



Student Judiciary

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Austin EVANS, Petitioner

v.

Shelton ROULHAC, in his official capacity as Chair of the Student Election Commission, Respondent

JUDGEMENT AND FINAL ORDERS

Cite As: 2004 ASM SJ 10

♦
Nathaniel Romano
Chief Justice

♦
Chrissy Wild
Vice-Chief Justice

♦
Shelton Roulhac
Chair, Student Elections
Commission

♦
Grant Collins
Associate Justice

♦
Nicholas Fox
Associate Justice

♦
Timothy Leonard
Associate Justice

♦
Jack Shumann
Associate Justice

♦
Yin-Chin Wang
Associate Justice

*Before Chief Justice Romano, Associate Justices Leonard and Shumann
Austin Evans for the Petitioner
Jordan Green for the Respondent*

JUSTICE LEONARD announced the Judgment and presents the unanimous opinion of the panel.

LEONARD, J. Petitioner Austin Evans alleges irregularities in the Fall 2004 election for two seats on the Student Services Finances Committee (SSFC); his complaint deals with how the seats are apportioned. Petitioner claims that the Student Election Commission (SEC) has incorrectly run these seats both as 1-year seats, when in fact, one should be a 1-year seat and one should be a 2-year seat. Petitioner requested preliminary relief that the election be suspended. The Chief Justice delivered judgment on the preliminary relief, ordering the SEC be temporarily enjoined from releasing and sharing the election results until publication of a Judgment or Dismissal in this matter. See, Evans v. Roulhac – preliminary relief, 2004 SJ Ord. 13.

During the Spring 2004 elections, the Associated Students of Madison passed Referendum 10-0226-K – Recomposition of the Student Services Finances Committee. The first resolution of 10-0226-K amended Article IX, Section 1 of the ASM Constitution, changing the composition of the SSFC to the following: six members elected at large for a two year term, five Student Council (SC) Representatives appointed by the SC, and five members appointed by the SC, eliminating the auxiliary seats provided in the previous form of the section.

It is important to note that the first resolved clause was opened specifically as follows: “RESOLVED, that Article IX, Section 1 of the ASM Constitution be amended as follows:” and then cited the specific changes to be made to Article IX, Section 1, clause by clause. The significance of that will be explained later. The next three resolved clauses also cited specific changes to be made to particular articles in the ASM Bylaws to support the first resolution. The last four resolved clauses, however, listed orders on the procedure of when and how to implement the changes, but did not specifically change any articles and/or sections of the ASM Constitution or ASM Bylaws. Again, the significance of that will be explained further on. The ASM Constitution and ASM Bylaws were rewritten accordingly to incorporate only the changes to the specific sections cited in 10-0226-K, the final four resolutions not being written into either the Constitution or Bylaws.

SEC Chairman Roulhac opened two vacant SSFC seats for the Fall 2004 ASM elections, defining the term length of the seats to one-year. Chairman Roulhac’s decision satisfied the amended Article IX, Section 1 of the ASM Constitution, bringing the total number of at-large elected SSFC members to six, but violates the last two resolved clauses where it explicitly calls for a special election for two SSFC seats, one with a term expiring April 30, 2005 (one-year term) and a second seat with a term expiring April 30, 2006 (two-year term). The final clause defines the purpose of this to “stagger” the terms of the elected SSFC seats, where the terms of three seats would expire and go up for election annually.

The question the panel is left to answer is whether or not the last two resolved clauses in 10-0226-K that deal with “staggering” the SSFC seats amend the ASM Constitution and By-Laws.

This panel feels that neither petitioner nor respondent questions the validity of the amendments made by 10-0226-K to Article IX, Section 1 of the ASM Constitution; Part Two, Article V, Section 4, Part Three, Article II, Section 1(b); and Part Three, Article II, Section 3(b) of the ASM By-Laws because 10-0226-K makes very clear in its resolutions that it is amending the aforementioned sections and shows how each section is to be amended. In the case of the last two clauses, or the final four clauses for that matter, no reference is made to any article or section of the Constitution or By-Laws to be changed in accordance with the resolutions in the referendum. Since the procedures and process of elections are governed by the ASM Constitution, see Article XII, ASM Constitution, and the composition of the SSFC is also outlined in the Constitution, see Article IX, ASM Constitution, the respondent is correct in saying he acted in full accordance to the law in the manner he conducted the election, with the power granted to him as SEC Chairman in Part Five, Section 1 & Section 2, ASM By-Laws.

With that much said we must look at the process of how 10-0266-K was put into effect after its passing. The aforementioned sections were amended according to the changes specified in 10-0226-K. The orders in the final four resolutions were not written into any by-law or into the Constitution because the resolutions did not make any specific changes. Petitioner argued during the hearing that since the 10-0226-K was passed in accordance to Article XV of the ASM Constitution, that every resolution in 10-0266-K would become the supreme law of the ASM. This panel explored the implications of Evan's argument and must bring up the issue of due process. We feel that in the instance of the first four resolutions, the student body was clear as to what it was voting for or against, but it was not fully aware of the implications of the final four resolutions. Furthermore, since the intent of "staggering" SSFC seat elections mentioned in the final two resolutions was not amended to any specific article or by-law concerning the composition, term definition, or election rules, Chairman Rouhlac had no legally feasible way of obtaining knowledge of the existence of the orders in the last two resolutions, unless it was specifically written into the Constitution or By-Laws. To say so otherwise would create a dangerous sphere of uncertainty behind the process of implementing vague, conflicting, and ambiguous referenda into law.

Order of the Court

Accordingly, for the aforementioned reasons, judgment is entered for Respondent and:

1. IT IS ORDERED THAT the complaint is ***DISMISSED***.
2. IT IS FURTHER ORDERED that this judgment is stayed for a period of two weeks or until the full Court either grants or denies any appeal in this matter.

By the court, it is ***SO ORDERED***.

Nathaniel Romano, CJ

Timothy Lenoard, SJ

Jack Shumann, SJ