



Student Judiciary

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Andrew Gordon and Eyal Halamish

v.

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

2005 ASM SJ 3

PETITION TO STAY THE SPRING 2005 ELECTIONS

Cite As: 2005 SJ Ord. 8

♦
Nathaniel Romano
Chief Justice

♦
Grant Collins
Vice-Chief Justice

♦
Timothy Leonard
Chair, Student Elections
Commission

♦
Nicholas Fox
Associate Justice

♦
Yin-Chin Wang
Associate Justice

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

NICHOLAS J. FOX, Student 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. According to the *ASM Bylaws* at 5.04(B)(II), a “day” [means] a day.” Msrs. Gordon and Halamish have indicated to the Court that they plan to file an appeal, and consequently petition this Court to stay the Spring 2005 Elections until that appeal is resolved.

I

As a logistical matter, postponing the Spring 2005 Elections would not be the ideal course of action to take. The SEC has spent thousands of dollars on these Elections. Advertisements for the Elections have been submitted to various newspapers and radio stations, and are scheduled to run within a few days to inform the student body about the upcoming Elections. Mass emails have been prepared and will be sent out within a few days to the same purpose. To reschedule the Elections, which must take place no later than the thirteenth week of the school year (per the *ASM Constitution*, Art. XII, Sec. 1(C)), would be relatively unfeasible because of the confusion it would cause.

Financially speaking, the Court appears before the Student Services Finance Committee each year to request funds for running the Elections. The money appropriated to the Court for this purpose was spent by the SEC with the impression that the Elections would be held according to schedule. Consequently, the Court and the SEC have spent funds assuming that the Elections will be held on time. Funds may not be available to postpone the Elections another week, since Commissioners must be paid and re-advertising must be done.

II

This Court is not bound, however, solely by logistical considerations when making judicial decisions. We are far more concerned with matters of law. In order to stay the Elections because of a pending appeal, the Court must be convinced that the Elections either cannot proceed or will be entirely undermined if they are allowed to proceed. The Court is not convinced.

The merits of Mssrs. Gordon and Halamish's appeal must be limited to the issues relevant to that case; therefore, the candidacy list's legitimacy can be questioned only on the grounds pertaining to those candidacy declaration forms which were filed "late." There are other pragmatic remedies which can be sought in regards to the pending Elections. For example, candidates can be removed after the Elections if the Court decides to reverse the panel in *Gordon and Halamish v. Leonard* (2005 ASM SJ 3).

In addition, no appeal has yet been formally filed, despite the fact that Petitioners affirm that they will file. Moreover, the Petition for Appeal may be denied by the Court, thus rendering any stay of the Elections superfluous. If the Court is to take such a draconian measure as to stay the Elections one week pending an appeal of a case which otherwise has more practical remedies, then Petitioners must prove to the Court that such a draconian measure is necessary and the only remedy to the question. This the Petitioners have not done, and therefore the Court sees no reason to stay the Spring 2005 Elections because of a potentially pending appeal.

Accordingly, for the reasons stated above, in failing to convince this Court as a matter of law that the only way to ensure fairness and equity in the Spring 2005 Elections is to stay the Elections one week to resolve any pending appeals, the Petition to Stay the Spring 2005 Elections is hereby

DENIED.

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

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Attest: /s/ NVR