contends that, during the interview, the Senator attacked the President and the TV station was remiss in not providing the President with an opportunity to reply to Senator Kerry's political attacks. There has been no reply from the Respondents to the complaint.

Attached for the Commission's review is the ADR Case Analysis Report on **ADR 228** along with copies of the EPS Rating and ADR Rating Sheets.

ADR Director's Recommendation: We recommend that **ADR 228/MUR 5471** be closed and the appropriate letters sent.

ADR CASE ANALYSIS REPORT

ADR Case: 228

Respondents: WBZ-TV (Boston, MA)

MUR: 5471

Respondents' Rep: --

OGC Case Open Date: 6-28-04

Committee Type: N/A

Date Forwarded to ADRO: 1-26-05

Committee's Name: N/A

Date Reviewed by ADRO: 2-7-05

District #/or State: N/A

Tier Level: 3

Election Won/Lost Cycle: N/A

EPS Rating: 0

Election Cycle: 2004

ADR Rating: 30

Complainant: James C. Carroll

Summary of Complaint: Complainant alleges that station WBZ-TV provided free TV time to Senator Kerry when the program interviewed him on May 26, 2004 without providing President Bush with equal time. Complainant contends that, during the interview about his decision to accept the Party's nomination at the Democratic convention in Boston, the Senator attacked the President and the TV station was remiss in not providing the President with an opportunity to reply to Senator Kerry's political attacks.

Respondent's Replies: There has been no reply from Respondents

Alleged Violations: 2 U.S.C. § 431(9)(B)(i) and 11 C.F.R. § 100.73

Analysis: This matter is covered by the Commission's guidance regarding complaints relating to news stories or news broadcasts that are media events and, therefore, covered by the Commission's media exemption. The Commission's guidance regarding the "media exemption" has been repeated in a number of decisions including the dismissal of complaints in MUR 5006 and MUR 5090 both of which relate specifically TV news broadcasts. Those decisions, which have been reinforced by decisions of the courts requiring the Commission to avoid investigating the media whenever possible, provide clear guidance for the expeditious dismissal of such matters.

Issues: News stories and commentary by the media 11 C.F.R. § 100.73 and 2 U.S.C. § 431(9)(B)(i)

Recommendation: Dismiss