



Student Judiciary

511 Memorial Union, 800 Langdon Street, Madison, WI 53706

phone: 608.265.4ASM ♦ fax: 608.265.5637

www.asm.wisc.edu/student_judiciary/index.html

In Re: Spring 2005 Election Candidate Eligibility Brandon Sivret, Intervenor

2005 ASM SJ 2

MOTION OF B. SIVRET TO RECONSIDER

Cite As: 2005 SJ Ord. 5

Before Romano, CJ, Collins, VCJ, Fox, Leonard, and Wang, SJJ.

On Motion of B. Sivret to Reconsider Denial of His Petition for Relief from Mandate

♦
Nathaniel Romano
Chief Justice

♦
Grant Collins
Vice-Chief Justice

♦
Timothy Leonard
Chair, Student Elections
Commission

♦
Nicholas Fox
Associate Justice

♦
Yin-Chin Wang
Associate Justice

GRANT COLLINS, Vice-Chief Justice. In this case, the Court issued a mandate to the Student Election Commission (hereforeto SEC) to prohibit the placing on the Spring 2005 Ballot any candidate who failed to attend the mandatory meeting. See, *2005 ASM SJ 2 at 5*. Though the Court allowed, as a matter of equity, those who had contacted SEC chair Leonard prior to the meeting, *Id.* at 4-5, Mr. Sivret was denied eligibility because, according to all accounts, he failed to attend the mandatory candidate meeting. See, *In Re Spring 2005 Candidate Eligibility*, 2005 ASM SJ Ord. 4. However, since we filed *2005 ASM SJ Ord. 4*, new facts have come to light.

Brandon Sivret submitted an affidavit of Cadet Robert Thelen stating that he and Mr. Sivret had phoned him at 1645 (4:45pm) after Mr. Sivret had tried to attend the mandatory meeting in question but no one was present at the meeting room. The affidavit went further to state that Mr. Sivret signed the candidate form, put it in SEC Chair Leonard's mailbox, and then e-mailed SEC Chair Leonard from the ASM computer at 1700 (5:00pm).

The Court's decision in *Nichols v SEC 2003 ASM SJ 10* established the principle that the candidacy declaration forms is a contract. See also, *In Re Spring 2005 Candidate Eligibility*, 2005 ASM SJ 2. From this new evidence, in the form of Mr. Thelen's affidavit, it is clear that Mr. Sivret acted in compliance with the candidate declaration form and was thereby not in breach of contract. *Id* at 4.

According to the central reservation office at the Memorial Union, the candidate informational meeting was scheduled from 1600 (4:00pm) until 1730 (5:30pm). While it is true that Mr. Sivret was not present at the beginning of the meeting, he was present at the meeting site at a time in which the meeting was scheduled. Standard practice for Student Council is for a student not to be marked absent if they attend the meeting at any time. As it stands, I see no reason why the court should alter this practice with regard to the SEC.

Regardless of the standard practice of Student Council, the fact remains that Mr. Sivret made a good faith effort to attend the meeting and he is not at fault for its early conclusion: equitable principles demand that those who are innocent of any wrongdoing not be punished. *Id* at 4.

Accordingly for the reasons stated herein,

IT IS ORDERED that the Motion to Reconsider is GRANTED; and

IT IS FURTHER ORDERED that the Supplemental Order, 2005 SJ Ord. 4, is hereby VACATED; and

IT IS FINALLY ORDERED that Brandon Sivret be GRANTED RELIEF from the Mandate of this Court and shall be placed forthwith on the Spring 2005 Ballot.

SO ORDERED

* * *

TIMOTHY LEONARD, *Student Justice*, took no part in the consideration or decision of this motion.

Published: 9:00PM 4/3/05
Attest: /s/ NVR