



Student Judiciary

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Gordon and Halamish

v.

Timothy Leonard, in his official capacity as the Chair of the Student Election Commission (SEC)

2005 ASM SJ 3

PETITION TO EXTEND CANDIDACY DECLARATION PERIOD

Cite As: 2005 SJ Ord. 7

*Before Romano, CJ, Collins, VCJ, Fox, Leonard, and Wang, SJJ.
On Petition to Extend the Spring 2005 Elections*

NATHANIEL ROMANO, Chief Justice. The Court recently disposed of the case *Gordon and Halamish v. Leonard* (2005 ASM SJ 3), ruling that the deadline for candidacy declaration forms originally established by the SEC was unconstitutional, in that the SEC exercised arbitrary discretion by setting a time by which the forms were due. The Court ruled that the day established by the SEC, 1 March 2005, was the appropriate deadline. Mr. Gordon now asks that we extend the candidacy declaration period, to allow those who did not realize that they had an extra seven hours the right to file. We are not persuaded.

As a preliminary matter, Mr. Gordon can bring no evidence of any person who would have filed, but chose not to. While we have an equitable power to “do justice,” we should not use it simply to change ASM to suit our own preferences. See, *In Re Spring 2005 Candidate Eligibility*, 2005 ASM SJ 2 at 4-5; 27A Am. Jur. 2d EQUITY §1. Equity is an extreme power that should only be used to do substantial justice and prevent innocent parties from being unjustly punished. 27A Am. Jur. 2d EQUITY §2; cf *In Re Spring 2005 Election Candidate Eligibility – Denial of Relief for J. Clemen*, 2005 SJ Ord __ at __ (Romano, CJ, dissenting). Here, we have no innocent parties that have been injured.

Due process calls for integrity to the legal procedures and rules by which we are governed. See, *ASM Const. Art. IV, §2* (2004). This guarantee is one that stretches back through the Anglo-American system of law dating back to the Magna Carta. See, e.g. *Davidson v. City of New Orleans*, 96 U.S. 97 (1877). It binds us just as it binds all other bodies of ASM. Further, unlike the due process clauses of the United States Constitution, US Const. amends V and XIV, the ASM Constitution guarantees due process at all times, not just when life, liberty or property interests are involved.

We cannot simply abolish a rule after the fact because we do not like how the results came out. That is not governing by due process of law. That is governing by judicial whim and personal fancy. Clearly, we are not faced with a situation wherein there is an innocent person who is in a situation of being deprived of his right to run in an election in a manner that is truly unjust. On the other hand, there are several dozen members of ASM who are candidates and who have a strong interest in these rules being followed. Their legal interests should be given much more weight than the equitable interests of hypothetical students. We cannot see how these hypothetical students’ concerns can or should trump the actual concern of the candidates, and ASM generally, of ensuring that the Commission and the Court obey the dictates of the Constitution.

♦
Nathaniel Romano
Chief Justice

♦
Grant Collins
Vice-Chief Justice

♦
Timothy Leonard
Chair, Student Elections
Commission

♦
Nicholas Fox
Associate Justice

♦
Yin-Chin Wang
Associate Justice
♦

Accordingly for the reasons stated herein, Petitioner's Motion to Extend the Candidacy Declaration Period is hereby

DENIED.

* * *

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

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Attest: /s/ NVR