UNIVERSITY OF FLORIDA
SUPREME COURT
Decided February 20, 2005

In re: "PETITION FOR ON-LINE VOTING"

Pursuant to CHAPTER 799 STUDENT GOVERNMENT INITIATIVE AND REFERENDUM ACT (2000-141, 2001-114, 2002-144, 2004-116) the "PETITION FOR ON-LINE VOTING" received January 26, 2005, fails to meet statutory requirements.

Section 700.4(m) defines "Initiative". If approved by the Student Body, an initiative shall be considered a Student Body law, as if passed by the Senate, and properly codified. *See* §799.11. Section 700.4(t) defines "Referendum question". Referendum questions approved by a majority of the students voting on the question shall be considered enacted and shall be treated in the same manner as resolutions adopted by the Student Senate. *See* §799.21. Based upon the ambiguous, aspirational language on the face of the document, it is unclear whether the instant petition constitutes an "Initiative" or a "Referendum question". Assuming the petition is meant to be an "Initiative", it provides no express legislation to codify. Accordingly, the Court is unable to certify the petition before it.

Moreover, it is the opinion of this Court that the "PETITION FOR ON-LINE VOTING" has failed to consider such important issues as are codified in §700.3, §715.1, and §777.0(e).

Petition Denied.

IT IS SO ORDERED.

Butensky, C.J.
Caplen, J.
Pressa, J.
Skop, J.
Glassman, J.

Caplen, J., concurring specially (in which Glassman, J. and Skop, J. join).

Polling stations are an American voting tradition. To make a significant change to this practice on campus, without careful consideration to the statutes and legislative intent, would be capricious and reckless. While online voting has become a practice on campuses across the country, the University of Florida cannot merely join this trend without proper investigation, careful reflection, and statutory compliance.

Statutory compliance would be further facilitated through clear drafting. I need not enumerate each instance of problematic language, but for illustrative purposes I call attention to §799.3(4),

which simultaneously requires a student number, address, and phone number "if any." The phrase "if any" defeats the purpose of the compulsory "must." Each student has, as a member of the university community, a student number; each student has a domicile; and each student has some type of contact information. Ergo, the "if any" language undermines the entire provision. Such contradictory language is rampant throughout the statutes. *See ACCESS Party v. Student Gov't Elections Commission*, 2 U.F. 73, 83 (2004) (Caplen, M.M., concurring specially) ("It is my further recommendation that the Senate revisit the legislative record concerning the terminology and purpose of the statutes mentioned in this opinion and eliminate ambiguous and contradictory language.").

END OF DOCUMENT

UNIVERSITY OF FLORIDA
SUPREME COURT
Decided March 16, 2005

Hoffman v. Election Commission

Pursuant to CHAPTER 720 THE ELECTION COMMISSION ACT (2000-141, 2000-144, 2002-155, 2004-116), the Court affirms the determination of the Election Commission disqualifying Mr. Andrew Hoffman from the candidacy of Associate Justice on the Honor Court.

IT IS SO ORDERED.

Butensky, C.J.
Caplen, J.
Skop, J.
Glassman, J.
CAPLEN, J., concurring.

I affirm the decision of the Elections Commission based upon its finding of fact in the case *sub judice*. I write separately, however, to discuss the weight of evidence utilized in that proceeding to disqualify student Andrew Hoffman as a candidate for Associate Justice of the University of Florida Honor Court. Although I believe that certain evidence was accorded greater weight than it should have received, I find no reversible error.

I.

The Supreme Court has the affirmative obligation under section 729.1 of the Statutes to "review questions of fact from the Elections Commission and shall affirm those findings if they are not clearly erroneous." Upon a finding that the Elections Commission did not meet this elevated standard of review, the Court is bound by the Commission's finding of facts. The Court, therefore, cannot inquire into new facts not reflected in the record below. This does not, however, preclude me from commenting upon those facts.

II.

The Elections Commission considered as evidence two primary sources: 1) the Impact Party political campaign website hosted by Mr. Hoffman's internet consulting company; and 2) Mr. Hoffman's "The Facebook" online directory profile wherein Mr. Hoffman represented support for the Impact Party. Based upon the facts determined by the Elections Commission, Mr. Hoffman admitted his knowledge and participation in providing internet services to the Impact Party and membership in an Impact Party "group" on "The Facebook" website. The Elections

Commission found that Mr. Hoffman's membership in "The Facebook" website group constituted a greater endorsement of the Impact Party than his registration.

A.

I am of the opinion that the Elections Commission's determination of "The Facebook" was entirely irrelevant to the current proceeding, although including it in the calculus resulted in harmless error. The website, which is designed to link intra-campus classmates as well as inter-collegiate friends and colleagues, has, to my knowledge, very minimal regulation of individual student postings, content, and group creation. Many groups range from the serious and comical to the ridiculous and inflammatory, which perpetuates the general theme that the website is merely for entertainment purposes and not a serious representation of students' beliefs.[1] The Election Committee did not need to hear evidence about Mr. Hoffman's profile on "The Facebook" in order to reach the determination at which it ultimately arrived.

B.

Mr. Hoffman apparently owns and operates an internet company that provides internet consulting, website hosting, and other internet and computer services. Mr. Hoffman provided internet services to the Impact Party, apparently without compensation, and therefore directly aided the Impact Party in its creation of an internet website that members of the Student Body could access. Mr. Hoffman's relationship to the website of the Impact Party is clearly linked, especially since the internet URL is "www.hoffmancomp.com/impact."[2] A reasonable University of Florida student qualified to vote in Student Government elections could easily associate Mr. Hoffman with the Impact Party by virtue of this URL. Merely deleting "/impact" from the URL written above takes an internet browser to the "www.hoffmancomp.com" website, which is the homepage of Mr. Hoffman's company that contains a large photographic image of Mr. Hoffman himself.

In this respect, I believe that general principles of trademark law are instructive. Just as a consumer might be confused about the origin of a mark if it is improperly infringed, so too a University of Florida student might be confused by the Impact Party's website that Mr. Hoffman is a) endorsing the party; b) a member of the party or the party's campaign committee/staff; or c) a candidate running with the support of the party. Such potential for voter confusion is, in my opinion, the most significant factor that the Elections Commission should have considered when concluding that Mr. Hoffman be disqualified as a candidate for Associate Justice of the University of Florida Honor Court.

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[1] I do not dispute that students create profiles that are representative of their personalities and interests. The validity of determining the admissibility of representations made by a student on "The Facebook" is not before this Court, and I therefore render no opinion as to student liability vis a vis representations contained therein. Nonetheless, the Elections Commission had evidence that presented greater weigh than that contained on "The Facebook" and should have ignored Mr. Hoffman's profile on the website, regardless of the website's popularity or accessibility.

[2] Moreover, this website address is circulated on political party pamphlets and other brochures that are disseminated across campus to student voters. Thus, the reach of the website is not limited to cyberspace but pervades the Impact Party's on-campus campaigning.

III.

We live in a world of rapidly transmitted information, and it is easy to forget that our actions can be easily accessed by merely performing a search on Yahoo! or Google.com. There is no evidence in the record that suggests that Mr. Hoffman considered the potential ramifications of his association—no matter how active or passive—with the Impact Party. The Honor Court is part of an Article V judicial body under the Constitution of the Student Body. The judiciary, by definition, is an anti-majoritarian branch of the government whose members should and must remain immune to political influences. Although Mr. Hoffman may have been well-intentioned by providing internet access to a political party, he created a presumption of partiality—regardless of intent—that would have likely confused the reasonable student voter as stated *supra*. As such, the Elections Commission did not need to reach a determination on "The Facebook" matter and could have disqualified Mr. Hoffman solely upon the basis of his relationship with the Impact Party through his company and company's website GLASSMAN, J., concurring.

I write separately concurring in the judgment of this Court insomuch that I would affirm the Elections Commission's decision to disqualify Mr. Hoffman's candidacy for Honor Court Associate Justice. However, I disagree with Justice CAPLEN that membership to a group supporting a political party on a thefacebook.com personal profile should not be considered. The Election Commission was not outside their bounds in weighing this evidence. At the University of Florida, many, if not the majority, of the student body have personal profile pages located on this website. Any student with a gatorlink email account can register for this site and search any other University of Florida student's profile. It is absolute commonplace for students at this university to engage in this practice. The site's vast membership, coupled with the majority of the student body's desire to avoid election campaigners, makes it is entirely within the realm of possibility that a person's profile on thefacebook.com can have more political sway on an election campaign than face-to-face campaigning.

However, I do agree with Justice CAPLEN that the company page of Mr. Hoffman should have been more strongly weighed in the Commission's decision for the reasons previously articulated within Justice CAPLEN's concurrence.

SKOP, J. concurring.

Writing separately, I concur with judgment of the Court to affirm the Elections Commission's decision to disqualify Mr. Hoffman's candidacy for Associate Justice of the Honor Court.

In reaching this conclusion, it is instructive to note that Mr. Hoffman is the current Chair of the Student Senate Rules and Ethics Committee, and a member of the Student Senate. On appeal, Mr. Hoffman argued that he was not in violation of Student Government Statute section 732.61, based upon the statutory construction and legislative intent of the word "Justice." Specifically, through reference to other statutory provisions and inconsistent nomenclature throughout the Statutes, Mr. Hoffman asserts that the word "Justice" does not mean "Associate Justice." In the instant case, one need not apply an external statutory construction and legislative intent analysis of the word "Justice" when the applicable meaning can be clearly ascertained from the face of

the same statute. Student Government Statue section 732.2 is dispositive in this regard. As the Chair of the Student Senate Rules and Ethics Committee, Mr. Hoffman had the standing and ability to request a statutory interpretation to ensure that the course of action pursued would not violate the election code. In lieu of seeking an advisory opinion prior to the fact, Mr. Hoffman relied solely upon his own interpretation of the Statutes and proceeded at his own peril.

END OF DOCUMENT

UNIVERSITY OF FLORIDA

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November 29, 2005

To: John Boyles, Senate President
Chris Cupoli, advisor for Student Government
Glenda Frederick, Student Government administration

UNIVERSITY OF FLORIDA SUPREME COURT

Heard & Decided November 29, 2005

In re: "Interpretation of a Student Body Statute" section 340.41

PER CURIAM.

Petitioners, twenty University of Florida students, requested that this Court interpret section 340.41 of the Student Body Statutes. The attached petition[1] was heard before the Court together with statements from Student Senate President John Boyles, Gator Party Leader Laura Gonzales, Impact Party Leader Allison Cullin, and former Senator Rene Carballo (collectively and hereinafter referred to as "Participants").

The petition *sub judice* requires us to determine whether a Senator's term ends with his/her resignation from his/her appointed seat or at the end of the term of the Senate Class for which s/he was elected. The petition further requests an answer to the following question: "What constitutes an additional seat?" For the reasons set forth herein, we hold that a Senator's term ends at the conclusion of the Senate Class for the seat to which s/he was initially elected or appointed. We further hold that an "additional seat" as stated in § 340.41, contemplates any Senate seat that the former Senator seeks to fill prior to the expiration of the "term" of the seat to which s/he was originally elected or appointed.

Pursuant to Article V, § 3(b)(1)(A) of the Constitution of the University of Florida Student Body, we have jurisdiction. The abbreviated facts as provided by the Participants are as follows. Rene Carballo pursued and successfully procured a Senate seat classified under the Accounting School during the Spring 2005 Student Body election. At some point prior to this hearing, Mr. Carballo transferred his major to the College of Business Administration. As a result of this academic change, Mr. Carballo was required to resign from his Accounting School Senate seat pursuant to Article III, § 2 (b). *See also* Student Body Statutes § 340.1(3). Pursuant to § 340.1(4), Mr. Carballo also tendered his written resignation to the Student Senate President. Shortly thereafter, a Senate seat classified under the College of Business Administration became vacant, and Mr. Carballo applied to fill the vacancy presumably pursuant to § 340.2. Whether Mr. Carballo was permitted to do so is the first question before this Court.

[1] *See* Appendix A.

We have been asked to determine the scope of a Senator's term. "Term" is defined in § 309.205, which guides us to § 309.206.[2] A term, as provided within the statutes, means "the period of time from the first meeting" in which the "fall senators are sworn in until the final meeting before the spring senators are sworn in" § 309.205(A), or the "the period of time from the first meeting" in which the "spring senators are sworn in until the final meeting before the fall senators are sworn in." § 309.205(B). These provisions are unambiguous since both contemplate that a term attaches not to the individual Senator elected to the seat but rather to the seat itself and to the class of seats elected at the same time. Therefore, in accordance with the definition of "term" stated *supra* and as applied to § 340.41, a Senator is proscribed from seeking an additional seat for the duration of the term of the seat to which the Senator was originally elected or appointed.

This conclusion is consistent with common practice. For example, in the event a student is appointed to fill a vacant seat during the course of either the Fall or Spring Senate Class, that student's appointment is limited to the duration of the originally vacant seat, thus constituting the requisite "term" as contemplated within § 340.41. With respect to Mr. Carballo, his "term" attached to the Accounting School Senate seat upon his election in Spring 2005. His subsequent *de jure* resignation from that seat due to a change in academic degree programs pursuant to Article III § 2(b) did not affect the "term" of the Accounting School Senate seat. The "term" of Mr. Carballo's Accounting School Senate seat, as provided under § 309.205, will conclude when the Spring 2006 Senate Class is sworn in. Therefore, Mr. Carballo is precluded, based upon the plain language of § 340.41, from seeking an additional seat "until the term for that elected or appointed seat has ended." Under these circumstances, Mr. Carballo is eligible to seek another Senate seat when the Spring 2006 Senate Class is sworn in. An attempt by Mr. Carballo to preserve his election to the Accounting School Senate seat by transferring that seat's "term" to an appointed Senate seat in the College of Business Administration would contravene the plain language of the statutes and is therefore prohibited.

This result is consistent with the language of the Constitution and Statutes of the University of Florida Student Body. Although the issue is not before the Court and we need not render an opinion on it, we *sua sponte* note that the statutory language is overbroad and the Senate should revise the language contained therein. For example, in the instant case Mr. Carballo would be ineligible from slating for a Senate seat for the Spring 2006 elections because the term of his original Accounting School Senate seat does not expire until Spring 2006. The Accounting School Senate seat expiration does not occur until the *conclusion* of the Spring 2006 elections.

It is so ordered.

Butensky, C.J., Caplen, J., Pressa, J., and Skop, J. concur.

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[2] From a statutory construction perspective, it is entirely superfluous to include § 309.206 as a separate provision when parts A), B), and C) modify the antecedent language of § 309.205. While it is not within this Court's purview to rewrite statutes, we shall construe, for the purposes of this proceeding, § 309.206 as falling within § 309.205. Therefore, any subsequent reference to § 309.205 incorporates the entire language of § 309.206 since the latter provision, as currently written and due to the antecedent language of § 309.205, cannot stand alone.

UNIVERSITY OF FLORIDA

Supreme Court

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January 16, 2006

To: John Boyles, Senate President
Chris Cupoli, advisor for Student Government
Glenda Frederick, Student Government administration

UNIVERSITY OF FLORIDA SUPREME COURT

Heard & Decided January 16, 2006

In re: "Interpretation of the Student Body Statutes Chapter 799 (799.01-799.4) with respect to a hypothetical on-line voting ballot initiative"

PER CURIAM.

Petitioners, twenty-three University of Florida students, submitted a certified question requesting that this Court interpret the Student Body Statutes chapter 799 (799.01-799.4) regarding a hypothetical on-line voting ballot initiative. The Court heard the attached petition[1] and a statement from lead petitioner Susan Henriques.

The petition *sub judice* requires us to determine whether a hypothetical on-line voting initiative would fulfill the statutory requirements of chapter 799 (799.01-799.4). The petition further requests an answer to the following questions: (a) "Would the following initiative including the required number of signatures qualify to be placed on the ballot for the Spring 2006 election?"; (b) "Does the following initiative properly convey its legislative intent?"; and (c) "Does this initiative sufficiently reference a specific issue in order to be considered a single initiative?" For the reasons set forth herein, we answer the questions presented in the affirmative.

Pursuant to Article V, § 3(b)(1)(A) of the Constitution of the University of Florida Student Body, we have jurisdiction.

The certified question regarding a hypothetical on-line voting initiative before the Court is readily distinguishable from the prior petition that was denied by the Court on February 20, 2005 (hereinafter the "Spring 2005 petition"). Unlike the Spring 2005 petition, the certified question before the Court contains the required explanation of intent and express legislation to codify into law. Accordingly, the hypothetical on-line voting ballot initiative provided within the certified question before the Court appears to comply with the explanation of intent and express legislation requirements of section 799.08 and section 799.1, respectively.

[1] *See* Appendix A.

Therefore, subject to the additional requirements of section 799.1 (i.e., the proposed initiative purporting to be law must be submitted not less than 28 school days prior to the election that the petitioner intends to place the initiative on the ballot, and the signature requirement of 2% of the Student body enrolled at the time of submission), we hold that the hypothetical on-line voting ballot initiative, on face, would comply with the explanation of intent and express legislation requirements of section 799.08 and section 799.1, respectively.

This holding is limited solely to the review of the language provided within the certified question to the Court. All initiatives purporting to be law or referendum questions submitted via student petition pursuant to the requirements of Student Body Statutes chapter 799 will be subject to de novo review for compliance with statutory requirements prior to Court certification.

It is so ordered.

Skop, C.J., Gavrich, J., McCoy, J., and Roof, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT

Heard & Decided February 2, 2006

In re: "Certification of the proposed referendum addressing President Machen's stance on alcohol at UF"

PER CURIAM

Petitioners, all University of Florida students, submitted a certified question requesting that this Court interpret the Student Body Statutes chapter 799 (799.01-799.4) regarding a hypothetical referendum for placement on the upcoming election ballot. This Court read the attached petition, and held a hearing on the matter on February 2, 2006.

The petition requested that a referendum posing the question: "Do you approve of UF President Machen's official alcohol policies on University property and in the Gainesville community?" be placed on the Spring 2006 election ballot. This Court only addressed the issue of compliance with the statutory requirements. Specifically, this Court evaluated compliance with UF statutes chapters 799.2(a) and 799.3. For the reasons set forth below, we deny certification of this referendum for the Spring 2006 election.

Pursuant to Article V, § 3(b)(1)(A) of the Constitution of the University of Florida Student Body, we have jurisdiction.

Signature Certification

On January 19, 2006, petitioners submitted 49 pages containing signatures of individuals identified as supporters of the referendum. UF statutes chapter 799.2 provides the guidelines for the number of signatures necessary to have a referendum question placed on the election ballot. Under UF statutes chapter 799.2(a), a referendum is required to have signatures representing 1% of the student body as of the date of submission to this Court. Despite the best efforts of this Court to obtain the total student enrollment for UF as of January 19, 2006, that data had not yet been made available. Therefore, this Court was forced to develop some methodology to reach the most accurate enrollment data upon which to base its decision for compliance with UF statutes chapter 799.2(a). To accomplish this, this Court obtained the enrollment data for the years 1989-2005 to observe the trend of enrollment. Each year the UF enrollment has increased with the last reliable enrollment data for Fall 2005 showing 49,650 students.

This Court next determined that based upon the best available data on enrollment, petitioners would need 496 valid signatures to satisfy the statutory requirements of chapter 799.2(a). However, under UF statutes chapter 799.3, signatures must comply with certain criteria to ensure that fraud or coercion have not entered the signature gathering process. Only two of the five subsections contained in UF statues chapter 799.3 merit attention. UF statutes chapter 799.3(2) requires that all signatures be in ink

and chapter 799.3(5) requires the signature of the individual responsible for gathering the signatures be on each page. These two requirements are meant as procedural safeguards against abuse of the referendum and initiative process.

The first review of the signature pages identified several signatures that were made in pencil. These signatures were removed for non-compliance with UF statutes chapter 799.3(2). Approximately 10 signatures were invalidated for non-compliance with this statutory requirement. Additionally, upon a second review, this Court found that 6 sheets totaling approximately 78 signatures did not have the signature of the person responsible for collecting that page's signatures. These pages were removed from the total signature count per the statutory mandate of UF statutes chapter 799.5.

After removing the signatures that failed to comply with the statutory requirements of chapter 799.3, this Court determined that petitioner had submitted only 454 valid signatures on the proposed referendum. We therefore hold the petitioner has failed to meet the 496 signatures necessary to comply with UF statutes chapter 799.2(a).

Leave to Amend

Petitioners next explored the option of supplementing their valid signatures with new signatures that conformed to the requirements of UF statutes chapter 799.3. Petitioners acknowledged that the timelines mandated by UF statutes chapter 799.1(b) had expired. Therefore, for petitioners to supplement their referendum would require this Court to grant petitioners leave to add valid signatures.

However, after reviewing the language contained in UF statutes chapter 799 as a whole, it is clear that this is not a power the legislature bestowed upon this Court. A quick statutory example will suffice to demonstrate this point. Under UF statutes chapter 799.4, this court is given the discretion to amend an initiative or referendum to ensure it effectively conveys the legislative intent. In these situations, this Court may alter the wording of an initiative or amendment to ensure it meets procedure requirements and is clearly drafted. Yet, no such authority is granted to this Court in the unfortunate situation that a proponent of a referendum has failed to meet the signature requirements and their statutory time-frame expired. We therefore hold that petitioners may not amend their signatures to meet the statutory requirements, thereby preventing the referendum from being placed on the ballot for the upcoming election.

It is so ordered.

END OF DOCUMENT

UNIVERSITY OF FLORIDA SUPREME COURT

Heard & Decided February 2, 2006

In re: "Petitioner Susan Henriques proposed textual amendments to the online voting initiative"

PER CURIAM

Petitioner previously submitted a hypothetical initiative pursuant to UF statutes chapter 799 *et seq.* known collectively as the "Student Government Initiative and Referendum Act". In an opinion dated January 16, 2006, this Court approved the wording of the legislative intent and the proposed legislation of the hypothetical initiative as submitted by Petitioner. The proposed legislation remains as previously approved. Accordingly, Petitioner returns to this Court for certification of the signatures required under UF statutes chapter 799.1(a) and for approval of grammatical changes to the legislative intent portion of the proposed initiative.

Pursuant to Article V, § 3(b)(1)(A) of the Constitution of the University of Florida Student Body, we have jurisdiction.

Amendment to Initiative

Under UF statutes chapter 799.4, this Court is required to review the petition and ensure that it conveys the legislative intent. As part of the review process, this Court must review the language for ambiguity and also make grammatical modifications to the petition, as necessary. The proposed amendment to the "Explanation of Intent" would correct several grammatical errors and does not change the substance of the initiative. The "Explanation of Intent" submitted and approved at the January 16, 2006, hearing read:

> The intent of this legislation is to make internet online voting an additional option for the supervisor of election when choosing a method of voting for Student Government Elections beginning with the Fall 2006 election cycle; by passage of this initiative Student Body Statutes shall be revised to reflect the acceptability of internet online voting.

The proposed new "Explanation of Intent" would read:

> The intent of this legislation is to make Internet online voting an additional option for the Supervisor of Elections when choosing a method of voting for Student Government elections beginning with the Fall 2006 election cycle; by passage of this initiative Student Body statutes shall be revised to reflect the acceptability of Internet online voting.

The proposed amendment is approved, and shall be adopted into the text of the initiative.

Certification of Signatures

Petitioner next sought certification of the signatures on the initiative. Under chapter 799.1(a), petitioner was required to obtain the signatures of 2% of the UF student body as enrolled at the time the petition was submitted (January 19, 2006). Each of these signatures had to comply with chapter 799. 3.

This Court was not able to obtain the enrollment data as of January 19, 2006 because it was not currently available to the public. The next best source of enrollment data was from Fall 2005 and this data indicated that the student body enrollment at that time was 49,650. Additionally, this Court consulted statistical data provided by the University Office of Statistics that indicated that the student enrollment has increased each year from 1989-2005. This indicates that the true number of students enrolled on January 19, 2006 was likely higher than 49,650, however, this was the best data this Court could rely on.

Applying chapter 799.1(a) to the total student body enrollment of 49,650, resulted in the petitioner needing to obtain 993 signatures that met the requirements of chapter 799.3. This Court found that petitioner submitted well over 1,100 signatures that met chapter 799.3. Therefore, petitioner has satisfied the statutory requirements for the online voting initiative to be placed on the ballot for the upcoming election.

It is so ordered.

Mccoy, C.J., Gavrich, J., Roof, J. concur. Skop, J., specially concurs with an opinion. Justice Maylor did not participate in this decision.

CONCUR: SKOP, J., specially concurs with an opinion.

I concur with the opinion of the Court, but write separately to distinguish between the instant case and the prior decision of the Court which denied certification of a statutorily deficient petition.

In re: "Petition for On-Line Voting", this Court denied certification of the petition because the document contained no express legislation to codify. Although presented as an "Initiative" the petition provided an aspirational question more typical of a "Referendum question". Accordingly, the petition was denied because it failed to meet the statutory requirements for an initiative.

In contrast, the on-line voting initiative currently before the court provides express legislation to codify. Therefore, the instant case can be distinguished from the prior holding to the extent that it meets the statutory requirements for certification of an initiative for inclusion on the Student Government election ballot.

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Below is the majority opinion of the UF Supreme Court. McCoy, C.J., Roof, J., and Gavrich, J.

December 21, 2006

On November 6, 2006, Student Government President John Boyles exercised his authority as the chief administrator of the election process and formally requested this Court determine which, if any, of the three voting methods currently available at the University of Florida ("UF") are constitutional.[3]

This matter is properly before this Court on several grounds. First, pursuant to the UF Constitution, we have jurisdiction in this matter.[4] Second, any initiative that becomes SG law can be challenged on constitutional grounds by any means in the Student Body Constitution or Student Body Statues.[5]

I. BACKGROUND AND PROCEDURAL HISTORY

There are currently three voting methods available for use by SG elections. The current methods are as follows: optical scan paper ballots ("paper ballot"), secured online voting ("Intranet"), and unsecured online voting ("Internet"). Under the current UF statutes, the supervisor of elections is appointed by the SG president and then confirmed by the UF Senate.[6] It is then up to the supervisor of elections' sole discretion as to which method of voting to employ in the SG elections.

Historically, the sole method of voting in SG elections has been via the paper ballot. Under the traditional method, voters would travel to a polling location and receive a paper ballot with the names of the candidates listed on it. The voter would have to produce an approved form of photograph identification in order to enter the secured voting booth and vote. In recent years, emerging technology has created new systems that allow the use of electronic voting methods.

The first of the new systems allows voting via Intranet. This system replaces the traditional voting both with an electronic machine that records a voter's choice, and then transmits the votes to a centralized computer for tabulation. Similar to the optical scan paper ballot, this system requires that a voter travel to a polling location and produce an approved form of identification that contains their photograph. After the voter has produced their identification, they are then allowed to proceed to a secured voting booth to cast their vote. This system was utilized by SG elections in the fall 2005 election.

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[1] John Boyles' official capacity at the University of Florida is president of the UF student government and a member of the Board of Trustees. Boyles' unofficial capacity is that of a private voter in student government elections.
[2] UF Const. Art. V, §3(b)(2) (2006).
[3] UF Stat. § 790.11
[4] UF Stat. §711.0 (2006).

The second new system allows voting via Internet. Under this system, a voter is allowed to vote from any computer in the world that is linked to the World Wide Web via the Internet. To access the voting mainframe, the voter must login using their official username and password. Once a voter gains access, their voting procedure is similar to that employed by the Intranet method. Internet voting became a voting method available to SG via voter initiative that passed by roughly 85% of voters casting a ballot. SG has not utilized the Internet voting method to date.

It is important to note there is a discrepancy between what the voters approved in the Online Voter Initiative in the spring 2006 election, and what was codified into the election statutes the following summer. The Online Voting Initiative approved by the voters specifically requested that unsecured Internet voting be available to UF students so that they could vote from any computer with World Wide Web access via the Internet. Apparently, the UF Senate either misunderstood the directive of the student initiative, or there was a typographical error in codifying Internet voting. UF Stat. §700.4(r) presently reads "Internet Online Voting' means a voting system that allows voters to cast ballots from any computer connected to the internet and guarantees an elector the option of the privacy of at least one insulated voting booth as defined by 700.4(gg)." UF Stat. §700.4(dd) reads "Unsecure Site Online Voting' means a voting system that allows voters to cast ballots from any computer connected to the internet and does not guarantee an elector the privacy of an insulated voting booth as defined in 700.4(gg)." UF Stat. §771.07 then goes on to prohibit the use of unsecured site online voting.

Despite the lack of cohesion between the initiative passed and current election code, it is clear that the initiative approved by 85% of the voting students was supposed to allow unsecured site Internet voting as an election method. Under the Student Government Initiative and Referendum Act the initiative is considered SG law, as if passed by the Senate, and should have been properly codified to reflect the intent of the students.[7]

II. GOVERNING LAW

a. Hierarchy of Laws Provision of UF Constitution

UF student government laws are governed by, and subordinate to, the laws and constitution of the State of Florida and the Florida Administrative Code.[8] Therefore, any law passed by UF Student Government, whether by formal Senate act, or student initiative, must comply with the mandates established by the State of Florida.

b. UF and Florida Law Both Require Secret Voting Methods.

The UF Constitution prohibits the UF Senate from passing any law that "infringe[s] the secrecy of the ballot in any Student Body election."[9] Florida law requires that elections be conducted by "direct and secret vote."[10] Furthermore, Florida law

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[5] UF Stat. § 790.11 (2006).
[6] UF Const. Art. IX, § 4 (2006).
[7] UF Const. Art. III, §7(d)(2006).
[8] Fla. Const. Art. VI, § 1; Fla. Stat. 101.041 (2006).

establishes an extensive network of statutory and administrative regulations to ensure that the integrity of the voting process is preserved. One of the hallmarks of voting regulation in Florida is the requirement that a voter travel to an approved polling location to cast their vote. Under this system, a voter must interact with election officials and produce proper photograph identification before being allowed to proceed to the secured, private voting booth. While Florida election law does provide for the use of electronic voting machines, it does not allow the use of any pure Internet voting from an unsecured voting site.

III. VOTING SYSTEM ANALYSIS

a. Paper Balloting **IS** a Constitutional SG Voting Method.

Paper ballots have been the traditional method of voting in elections at the SG, state, and federal level for decades. While this Court does not believe that there is any question as to the validity of the paper ballot method of voting, it does deserve discussion to highlight the contrasts between it and the remaining two methods at issue in this opinion.

The paper ballot system is designed to provide voters with a uniform voting method that ensures the integrity of not only their vote, but also the votes cast by other citizens. This system has a number of safeguards built in to accomplish this goal. For example, the time, place, and manner of voting are all closely monitored by voting officials; thereby preserving the integrity of the election. One of the hallmarks of election integrity is the need for voter secrecy so that the voter is free to cast their ballot for the candidate they support without the fear of reprisal. Providing secrecy to voter ballots also prevents the use of coercive tactics by politicians and their operatives to gain a vote.

Despite the multiple safeguards in the paper ballot system, it is not without potential for abuse. For example, when a voter requests an absentee ballot they are not required to complete the ballot in the presence of an election official. This creates the potential for compromised integrity of the ballot and voter coercion. However, there is no evidence that such potential abuse occurs at a significant level because the total absentee ballots in past elections average at levels under twenty. In an election that usually garners many thousands of votes, it cannot be said that the potential for abuse of the system rises to the level that would compromise the integrity of SG elections. Furthermore, it has long been the law in Florida that when a voter requests an absentee ballot they are expressly waiving their right to privacy.[11]

Therefore, given the long-standing use of the paper ballot method, and its tried and tested safeguards critical to preserving the integrity of the election, the paper ballot system is a constitutional method of voting for SG elections.

b. Intranet Voting **IS** a Constitutional SG Voting Method.

Intranet voting has all of the hallmarks of paper balloting in the sense that the integrity of the voters' decision is preserved by requiring each voter to report to an assigned polling location

[11] Boardman v. Esteva, 323 So. 2d 259, 269 (Fla. 1975).

to vote. Once the voter has provided the election staff with proper photograph identification, they are allowed to proceed to a secure voting booth to cast their vote. The Intranet voting method mirrors the safeguards of the paper ballot method. An argument was advanced at the hearing that the cost-benefit of the Intranet voting may not support its continued use for SG elections. However, that is of no matter for this Court to decide as that is a policy question that does not implicate UF constitutional or Florida law issues. Therefore, because the Intranet voting method complies almost lockstep with paper balloting, an extended analysis is not required to determine that it is a constitutional method of voting in SG elections.

c. Internet Voting is **NOT** a Constitutional SG Voting Method.

In stark contrast to the two methods discussed above, Internet voting allows the voter to cast a ballot from anywhere in the world by simple logging on to a computer and entering a valid Gator 1 identification number and password. Absent from the process is the requirement that a voter actually prove their identification via a proper photograph identification. Additionally, the lack of a secured voting location has the potential to completely compromise the integrity of the election because voter privacy cannot be assured; thereby leading to coercion and fraud.

At the December 4, 2006, hearing a proponent of Internet voting suggested that there are already coercive tactics used during SG elections to motivate the members of certain groups to go to the polls and vote. This Court concedes that is most certainly the case. However, under both the paper ballot and Intranet methods, once that voter goes to the polls they have the privacy of a booth in which to cast their ballot for the candidate of their choosing. They can then leave the booth and return with their "I voted" sticker with nobody being the wiser as to whom they actually voted for.

This is absolutely not the case with Internet voting and a quick, very real example should suffice to highlight the point. Suppose in the previous example Internet voting was the sole method employed during SG elections. Instead of the individual being pressured to vote at the designated polling location, they are asked to join the other members of the organization down in the basement with some food and drinks so that everyone can vote. The individual is then asked to access the voter mainframe using their Gator 1 and password and vote for the candidate that the particular organization is supporting. In this example, while the voter casts their vote a member of the organization watches to ensure that in fact the voter has followed the organization's mandate. Such a scenario is appalling to the concept of a free election. It also highlights the absolute lack of voter privacy and secrecy that each student at the University of Florida should be granted when they exercise their right to participate in SG elections.

The argument advanced by a proponent of Internet voting that the potential for abuse in the paper-ballot-absentee situation necessarily excuses any lack of privacy in the Internet voting method is untenable for two reasons. First, as previously discussed, the Florida Supreme Court has determined that those requesting an absentee ballot expressly waive their right to privacy.[12] This is a fundamentally different situation than the voter never being afforded the option to have privacy when casting their vote – something Internet voting does not ensure. Second, it was argued that because a few of the 10-20 absentee ballots might be cast under coercion, it should not matter that large percentages of votes under the Internet voting method might also meet the same fate. The logic in both cases is fundamentally flawed, and unavailing.

It was also argued at the December 4, 2006, hearing that ruling Internet voting unconstitutional would be an affront to the will of the roughly 85% of student voters that voted in favor of having this voting method available in future SG elections. Allowing an initiative passed by an overwhelming majority of voters to be given unfettered deference, despite the glaring violations of existing UF statutes, state, and federal law, could produce absurd results in a host of other situations and would give the legislative branch of student government - via voter initiative - unchecked power. Even those student initiatives with 100% student body support cannot decriminalize theft, suspend due process on campus, or make cheating legal. Like any other statute that is passed through the normal avenues available to the SG Senate, the support of the student body cannot save legislation that violates fundamental tenants of free democracy and the express requirements of UF and Florida law.

Finally, it was argued that Florida law exempts state university student governments from the requirements of Florida election law because university student governments are free to "adopt internal procedures governing. . . the operation and administration of the student government."[13] Yet instead of seizing the autonomy accorded by the Florida legislature, the students drafting the UF Constitution tied their hands to the will of those drafting the Florida election code by making the UF Student Body Statutes subordinate to the Florida Statutes and Florida Administrative Code.[14] If this were not the express requirement of the UF Constitution, then the argument that Internet voting is permissible because it is exempt from Florida law's requirement of "direct and secret" voting would gain traction. The student government at UF is a highly respected body within the Florida university system. Over the course of its existence, UF Student Government has

IV. CONCLUSION

produced some of the state and nation's top leaders. While at UF, these leaders are responsible for running a government that controls tens of millions of dollars in student funds and they help govern the lives of nearly 50,000 students. The assent to power within this system is not

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[12] Boardman v. Esteva, 323 So. 2d 259, 269 (Fla. 1975).

[13] Fla. Stat. § 1004.26(3)(a) (2006); Fla. Stat. § 1004.26(4)(a) (2006) (One example presented at the December 4, 2006, hearing involved the hours polling stations are open during UF elections (8 a.m. to 8 p.m.) not coinciding with the polling hours (7 a.m. to 7 p.m.) of state elections. There certainly is a difference in the polling times; however, it is not one that appears to offend fundamental constitutional requirement necessary for a free, fair election. We have also not been called upon to answer any question related to such an example).

[14] UF Const. Art. IX, §4 (2006).

something that should be taken lightly, because the stakes are so high. Additionally, it would be entirely at odds with the continued validity of UF Student Government, if the process in place to elect the leaders of UF Student Government did not comport with fundamental tenants of democracy that allow voters to cast their vote in privacy, and without coercion. Therefore, only those voting methods that ensure these safeguards are acceptable for use in SG elections, and to that end, Internet voting does not even remotely comply. It is the opinion of this Court that Internet voting is not a constitutional method of voting and shall be removed from the UF Student Statutes and not employed in any future election.

IT IS SO ORDERED.

DISSENT: SKOP, J., concurring in part and dissenting in part.

I concur with the majority view that the Paper Balloting and Intranet Voting methods, as facially challenged by the Executive Branch, are both constitutional methods of voting in Student Government ("SG") elections.

Dissenting from the majority view, I would not hold the Internet Voting method to be unconstitutional on the basis of the facial challenge by the Executive branch. Taking a more conservative approach, it would be inherently premature to rule upon the constitutionality of the Internet Voting method, a voting method that has never been implemented, on the sole basis of a facial challenge to the extent that the issue before the court has not yet sufficiently ripened into a legitimate case or controversy. In fact, I would be much more inclined to hold that SG Statutes §700.3 and §771.09 are inherently unconstitutional on face to the extent that they stand in the face of, and significantly frustrate, the legislative intent of the On-Line Voting Initiative that was overwhelmingly approved by the student body during the Spring 2006 elections. The On-Line Voting Initiative did not make Internet voting mandatory[15], but did contain an express provision requiring the Legislative branch to revise the SG statutes to permit Internet voting. As currently written, SG Statutes §700.3 and §771.09 fail to give full faith and credit to a law enacted by the student body via approval of the On-Line Voting Initiative thereby arguably violating the fundamental rights guaranteed to students under Article I, §2, and Article II, §1, of the Student Body Constitution.

Accordingly, the question of whether the Internet Voting method is constitutional should be more appropriately left for consideration at later day when the issue ripens and becomes subject to an "as applied" constitutional challenge.14 In such an instance, sufficient facts would be readily known to facilitate the adjudication of the constitutional question arising before the Court. In this regard, I specifically reserve judgment as to whether the Internet Voting method would survive constitutional scrutiny if subject to an "as applied" constitutional challenge.

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[15] Pursuant to SG Statutes, the Supervisor of Elections has sole discretion as to which method of voting to employ in any given SG election. The Supervisor of Elections is appointed by the SG President and subsequently confirmed by the Student Senate.

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Submitted: February 13, 2007

To: Sandy Vernon, Student Government Office Manager

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided February 12, 2007
Opinion Published February 13, 2007

Gavrich, C.J., Maylor, J., Campbell, J., and Vialpando, J. concur. Klein, J. concurring in part and dissenting in part.

I. Introduction

Three proposed referendums were submitted to the University of Florida Supreme Court to be placed on the spring semester election ballot. The first referendum asks: "Do you support the creation of a 50 cent per credit hour Renewable Energy student fee that will be used to support renewable energy on campus, and buy campus power from renewable energy providers." This referendum will be referred to as the *"Renewable Energy"* referendum question. The second referendum states: "I, the undersigned, hereby declare my support for a Student Run Coffee Shop on campus. A Student Run Coffee Shop is a space that is wholly owned and run by the students for the benefit of the students." This referendum will be referred to as the *"Student Run Coffee Shop"* referendum. The third and final referendum submitted asks: "Should the University of Florida allocate the necessary funds to open a student run homeless shelter in the city of Gainesville and require all incoming students to visit this shelter as part of their Preview orientation." This referendum will be referred to as the *"Student Run Homeless Shelter"* referendum.

Pursuant to Article V, §3 (b)(1) of the Student Body Constitution of the University of Florida, we have jurisdiction.

II. The Law

§ 700.4 (y) of the Student Body Statutes defines a referendum question as "an issue stated in the form of a question that shall be considered, when answered by the Student Body, to have the power of a resolution of Student Government." According to Chapter 790 of the Student Body Statutes, students may propose referendum questions to be placed on the election ballot. However, to be certified, a proposed referendum question must satisfy the statutory requirements. § 790.2 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 1% of the Student Body at the time of submission.

Furthermore, § 773.1 requires that each of the signatures obtained by a petitioner conform to certain minimum standards to ensure that there has been no fraud in satisfying the requirements of § 790.2. Under § 773.1 all referendum petitions must satisfy all of the following requirements:

1. All names must be or must be accompanied by the signature of the individual who signed the petition.
2. All signatures must be in non-erasable ink.
3. All names must be signed exactly as the student's name is signed on file with the Registrar's Office.
4. All names must be followed by student number, address, and phone number, if any.
5. Each page of signatures must have the proposed referendum question stated on the top of the page.
6. Each page of signatures must include the signature of the person responsible for securing signatures for that page.

The specific subsection that becomes problematic is the requirement that each signature shall be "followed by the student number, address, and phone number, if any." The requirement is codified at § 773.1 (d). In an opinion of the Supreme Court published in August 2006, the majority held that subsection (d) was unconstitutionally vague.[16] In determining whether the referendum questions considered today meet the statutory requirements, this Court recognizes the Court's previous opinion declaring § 773.1 (d) unconstitutional. Accordingly, this Court disregard the requirements of § 773.1 (d) in issuing its opinion today.

III. Renewable Energy Referendum and Student Run Homeless Shelter Referendum

The Court holds that both the Renewable Energy Referendum question and the Student Run Homeless Shelter Referendum question satisfy the statutory requirements of § 790.2 and § 773.1. Both proposed referendums consist of more than the required 507 signatures.[17] Furthermore, at least 507 of these signatures appropriately satisfy the requirements of § 773.1. The Court also holds that both proposed referendums are properly written in the form of a question in accordance with § 700.4 (y). Lastly, the Court holds that the proposed referendums are clearly written and accurately convey the legislative intent to the voters. For these reasons, both referendum questions shall be placed on the spring election ballot.

Student Run Coffee Shop Referendum

The Court holds that the Student Run Coffee Shop Referendum fails to comply with § 700.4 (y), and therefore, will not be placed on the spring election ballot. The proposed referendum does not comply with § 700.4 (y) because it is not phrased in the form of a question. Furthermore, because the referendum is not phrased in the form of a question, the Court holds that the referendum as worded does not clearly and unambiguously convey the legislative intent

[16] *See* the Court's opinion dated August 30, 2006 in which the Court held the following: "We feel that § 799.3(4) wholly fails to provide the student body with the unambiguous direction it deserves, and therefore, strike that portion of the code as unconstitutional."

[17] According to data provided by the UF Office of Institutional Planning and Research, there are 50,785 members of the Student Body (students enrolled in the University of Florida to include undergraduates, graduates and professional students). § 790.2 requires signatures of not less than 1% of the Student Body. 507 signatures represents 1% of the Student Body and is the minimum number of signatures required to certify today's referendums.

to the voters. Although the Court considered the possibility of changing the language of the referendum to comply with § 700.4 (y), the Court determined that such an action would not be proper without the consent of all the student signatories. For these reasons, the Student Run Coffee Shop Referendum unfortunately cannot be placed on the spring election ballot.[18]

IV. Conclusion

Accordingly, the Court holds that the Renewable Energy Referendum Question and the Student Run Homeless Shelter Referendum Question shall be placed on the fall election ballot, but the Student Run Coffee Shop Referendum shall not. The Court further respectfully recommends that the Senate clarify and change the extremely ambiguous language of § 773.1 (d). It is so ordered.

Klein, J., agreeing in part and dissenting in part.

I concur with the Court regarding whether the proposed referendums meet the first requirements of Student Body Statutes §773.1 and §790.2. The Student Run Coffee Shop Referendum fails because the submitted proposal is not in the form of a question. The Renewable Energy referendum and the Homeless Shelter referendum meet the requirements of §790.2 and §773.1 (a) through (f).

However, I respectfully disagree with the majority's conclusion to disregard section (g) of Student Body Statute §773.1. The Court may have disregarded the section because of ambiguity or incoherence. In my opinion, the Senate's purpose of the statute was to have the sentence, "*If you would like to read the full text of the initiative, as the person securing your signature and he/she is required by the Student Body Statute to provide it*" appear on the bottom of each and every page where a student has provided his signature. That sentence does not appear on any of the signature sheets submitted to the court for any referendum discussed in this opinion.

It is unclear what the sentence actually means because of its poor structure. But, in my interpretation of §773.1(g), the Senate wanted to inform a student who is signing a petition for a referendum that the full language of the referendum is available to the student if the student wishes to see it.

Whatever the statute's meaning, it is clear that this 'sentence' should appear on the bottom of each submitted page of signatures submitted with a proposed referendum for certification by the Supreme Court. This 'sentence' is absent from all of the submitted signature pages and clearly violates §773.1. The section clearly mandates that all of the requirements be met in order for the Supreme Court to certify a referendum.

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[18] Since the referendum does not comply with § 700.4 (y), the issue of whether the referendum complies with § 790.2 and § 773.1 is moot.

For the above reason, I would not certify any of the proposed referendums submitted for certification. They simply do not meet the requirements for a campus-wide vote as laid out by the Senate.

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SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for Appeal to the Supreme Court of the Student Body and Explanation of Intent*
March 2, 2007

PER CURIAM

Article 6, Section 2 of the Constitution of the University of Florida Student Body grants the Supreme Court of the Student Body ["Supreme Court"] the power to establish internal rules of practice and procedure. Accordingly, the Supreme Court has drafted the "Procedure for Appeal to the Supreme Court of the Student Body" [attached as Addendum A].

Any person or political party who chooses to appeal a decision of the Election Commission to the Supreme Court must comply with these procedures.

With respect to decisions of the Election Commission, the Supreme Court will first hear all appeals. After all appeals are heard and decided, the Supreme Court will hold a hearing to review the Election Commission's Formal Recommendation to the Supreme Court of Disqualification.

Addendum A

Procedure for Appeal to the Supreme Court of the Student Body

The Supreme Court of the Student Body ["Supreme Court"] hereby establishes these procedures this 2nd day of March 2007.

1. **REQUEST FOR APPEAL**: Any person or political party who chooses to appeal a decision of the Election Commission in accordance with Section 729.0 shall file a request for appeal with the Supreme Court no later than 24 hours after the Chair of the Election Commission, or his or her designee, submits the record and/or decision of the Election Commission to the Student Government Office Manager in accordance with Section 729.7.

2. **METHOD FOR FILING REQUEST FOR APPEAL**: A request for appeal is filed by sending an email to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu].

3. **REVIEW OF REQUST FOR APPEAL**: The Supreme Court shall either approve or deny any request for appeal within 24 hours after such request for appeal is received. If the

request for appeal is approved, the Supreme Court will schedule an appeals hearing and post public notice of such hearing.

4. **PETITIONER'S BRIEF**: If the request for appeal is approved, Petitioner shall file a brief with the Supreme Court within 24 hours after such approval.

5. **RESPONDENT'S BRIEF**: After the Supreme Court receives Petitioner's brief, Petitioner's brief will immediately be sent to Respondent. Respondent is under no obligation to file a brief. If Respondent chooses to file a brief, Respondent must file such brief with the Supreme Court within 24 hours of the Supreme Court's delivery of Petitioner's brief to Respondent.

6. **METHOD FOR FILING BRIEFS**: A brief is filed by e-mailing a copy of such brief in Microsoft Word format to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu].

7. **FORM OF BRIEFS**:
    a. Briefs shall be filed on 8 ½ x 11 inch paper.
    b. Briefs shall not exceed 6 pages, typed, doubled spaced, Times New Roman, 12 point font, 1 inch margins.
    c. Briefs shall include a list of relevant Student Body Statutes and/or Constitutional provisions, a Statement of Facts, and the Arguments of the person or political party.
    d. Arguments should be clearly and concisely written.
    e. Each individual argument should begin with the following phrase: "The decision below to [insert decision] should be [reversed or affirmed] because [insert reasoning]."
    f. Briefs shall only include evidence that was previously presented to the Election Commission. Briefs shall not include any new evidence.

8. **PROCESS FOR APPEALS HEARING**:
    a. Petitioner and Respondent shall each be given twenty minutes for oral arguments.
    b. Petitioner and Respondent may reserve a portion of their twenty minutes for rebuttal.
    c. Petitioner and Respondent shall only refer to evidence that was previously presented to the Election Commission. Appellant and Respondent shall not refer to any new evidence.

Jessica Gavrich
Chief Justice
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John Campbell
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SUPREME COURT OF THE STUDENT BODY
Heard and Decided March 8, 2007
Opinion Published March 12, 2007

In re: *J. Clayton Brett v. The Pants Party*

COUNSEL: Rosemarie Clouston on behalf of Petitioner; Jesus Suarez on behalf of Respondent.

JUSTICE: GAVRICH, C.J., MAYLOR, J, KLEIN J., and VIALPANDO, J. concur. CAMPBELL, J. concurring in the judgment.

The Supreme Court of the Student Body [the "Court"] here reviews Petitioner's appeal of the Election Commission's decision in the case of *John Clayton Brett v. The Pants Party*, Case No. 2007-S-0007. We have jurisdiction. *See* § 729.0, Student Body Statutes. For the reasons explained below, we affirm.

I. Procedural History

On February 28, 2007, the Elections Commission [the "Commission"] heard arguments in the case of *John Clayton Brett v. The Pants Party*, Case No. 2007-S-0007. The Commission made three determinations is its decision issued March 1, 2007: (1) The Commission denied the Petitioner's motion to defer the hearing. (2) The Commission held that the Chair of the Commission has the authority to issue a cease and desist order. (3) The Commission held that the Petitioner's distribution of "I Voted" stickers violated § 761.21. On March 6, 2007, Petitioner filed a Request for Appeal with the Court, and the Court approved. Petitioner specifically appealed the Commission's decision that the distribution of "I Voted" stickers violated § 761.21.

II. Analysis

§ 761.21 of the Student Body Statutes specifically provides that "No candidate shall give, offer, or promise to any student or student organization any benefit not authorized by student body law in order to influence the votes of that student or members of that organization." According to § 744.1, a political party may be held liable for the actions of individuals if a complainant can demonstrate by clear and convincing evidence that the political party solicited the individual to violate any provision of the Student Government Election Code. On this point, the Court believes the Elections Commission's findings of fact were accurate. Therefore, the Court agrees that the Petitioner may be held liable under § 761.21 for the actions of the persons who distributed "I Voted" stickers of its behalf.

In interpreting § 761.21, the Court developed the following three prong test. In order to demonstrate a violation of § 761.21, a person must first show that a candidate conferred a benefit on a student or student organization. If this requirement is satisfied, a person must then demonstrate that such benefit was unauthorized by the Student Body Statutes or Student Body

Constitution. Last, a person must show that the candidate conferred the benefit in order to influence the vote. The Court finds that these three requirements were satisfied.

The Court agrees that the distribution of "I Voted" stickers conferred a benefit on the students that received them. The right to display an "I Voted" sticker is a privilege conferred on the students by the polling representatives and the Supervisor of Elections. For some students, an "I Voted" sticker is a valuable benefit because it represents their participation in the electoral process. For others, the "I Voter" sticker has value because it demonstrates that the student has previously voted and it may deter a campaigner from approaching him or her. Accordingly, the Court holds that the Petitioner conferred a benefit on students by distributing the "I Voted" stickers.

The Court agrees that the "I Voted" stickers were unauthorized by the Student Body Statutes. To be authorized, campaign materials must bear the words "paid political advertisement." *See* § 762.0.[19] Therefore, in determining whether the stickers were unauthorized, the Court first considered whether the "I Voted" stickers constituted "campaign materials" as defined by § 700.4 (d). According to that provision, campaign materials include "any print or electronic material used for the purpose of supporting a candidate or political party for an elective Student Body office, an initiative, a referendum question, or proposed constitutional amendment."

The distribution of "I Voted" stickers by polling representatives is a long standing practice in Student Government elections. When distributed by polling representatives, the "I Voted" stickers are polically neutral and do not constitute campaign materials. However, the Court believes the Petitioner distributed "I Voted" stickers to satirize the current practices of Student Government and to further their stated platform that "SG SUCKS."[20] Therefore, the Court agrees that the stickers constituted campaign material when distributed by the Petitioner. Accordingly, because the stickers constituted campaign materials and because they did not bear the words "paid political advertisement," the stickers were unauthorized under the Student Body Statutes.

Thirdly, the majority agrees that distribution of "I Voted" stickers by the Petitioner influenced the vote. Because polling representatives only distribute "I Voted" stickers to voters *after* votes are cast, the Court believes that the act of distributing "I Voted" stickers to students *before* their votes were cast caused voter suppression and discourages voting. We further believe that the act of distributing "I Voted" stickers influenced the vote by disrupting the legitimate, long time practice of many student organizations of using "I Voted" stickers to track voter turnout. Because student organizations were unable to accurately use "I Voted" stickers to track voter turnout within their organizations, we believe that voter turnout was negatively influenced overall. Therefore, based on the above, the Court finds that the Respondent has demonstrated the three requirements inherent in § 761.21. Accordingly, the Court holds that the Petitioner has violated § 761.21.

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[19] According to the record of the Commission, the stickers distributed by Petitioner did not bear these words.

[20] The record states that the Petitioner printed and distributed t-shirts which stated the slogan "SG SUCKS." The Court is of the opinion that the Petitioner organized around this central theme.

Lastly, with respect to constitutional issues raised by the Petitioner, the Court holds that the Commission's issuance of a cease and desist order prior to its ruling was not an unconstitutional restraint on free speech under Article I, § 4 of the Florida Constitution and the First Amendment of the United States Constitution. Moreover, the Court holds that the subsequent ruling of the Commission did not constitute an unconstitutional limitation on free speech. While the right to free speech is undeniable, the U.S. Supreme Court has permitted a multitude of restrictions on speech. For example, in the case of *Buckley v. Valeo*, the Supreme Court held that limits on campaign contributions "serve[d] the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion." Similarly, the Court believes that the Student Body Statutes regulating campaign material are constitutional and properly work to preserve the integrity of the electoral process. Accordingly, the Petitioner cannot be excused from following Student Body Law. For these reasons and the reasons stated above, the Court hereby affirms the decision of the Commission in the case of *John Clayton Brett v. The Pants Party*, Case No. 2007-S-0007.

Campbell, J. (concurring in judgment)

I concur in the judgment that the Pants Party violated at least one provision in Chapter 700 of the Student Government Election Code ("Code"). However, I do not agree that Pants violated the Code provision that the Student Government Elections Commission ("commission") charged them with violating, §761.21. Additionally, I believe the real issue and argument was never raised.

The Student Government Elections Commission anchored their charges against the Pants Party on Code §761.21. This provision states:

> "761.21. No candidate shall give, offer, or promise to any student or student organization any benefit not authorized by student body law in order to influence the votes of that student or members of that organization."

This provision was written to prevent candidates from agreeing to provide unauthorized benefits in exchange for votes. It was written to prevent fraudulent "wheeling and dealing." As an example of what the drafters intended §761.21 to prevent, I give the following hypothetical proposal:

> CANDIDATE: "If you will get everyone in your organization to vote for me, then after I'm elected I'll ensure that everyone in your organization receives free tickets to Gator football games compliments of the Student Government's budget.

The hypothetical above shows an express agreement. In reality, the agreement could be express or implied and need not be this extreme to be wrongful. What matters is that the

candidate hopes to exchange unauthorized benefits for votes. This is the type of conduct the legislature intended to outlaw when it gave §761.21 the force of law.

In the present situation the Pants Party randomly and indiscriminately distributed "I Voted" stickers. The Pants asked nothing in return and the recipients, by accepting the stickers, expected nothing in return and had no further obligations. Once the stickers were gifted, the transaction was complete and the recipients were free to vote or not to vote at their discretion. The conduct proscribed by §761.21 does not apply to the present situation and the commission should not have anchored its claim upon a violation of §726.21.

The real issue, never raised, follows.

The Gator Party and those student organizations whose members tend to associate with the Gator Party are comparatively well organized and structured. Party and organization leadership encourage their members to vote. They use the "I Voted" stickers as a method of vote accounting. If, at the end of the day, an organizational member cannot present an "I Voted" sticker, leadership will influence the member to hit the polls. The stickers are proof that the members voted. As such, the stickers are a form of political "currency" with a unique value in this Student Government. I make no judgment whatsoever on the merits of this process.

The Pants Party is differently organized and structured. They do not have a similar sticker "vote accounting" process in place. The Pants Party does not like the way the Gator Party uses the stickers. They argue that the vote enforcement mechanism is anti-democratic. I make no judgment whatsoever on the merits of their argument. Regardless, it is advantageous to the Pants Party to flood the market with the stickers. Their logic is as follows: "Some members of Gator Party vote only because they are pressured into voting. These members must prove they voted with a sticker. If I give them a sticker, then they don't actually have to vote. They can put this sticker on the voter board and pretend they voted." Thus, their goal in distributing these stickers was to devalue the "currency" and disrupt the Gator Party's process.

Regardless of who distributed the stickers, for both Gator and Pants, the stickers were used to influence votes. Saying otherwise would deny reality. For the Gator Party the influence comes at the end of the day when an organizational member cannot present a sticker and is persuaded by leadership to go vote. For the Pants Party the influence comes in the middle of the day when they give a sticker to someone who then decides not to vote and later presents their leader with false proof. It is obvious that each party used the stickers to accomplish the same goal: to influence the vote.

One could argue that the key difference is that, on one side, the stickers were officially distributed by poll workers (and not Gator Party members) and, on the other, the Pants Party members were personally distributing the stickers. This argument values form over substance. It does not matter who distributes the stickers if they are ultimately used for the same purpose. Labeling something as "official" does not cure an inherent defect. Scanning any History textbook proves this point.

Apparently this "Stickergate" controversy has raised its ugly head before. Until this Court either declares that the stickers are, or are not, contraband, the controversy will continue its cycle of reincarnation. In the interests of justice and equity, I believe that this Court should make a decision that will apply to everyone equally. This would be the right thing to do.

However, the Pants Party is far from innocent. The Chair of the Elections Commission may grant a preliminary cease and desist order under authority pursuant to Code §723.4. In the present case, the Chair issued an order for the Pants to stop distributing the "I Voted" stickers. The order was summarily ignored. At this point, the merits of the order do not matter. What matters is that the Pants Party unilaterally decided that the order was invalid. That was a big mistake. The Pants Party should have made a good faith effort to follow the order and then use the judicial process for vindication. Instead, they took the law into their own hands.

Student Government will not work unless everyone plays by the rules. Unlike the real world, Student Government has few enforcement mechanisms for violation of an order. In voluntarily participating in Student Government, individuals and parties are also volunteering to play by the rules. The Pants Party willingly chose not to play by the rules. This cavalier attitude cannot be tolerated and is the only reason I concur in the judgment that the Pants Party violated the Code.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for the Subpoenaing of Witnesses in the case of J. Clayton Brett v. The Pants Party and Explanation of Intent*
March 12, 2007

PER CURIAM

Explanation of Intent

Article 6, Section 2 of the Constitution of the University of Florida Student Body grants the Supreme Court of the Student Body ["Court"] the power to establish internal rules of practice and procedure. Accordingly, the Supreme Court has drafted the "Procedure for the Subpoenaing of Witnesses in the case of *J. Clayton Brett v. The Pants Party*" [attached as Addendum A].

The Court will hold a meeting to review the Election Commission's Formal Recommendation of Disqualification in the case of *J. Clayton Brett v. The Pants Party*. The meeting is tentatively scheduled for March 20, 2007 at 12:00 p.m. in the Law School Library. Any person or political party who would like to subpoena witnesses to be present at this meeting must comply with the attached procedure.

Addendum A

Procedure for the Subpoenaing of Witnesses in the Case of *J. Clayton Brett v. The Pants Party*

The Supreme Court of the Student Body ["Court"] hereby establishes these procedures this 12th day of March 2007.

9. **REQUEST FOR SUBPOENA**: Any person or political party who would like to subpoena a witness to be present at the Court's meeting to review the Election Commission's Formal Recommendation of Disqualification must file a request with the Court.

10. **METHOD FOR FILING REQUEST**: A request for subpoena(s) is filed by sending an email to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu]. The request must include the full name(s) and email(s) of the person(s) to be subpoenaed. The request must be filed before the Court's meeting to review the Election Commission's Formal Recommendation of Disqualification.

11. **FORM OF SUBPOENA:** After a request is filed with the Court, the Court will send a subpoena to each requested person via email.

12. **TESTIMONIAL STATEMENT:** If a subpoenaed person cannot be present at the Court's meeting to review the Election Commission's Formal Recommendation of Disqualification, the person may submit a sworn testimonial statement to the Court. Such testimonial statements must be in writing and signed by the subpoenaed person. The Court will consider such testimonial statement in rendering its decision.

13. **RESCHEDULE:** If a subpoenaed person refuses to comply with a subpoena, the Court is under no obligation to reschedule its meeting to review the Election Commission's Formal Recommendation of Disqualification.

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Chief Justice
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Suzette Maylor
Associate Justice
Suzetteuf@yahoo.com

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SUPREME COURT OF THE STUDENT BODY

In re: *J. Clayton Brett v. The Pants Party*
Heard and Decided March 20, 2007
Opinion Published March 20, 2007

JUSTICES: GAVRICH, C.J., KLEIN J., VIALPANDO, J. concur

The Supreme Court of the Student Body [the "Court"] here reviews the Election Commission's formal recommendation to disqualify. We have jurisdiction per § 728.2(d) of the Student Body Statutes.

III. Procedural History

On February 28, 2007, the Elections Commission [the "Commission"] heard arguments in the case of *John Clayton Brett v. The Pants Party*, Case No. 2007-S-0007. The Commission made three findings: (1) The Commission denied the Pants Party's motion to defer the hearing. (2) The Commission held that the Chair of the Commission has the authority to issue a cease and desist order. (3) The Commission held that the Pants Party's distribution of "I Voted" stickers violated § 761.21 of the Student Body Statutes. After making its findings, the Commission formally recommended to the Court that the Pants Party be disqualified from the Spring 2007 Student Government elections in accordance with § 723.2(d).

On March 6, 2007, the Pants Party appealed the Commission's finding that the distribution of "I Voted" stickers violated § 761.21. On March 8, 2007, the Court heard the Pants Party's appeal and affirmed. On March 20, 2007, the Court held a hearing to review the Commission's formal recommendation to disqualify. Because the Pants Party violated the cease and desist order properly issued by the Chair of the Commission in accordance with § 723.4 of the Student Body Statutes, the Court hereby declares the Pants Party formally disqualified from the Spring 2007 Student Government elections.

IV. Analysis

The purpose of today's hearing was to determine whether or not to disqualify the Pants Party or its candidates for violations of the Commission's cease and desist order. In making today's decision, the Court considered evidence presented at the Commission's hearing on March 1, as well as testimony given today by representatives of the Pants Party and the Gator Party. After considering the evidence of record, the Court agrees that disqualification of the Pants Party is the appropriate penalty in this case.

According to § 723.4 of the Student Body Statutes, the Chair of the Commission may grant a preliminary order that a political party or candidate cease and desist from the distribution of campaign material where the Chair of the Commission deems that a preponderance of

evidence leads to a conclusion that there is a strong likelihood of a violation of the Student Body Statutes. In order to maintain order during the electoral process and prevent chaos, the authority of the Commission must be respected by the political parties and candidates that choose to participate in the elections. In this case, Pants Party leadership deliberately violated the Commission's cease and desist order. In doing so, Pants Party leadership undermined the authority of the Elections Commission and the integrity of the electoral process. Due to the severity of the violation, this Court agrees that disqualification of the party is the appropriate sanction.

At the disqualification hearing, Pants Party representative, David Meyrowitz, testified that, in his opinion, disqualification of the party was too severe a sanction. Instead, he suggested that a fine or disqualification of Pants Party leadership would be more appropriate. We disagree. Although fines are appropriate for minor violations of the Student Government Election Code, the Court does not believe that a fine would sufficiently penalize the Pants Party in this case. Moreover, the Court does not believe that a fine would deter violations of cease and desist orders in the future.

The Court believes that Mr. Meyrowitz's second suggested penalty to disqualify only Pants Party leadership would also be insufficient. The Court believes that such a decision would not deter future party leaders from committing violations. In other words, if only party leadership was disqualified for violations of the Commission's cease and desist orders, party leaders could deliberately violate the laws, while their candidates win and take office. The Court is not willing to leave that loophole open.

In conclusion, parties and candidates are not free to disregard the authority of the Commission or the laws provided in the Student Government Election Code, including the law regarding cease and desist orders as in this case. The Court is concerned that any punishment other than disqualification of the Pants Party may render the Commission's cease and desist power obsolete and may result in future violations. Therefore, because the Pants Party violated the cease and desist order properly issued by the Chair of the Commission in accordance with § 723.4 of the Student Body Statutes, the Court hereby declares the Pants Party formally disqualified from the Spring 2007 Student Government elections. Note, however, that it is not the Court's intention to disqualify the individual candidates or members of the Pants Party from participating in any future Student Government elections.

Lastly, the Court recognizes that, due to our decision today, one graduate student Senate seat will be vacant after the certification of the Spring 2007 election results. This seat will be considered vacant and must be filled after validation of the election results by the normal procedure of the Student Senate Replacement and Agenda Committee. That said, the Court notes that any and all former Pants Party candidates disqualified by the Court's decision today are eligible to fill the open seat. In this case, Alan Passman was the only Pants Party candidate to win his seat. There is nothing in the Student Body statutes that would prevent Mr. Passman from filling the vacant seat. Thus, if he chooses to apply, the Court recommends that the Student Senate Replacement and Agenda Committee consider Mr. Passman to fill the vacant seat.

CAMPBELL, J. dissents:

Today this Court decided to prevent Mr. Alan Passman from taking his seat in the Student Senate. Mr. Passman was elected by majority vote via a democratic process. After Mr. Passman learned of the Election Commission's cease and desist order, he followed the "law" and obeyed the order without question. His maturity should be commended, not punished. There is nothing even remotely Constitutional or fair about the Court's decision.

Let us be realistic here. Mr. Passman, not the Pants Party, is being punished. The Pants Party no longer exists. According to the testimony I heard at today's "sentencing" hearing, their leaders are soon to graduate and none were elected to office. Mr. Passman is being punished merely because he "associated" with the wrong crowd. He is truly "guilty by association."

Apparently this Court wants to set precedent and send a message saying, "thou shall not violate a cease and desist order." In reality, the message we are sending is: "You may as well violate a cease and desist order because you're going to be punished regardless." I am not saying that we cannot disqualify someone from taking seat; I am saying that this is not the time to do it.

Legal rhetoric aside, what bothers me the most is the fact that this decision could actually harm Mr. Passman in the "real world." A seat in the university's Student Senate is a good bullet on a resume. It demonstrates civic involvement and leadership potential. It could make the difference between being hired or not. By "sending a message" to the Pants Party, we are actually taking a line off his resume. A line, I add, that he earned. He campaigned for office and won his seat. As soon as he found out the "I Voted" stickers were contraband he stopped disseminating them. He should be allowed to take his seat, represent those who voted for him and tell potential employers that he was a member of the University of Florida Student Senate.

I am truly disappointed with the majority of this Court.

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SUPREME COURT OF THE STUDENT BODY

Heard and Decided September 10, 2007
Opinion Published September 10, 2007

SAM ANDREW MIORELLI v. KEITH HARDWICK
ON REQUEST FOR TEMPORARY STAY OF QUALIFYING AND SLATING

JUSTICE: GAVRICH, C.J., CAMPBELL, J, KLEIN J., AUNGST J., and SPICOLA, J. concurs.

The request for temporary stay presented by Sam Andrew Miorelli and referred to this Court is here denied. The request for temporary stay is denied because the Petitioner has not shown that the Court has jurisdiction under the Constitution of the University of Florida Student Body to issue a stay in this case.

The Court does not here address the merits of the Elections Violation Complaint filed with the Election Commission by Sam Andrew Miorelli against Keith Hardwick. Accordingly, the associates and supporters of the party represented by Sam Andrew Miorelli may continue to use the party name of "Swamp" unless ordered to cease use of the name by an authorized body.

It is so ordered.

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SUPREME COURT OF THE STUDENT BODY

Thomas Jardon,
Petitioner,
v.
Supervisor of Elections,
Respondent.

Heard and Decided January 15, 2008

Opinion Published January 29, 2008

WRIT OF MANDAMUS

Aungst, C.J.
The Supreme Court of the Student Body (hereinafter the "Court") issues the following writ enjoining the Supervisor of Elections from mandating initiative petitions for the spring 2008 election be due prior to Tuesday, January 29, 2008. We have jurisdiction per Article V, §3(b)(2), of the Constitution of the Student Body (hereinafter the "Constitution").

1. Procedural History

On January 14, 2008, Thomas Jardon, the Petitioner, submitted a formal complaint seeking injunctive relief against Sarah Krantz in her official capacity as Supervisor of Elections pursuant to Art. V, §3(b)(2), of the Constitution. In his complaint, Petitioner alleged: (1) The Constitution requires student proposed initiative petitions be submitted 28 calendar days prior to the election. (2) The Supervisor of Elections established a deadline for submission of initiative petitions 28 school days prior to the election. (3) The Supervisor's deadline of 28 school days, though required by §773.0, Student Body Statutes, is unconstitutional under Art. VIII, §2, and Art. IX, §1. Petitioner sought injunctive relief against the Supervisor of Elections from making the petitions due on January 16, 2008, and sought a writ of mandamus requiring the Supervisor to establish a new deadline of January 29, 2008, or 28 calendar days prior to the spring election.

On January 15, 2008, the Court heard oral arguments. Because the Constitution of the Student Body only requires petitions to be submitted 28 calendar days prior to the election, the legislature cannot impose and the executive cannot enforce a stricter deadline than the Constitution requires unless the stricter deadline is necessary to ensure ballot integrity. As no such necessity was shown the Court hereby issues a writ of mandamus mandating the Supervisor of Elections to make petitions due January 29, 2008.

2. Analysis

This Court was established when a legislatively proposed initiative to amend Article V of the Constitution was approved by the perquisite two-thirds of the student body in spring 2003. The amendment radically altered the composition and the operation of Student Government's judicial branch. Article V vests "all judicial power of the Student Body" in the Supreme Court. Art. V, §1, Constitution of the Student Body. As such this Court is the ultimate arbiter of all issues and controversies that arise out of the Constitution and the Student Body Statutes. The Court was established to provide stability and uniformity to the administration of justice in Student Government. Since its inception in 2004, the Court has delivered precedential opinions in order to provide guidance to the Student Body on matters relating to Student Government law. Like all other judicial bodies in the United States, this Court adheres to the fundamental judicial doctrine of *stare decisis*.

By adhering to the precedents established by previous decisions of this Court, we serve to perpetuate stability in the Student Government judicial process and promote reliance on our decisions. See State v. Gray, 654 So. 2d 552, 554 (Fla. 1995) ("*Stare decisis* provides stability to the law and to the society governed by that law"). Previous Justices of this Court have relied heavily on Florida constitutional law as interpreted by the Florida Supreme Court in reaching their decisions. In In Re Online Voting, Chief Justice McCoy set out the hierarchy of laws that bind the Court. "UF student government laws are governed by, and subordinate to, the laws and constitution of the State of Florida." In Re Online Voting, (2006). The Court went on to hold online voting unconstitutional and cited several provisions of the Florida Constitution and a Florida Supreme Court case in reaching their decision. It is clear that while Student Government is free under Florida state law to establish its own internal rules of operation, the Student Body has chosen to bind itself to the decisions of the Florida Supreme Court when they are directly applicable to cases and controversies that arise under the Constitution of the Student Body. The Constitution of the Student Body specifically recognizes that "[e]very student is guaranteed certain rights under the constitutions and laws of the United States and State of Florida." Art. I, §2, Constitution of the Student Body. The Constitution also states "[t]he provisions of the student body constitution are governed by and subordinate to the constitution and laws of the State of Florida." Art. IX, §4, Constitution of the Student Body. Thus, not only is it natural for the Court to adhere to decisions of the Florida Supreme Court, the Constitution of the Student Body requires adherence to those decisions when they are directly on point.
There is perhaps no issue that has come before this Court that has been more thoroughly and directly ruled on by the Florida Supreme Court than is presented in this case. Petitioner is effectively seeking two more weeks to collect signatures than the Supervisor of Elections is allowing in order to get his student proposed initiative on the spring ballot. Counsel for the Supervisor cites §773.0 which states in relevant part:

> "Amendments to the Student Body Constitution proposed by petition in accordance with Article VIII, Section 2 of the Student Body Constitution and referendum questions proposed in accordance with Student Body Statute 790.31 shall be filed with the Supreme Court no later than 28 school days before the beginning of a regular or special election." §773.0, Student Body Statutes.

The Supervisor is required by §711.2, Student Body Statues, to "faithfully execute those duties and responsibilities as designated by the Student Government Election Code." The Court has no doubt that the Supervisor was attempting to faithfully execute her duty in good faith when she set the deadline for the submission of petitions supporting student initiatives at 28 school days prior to the election as is required by §773.0. However, the Student Body Statutes are subject to and superseded by the provisions of the Constitutions of the Student Body and the State of Florida. The Constitution of the Student Body limits the time in which students may submit petitions to place an initiative on the ballot to "not later than 28 days prior to the ratification election." Art. XIII, §2, Constitution of the Student Body. The Constitution goes on to define the word "days" as "calendar days." Art. IX, §1(d), Constitution of the Student Body. The Court reads these provisions together and interprets Article XIII, §2, of the Constitution to require petitions supporting a student submitted initiative to be filed with the Court no later than 28 calendar days prior to the ratification election. In so doing, the Court is adhering to the *in pari materia* judicial doctrine of constitutional and statutory construction. The doctrine of *in pari materia* requires the Court to construe related provisions "together so that they illuminate each other and are harmonized." McGhee v. Volusia County, 679 So. 2d 729, 730 n.1 (Fla. 1996) (Citing Singleton v. Larson, 46 So. 2d 186 (Fla. 1950)).

Counsel for the Respondent adeptly points out that 28 school days as is required by §773.0, is not later than 28 calendar days. It is also clear that the plain meaning of Article XIII, §2, is not a hard and fast deadline. It merely requires the executive branch (Supervisor of Elections) to ensure that no petitions are submitted later than 28 calendar days prior to the election. This is not to say the legislature cannot impose a deadline prior to 28 calendar days before the election, but in order to do so they must show it is reasonable and does not unduly burden students' fundamental right to propose amendments to their Constitution. In order to suffice this test, the legislature must show a deadline stricter than 28 calendar days prior to the election is necessary to ensure the integrity of the ballot. In State v. Firestone, 386 So. 2d 561 (Fla. 1980), the Florida Supreme Court reached the same holding we reach today. In Firestone, citizens collecting signatures to place a constitutional amendment on the ballot sued for injunctive relief after the Secretary of State established an administrative rule requiring petitions supporting the amendment to be submitted for verification 122 days before the general election. The Florida Constitution at the time required only that a petition be submitted to the Secretary of State not later than 90 days before the general election. The issue before the Florida Supreme Court in Firestone is almost identical to the issue in the present case. The Florida Supreme Court recognized that "the initiative petition is a fundamental right and any rule or statute which

regulates the initiative process must not unduly burden the petitioners' initiative access." State v. Firestone, 386 So. 2d 561, 566 (Fla. 1980). The initiative petition is not only a fundamental right under the Florida Constitution, but under the Constitution of the Student Body as well. "[T]he Student Body is guaranteed the right to submit initiatives and referendums for ratification by the electorate." Art. I, §2, Constitution of the Student Body. We hold the initiative petition is a fundamental right of the Student Body, and any rule or statute which regulates it must not unduly burden the Student Body's initiative access.

In Firestone, the Court enunciated an undue burden as any statute or rule which is not "necessary to ensure ballot integrity." State v. Firestone, at 566 (Fla. 1980). The Court also noted that "any restriction on the initiative process would strengthen the authority and power of the legislature and weaken the power of the initiative process." Id. The Firestone Court considered ballot integrity when it comes to the initiative process to consist mostly of signature verification. In Student Government there is not a clear process for verifying the authenticity of signatures which are received to support initiatives and referendum questions. Respondent at times seemed to argue it was the Court's duty to verify the student signatures. This is not correct. The Court is required to "ensure that all constitutional and other requirements established by law are satisfied" before certifying the question to the Supervisor of Elections for the ballot. §773.0, Student Body Statutes. This rule is in place so the Court can reach a judicial determination in regards to the constitutionality of initiatives and petitions. These findings are limited to things such as the single-subject requirement and are not designed to involve the Court in the physical signature verification process; that is the sole duty and province of the executive branch. As such the legislature may impose reasonable restrictions on the initiative process that are necessary for the executive branch to verify the signatures on the petitions and ensure ballot integrity. "[V]erification is an element of ballot integrity and a task which the legislature may require to be accomplished as a prerequisite to filing an initiative constitutional proposal." State v. Firestone, at 566-67 (Fla. 1980). However, in the present case, as in Firestone, Respondent has failed to show the statutory restriction is necessary for the executive to accomplish the verification process and ensure ballot integrity.

For the reasons expressed herein we find §773.0, Student Body Statutes, unconstitutional as far as it restricts submission of initiative petitions to 28 school days prior to the ratification election as opposed to 28 calendar days. Likewise, §772.0, Student Body Statutes, which requires petitions submitted by the legislature to be due "no later than 28 days" prior to the election means calendar days and not school days.
The petition for the writ of mandamus is granted and the legislature is required to amend its statutes to comply with this ruling.

It is so ordered.

Campbell, J., Adamczyk, J. concur

Kaufer, J. Concurs in part, dissents in part

I agree with the majority that in order to impose a deadline prior to 28 calendar days before the election, the defendant must show that the deadline is reasonable and does not unduly burden a student's fundamental right to propose amendments to the Constitution of the Student Body. I also agree with the majority in upholding the precedent established in Firestone, that in order to suffice this test, the stricter deadline must be necessary to ensure the integrity of the ballot. However, I disagree with the majority in that §773.0 or §772.0, Student Body Statutes, are unconstitutional.

The majority bases its rationale on the difference in language between §773.0 and §772.0, Student Body Statutes and the definition provided in Art. IX, 1(d), Constitution of the Student Body. While §773.0 uses the term 'school days', Art. XIII, §2 Constitution of the Student Body, uses the term 'days', which is subsequently defined in Art. IX, 1(d), Constitution of the Student Body, as 'calendar days'. The Constitution of the Student Body fails to define the term 'calendar' in any capacity. There is also no legislative history to suggest whether the drafters of the Constitution intended the term 'calendar' to mean Gregorian calendar or academic calendar. Petitioner stated during oral arguments that he himself had searched for a definition of 'calendar', and was unable to locate any reference or conclusive definition.

Therefore, under the current language of the Constitution of the Student Body, either Gregorian calendar or Academic calendar should be acceptable definitions in the academic setting over which this Court has jurisdiction. The use of the term 'school days' in the Student Body Statutes is defined in §700.4 (f), which the Supervisor of Elections used to determine the date indicated on the flyers presented to Petitioner. From the date listed by the Supervisor of Elections, which is 28 academic calendar days from the date of the election, it is clear and apparent there was no intent to deceive or misinform the Petitioner of the correct date to file the petition at issue. Therefore, I respectfully dissent from the majority, and do not believe that §773.0 or §772.0, Student Body Statutes, are unconstitutional. The Petitioner should therefore not be granted relief from the date established by the Supervisor of Elections, and should be required to file the petition at issue by the published date.

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SUPREME COURT OF THE STUDENT BODY

In Re: Spring 2008 Referendum and Initiative Questions

Heard and Decided February 5, 2008

Opinion Published February 12, 2008

Aungst, C.J.

The Supreme Court of the Student Body (hereinafter the "Court") issues the following opinion on whether to certify two referendum questions and one constitutional amendment for the spring 2008 Student Government election. We have jurisdiction per Article V, §3 (b) (1), of the Constitution of the Student Body (hereinafter the "Constitution"), and §773.0, Student Body Statutes.

Part I

V. Referendum Questions

Two petitions for referendums were submitted to the Supreme Court of the Student Body to be placed on the spring 2008 election ballot. The first referendum asks: "Should UF facilitate the creation of an independent committee of student, faculty, and alumni representatives to advise the Board of Trustees on the socially responsible investment of UF's endowments?" This referendum will be referred to as the *"Endowments Committee"* referendum question. The second referendum asks: "Should the University of Florida officially denounce the invasion of and continued occupation of Iraq?" This referendum will be referred to as the *"Iraq War"* referendum.

We have jurisdiction to certify referendum and initiative questions per Article V, §3 (b) (1), of the Constitution and §773.0, Student Body Statutes. .

VI. The Law

Section 700.4 (y), of the Student Body Statutes, defines a referendum question as "an issue stated in the form of a question that shall be considered, when answered by the Student Body, to have the power of a resolution of Student Government." Under Chapter 790 of the Student Body Statutes, students may propose referendum questions for inclusion on the ballot.

To be certified, a proposed referendum question must satisfy certain statutory requirements. Section 790.2, requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 1% of the Student Body at the time of submission. In addition, §790.3, requires that petitions for referendum questions meet the requirements of §773.1.

Under §773.1, petitions for referendum questions must satisfy all of the following requirements:

7. All names must be or must be accompanied by the signature of the individual who signed the petition;

8. All signatures must be in non-erasable ink;
9. All names must be signed exactly as the student's name recorded with the Registrar's Office;
10. All names must be followed by student number;
11. Each page containing signatures shall have the proposed initiative statement of intent or referendum question stated in full at the top of the page;
12. Each page containing signatures shall include the identity and signature of the person responsible for securing signatures for that page and that person shall certify all of the following:
    a. All signatures were made by different individuals;
    b. No threats or coercive statements were made to induce a person to sign the petition;
    c. The signature of the person responsible for securing the signatures may only be counted once.
13. Each page containing signatures shall include the statement: "Upon request, the full text of the amendment shall be made immediately available to any signatories."

VII. Analysis

Both the *Endowments Committee* referendum question and the *Iraq War* referendum question satisfy the statutory requirements of §790.2 and §773.1. The total number of signatures on each petition exceeds the 492 signatures required by statute.[21] At least 492 of the signatures on each petition appropriately satisfy the requirements of §773.1. Furthermore, both proposed referendums are properly written in the form of a question in accordance with §700.4 (y), and both proposed referendums are clearly written and accurately convey the intent to the voters. Thus, the Court holds that the *Endowments Committee* referendum question and the *Iraq War* referendum question meet the statutory requirements and shall be certified to the Supervisor of Elections for placement on the spring 2008 Student Government election ballot.

Part II

1. Constitutional Amendment Initiative

The Court has received one petition to certify a proposed amendment to the Student Body Constitution for the spring 2008 election. This amendment shall be referred to as the "*Online Voting*" petition. The petition asks:

"Should the Student Body Constitution be amended so that Online Voting becomes the only method of voting in all future Student Government elections provided that:

a. a voter may vote from any computer connected to the World Wide Web and logged in using a Gatorlink username and password;
b. the connection is secure and encrypted;

[21] According to data provided by the UF Office of Institutional Planning and Research, there were 49,140 enrolled students at the time of submission of the petitions. §790.2 requires signatures of not less than 1% of the Student Body. 492 signatures represent not less than 1% of the Student Body and is the minimum number of signatures required to certify today's referendums.

c. voter identity is secret and untraceable;
d. at least one voting booth is available on campus for any voter wishing to vote in private;
e. provisional paper ballots are made available on a case-by-case basis for any voter with a disability, special need, or any other extenuating circumstance?"

2. The Law

The Student Body has a fundamental right to submit petitions to amend the Constitution via initiative pursuant to Article VIII, §2. In order for a petition for a constitutional amendment to be certified for the ballot it must have the signatures of no less than ten percent of the Student Body and be filed no later than 28 calendar days prior to the election. Art. VIII, §2, Constitution, See also Thomas Jardon v. Supervisor of Elections, (2008)(Holding that 28 days prior to the ratification election means calendar days not school days). The petition must also "embrace only one subject and matter directly connected to that subject." Art. VIII, §2. This requirement is adopted directly from Article XI, §3, of the Florida Constitution, which states in pertinent part "any such revision or amendment...shall embrace but one subject and matter directly connected therewith." This constitutional limitation on the citizen proposed initiative is known as the single-subject rule under Florida law. In re Advisory Opinion to the Atty. Gen'l – Save our Everglades, 636 So. 2d 1336, 1339 (Fla. 1994). The constitutional restraint of the single-subject provision is designed to ensure all proposed constitutional amendments embrace a "oneness of purpose." Save our Everglades, at 1340 (Fla. 1994). In order to suffice the oneness of purpose standard an initiative must not "substantially alter or perform the functions of multiple branches." Id. The single-subject rule is a functional test as opposed to a locational test. The question is not whether it affects more than one part of the Constitution, but whether it substantially affects more than one of the three branches of government. Thus, if a constitutional amendment proposed by student initiative substantially affected both the executive and the judicial branches of Student Government, it would be said to not "embrace only one subject and matter directly connected to that subject" and would not be certified for the ballot by the Court.

To be certified for the ballot, a constitutional amendment petition must also fulfill all of the statutory requirements referendums must meet under §773.1. The Court must also subject the proposed amendment to judicial scrutiny to determine if it infringes upon the Student Body's fundamental rights under the Student Body Constitution or under Florida and federal law. The Student Body Statutes require the Court to only certify petitions for constitutional amendments if "all constitutional and other requirements established by law are satisfied." §773.0. The dissent

urges a narrow review of proposed constitutional amendments limited only to the single-subject requirement and ballot and title language as is required of the Florida Supreme Court. However, the Florida Supreme Court is specifically limited to that review by state law, whereas student body law explicitly exempts this Court from those limitations.

Under Article IV, §10, of the Florida Constitution, the Florida Supreme Court is specifically limited to issuing an advisory opinion in regards to the "validity of any initiative petition." Nowhere in the Constitution of the Student Body, or the Student Body Statutes, does it limit our review of constitutional amendments proposed by initiative. On the contrary, §773.0, requires the Court to subject proposed amendments to full constitutional scrutiny. Section 773.0, charges us with only certifying petitions "If all constitutional and other requirements established by law are satisfied." This grants us an exceptionally broad scope of review and prevents us from limiting our review to single-subject rule and ballot title and language. To hold that our review is limited only to single-subject scrutiny is a derogation of the Court's duty to ensure proposed amendments satisfy all constitutional requirements established by law. This is exceptionally imperative given the organization of the Student Government judicial system.

Justice Campbell, in his lone dissent, contends that the Honor Court Chancellor and not the Supreme Court of the Student Body has jurisdiction to certify the *Online Voting* petition. This contention is clearly erroneous and is not supported by any reasonable interpretation of Student Body law. Article V, §1, of the Constitution, vests "all judicial power of the Student Body" in the Supreme Court. Article V, §4, vests the Honor Court jurisdiction over issues of "academic dishonesty" and other "offenses against the Student Body." No provisions of the Constitution or Statutes of the Student Body grant the Honor Court jurisdiction over issues and controversies involving Student Government. Additionally, §773.0, of the Student Body Statutes, explicitly provides:

> "Amendments to the Student Body Constitution proposed by petition in accordance with ArticleVIII, Section 2 of the Student Body Constitution and referendum questions proposed in accordance with Student Body Statute 790.31 shall be filed with the Supreme Court no later than 28 school days before the beginning of a regular or special election."

The dissent, in an attempt to undermine the authority of this Court, claims the Honor Court Chancellor is given sole jurisdiction over constitutional amendments proposed by initiative because Article VIII, §2, states that the petitions shall be submitted to the Honor Court Chancellor. This is a remnant from the days the Honor Court Chancellor was the chief judge of both the Honor Court and the previous iteration of this Court which was known as the Board of Masters. The Student Body amended Article V to specifically remove the elected Honor Court Chancellor from ruling on Student Government controversies and established an independent Supreme Court in 2003. By restructuring the judicial branch of Student Government, the electorate clearly mandated that the Honor Court Chancellor have no jurisdiction over matters pertaining to Student Government and exercise jurisdiction solely over issues and controversies relating to academic and student dishonesty. Further, under Article XI, §3, of the Florida Constitution, citizen proposed initiatives must be filed with "the custodian of state records." The Florida Supreme Court on the other hand is nowhere mentioned in Article XI, §3. However, no one contends the "custodian of state records" and not the Florida Supreme Court has the

authority to certify citizen initiatives for the ballot. The language of Article VIII, §2, of the Constitution of the Student Body, referencing the Honor Court Chancellor serves the same capacity as the Florida Constitutions requirement of filing initiatives with the custodian of state records and in no way purports to give the Honor Court Chancellor jurisdiction over certification. To hold otherwise is clearly erroneous.

It is the sole province of this Court to uphold and defend the fundamental rights of all students as enumerated by the federal, state, and Student Body Constitutions. If the Court derogates from this obligation and allows students' rights to be infringed upon, there will be no other recourse to restore those rights and uphold the Constitutions that govern and supersede Student Government law. It is the sole province of this Court to say what the law is in Student Government and to be the "ultimate arbiter of all issues and controversies" that relate to the Constitution of the Student Body and the Student Body Statutes. Thomas Jardon v. Supervisor of Elections, (2008).

1. **Analysis**

Unlike our last opinion in Thomas Jardon v. Supervisor of Elections, (2008), the question before us today is not an issue of first impression for the Court. In In Re Online Voting, (2006), the Court held the voting method proposed by this petition to be unconstitutional under the United States, Florida, and Student Body Constitutions. Petitioners are attempting to overturn that decision by amending the Constitution of the Student Body. This, however, does not remedy the state and federal constitutional deficiencies inherent in the *Online Voting* amendment. In Jardon v. Supervisor , the Court enunciated our adherence to the judicial doctrine of *stare decisis*. "By adhering to the precedents established by previous decisions of this Court, we serve to perpetuate stability in the Student Government judicial process and promote reliance on our decisions." Jardon v. Supervisor, (2008)(Citing State v. Gray, 654 So. 2d 552, 554 (Fla. 1995)). In order to certify the *Online Voting* amendment for the spring 2008 election we must overturn the Court's decision in In Re Online Voting, (2006). The Florida Supreme Court clearly established when a court that adheres to the doctrine of *stare decisis* can overrule itself and depart from established precedent in Allstate Indemnity Co. v. Ruiz, 899 So. 2d 1121 (Fla. 2005). "This Court has departed from precedent to correct legally erroneous decisions, when such departure is 'necessary to vindicate other principles of law or to remedy continued injustice,' and when an established rule of law has proven unacceptable or unworkable in practice." Allstate Indemnity Co. v. Ruiz, at 1131 (Quoting Haag v. State, 591 So. 2d 614, 618 (Fla. 1992)). We do not confront such an instance today.

In In Re Online Voting, (2006), the Court held:

"[I]t would be entirely at odds with the continued validity of UF Student Government, if the process in place to elect the leaders of UF Student Government did not comport with fundamental tenants of democracy that allow voters to cast their vote in privacy, and without coercion. Therefore, only those voting methods that ensure these safeguards are acceptable for use in SG elections, and to that end, Internet voting does not even remotely comply. It is the opinion of this Court that Internet voting is not a constitutional method

of voting and shall be removed from the UF Student Statutes and not employed in any future election."

Since the opinion was handed down in In Re Online Voting, no findings of a higher judicial authority or practical revolutions in policy have emerged to give any indication that the Court reached a legally erroneous decision. In fact, the Court's foresight has only been illuminated by continued state and national controversies surrounding electronic voting machines in the year-and-a-half since the opinion was published. Thus, the Court upholds the decision in In Re Online Voting, (2006), and will reaffirm its legal reasoning.

In Jardon v. Supervisor, we recognized that "UF Student Government laws are governed by, and subordinate to, the laws and constitution of the State of Florida." Quoting In Re Online Voting, (2006). It is clear that while Student Government is free under Florida state law to establish its own internal rules of operation for elections, the Student Body has chosen to bind its Student Government to the fundamental rights guaranteed by the Constitutions of the United States and of the State of Florida. The Constitution of the Student Body specifically recognizes that "[e]very student is guaranteed certain rights under the constitutions and laws of the United States and State of Florida." Art. I, §2. The Constitution also states "[t]he provisions of the student body constitution are governed by and subordinate to the constitution and laws of the State of Florida." Art. IX, §4. These provisions explicitly guarantee the Student Body's fundamental rights as enumerated by the federal and state Constitutions will supersede the Constitution of the Student Body. Any proposed amendment to the Student Body Constitution that violates voters' fundamental right to have equal access to the polls and secrecy and integrity of the ballot is *per se* unconstitutional under both state and federal law and cannot be placed on the ballot.

The Florida Constitution mandates that, "All elections by the people shall be by a direct and secret vote." Fla. Const. Art. VI, §1. The plain meaning of this provision of the Florida Constitution is apparent. In the State of Florida, and any government which binds itself to the provisions of the Florida Constitution, all citizens are guaranteed the privacy of casting their vote in complete secrecy. Not only does the *Online Voting* amendment fail to fulfill that basic guarantee, it makes it impossible for the executive branch of Student Government to oversee and regulate the election. The *Online Voting* amendment gives the executive branch no ability to ensure voters are casting their ballots in private, free from organized coercion. The Florida Supreme Court has held that the Article VI, §1's, constitutional right to a secret ballot can not be taken away by law. "The guaranty of secrecy in exercising the right to vote is one personal to the voter. He has a right to insist that knowledge of his decision at the polls remain his own. Under our system it is a constitutional privilege which cannot be withdrawn by law." McDonald v. Miller, 90 So. 2d 124, 127 (Fla. 1956). The *Online Voting* amendment has the affect of taking away the right to a secret ballot because it inhibits the Supervisor of Elections from being able to verify that voters participating in elections are actually the persons whose Gatorlink username and password were used to access the system. It further takes away the right to a secret ballot by preventing the Supervisor from ensuring voters are voting in insular voting booths and are not subject to undue coercion in casting their ballots.

The Court in In Re Online Voting reached the same conclusion we reach today:

> "Internet voting allows the voter to cast a ballot from anywhere in the world by simply logging on to a computer and entering a valid Gator 1 identification number and password. Absent from the process is the requirement that a voter actually prove their

identification via a proper photograph identification. Additionally, the lack of a secured voting location has the potential to completely compromise the integrity of the election because voter privacy cannot be assured; thereby leading to coercion and fraud."

Proponents of Online Voting point to their contention that voter coercion already exists in the Student Government voting system. The comparison between the current optical-scan paper ballot voting system and internet voting has been fully vetted by the Court:

> "[O]nce that voter goes to the polls they have the privacy of a booth in which to cast their ballot for the candidate of their choosing. They can then leave the booth and return with their "I voted" sticker with nobody being the wiser as to whom they actually voted for... This is absolutely not the case with Internet voting...Instead of the individual being pressured to vote at the designated polling location, they are asked to join the other members of the organization down in the basement with some food and drinks so that everyone can vote. The individual is then asked to access the voter mainframe using their Gator 1 and password and vote for the candidate that the particular organization is supporting. In this example, while the voter casts their vote a member of the organization watches to ensure that in fact the voter has followed the organization's mandate. Such a scenario is appalling to the concept of a free election." In Re Online Voting, (2006).

Proponents of Online Voting have also contended that the sophisticated encryption software would guarantee voter privacy. One oft-repeated assumption has it that since the internet is secure enough for us to utilize to conduct our banking and register for classes it has to be secure enough for students to vote in a campus election. However, the above example clearly illustrates the flaw in that logic. Our concern is not the technical security the voting system provides against potential hackers; our concern is upholding and protecting the most fundamental tenants of a free society: that every person has one-vote; that vote is cast in complete privacy; and that the integrity of the election can be monitored by both the public and the government.

Secrecy of the ballot is not the only concern raised by the petition before the Court. The right to one-person, one-vote is another constitutional guarantee completely abrogated by the *Online Voting* amendment. The amendment would make it impossible for the Supervisor of Elections to ensure that one person was not collecting Gatorlink usernames and passwords and voting multiple times. In Reynolds v. Sims, 377 U.S. 533, 540 (S. Ct. 1964), the United States Supreme Court found the Fourteenth Amendment of the federal Constitution requires "equal suffrage in

free and equal elections...and the equal protection of the laws" for all voters that partake in the political process. In Reynolds, the Supreme Court struck down Alabama's reapportionment of legislative districts which were not proportional to the population. The Court held "the Equal Protection Clause guarantees the opportunity for equal participation by all voters in the election of state legislators...To the extent that a citizen's right to vote is debased, he is that much less a citizen." Reynolds v. Sims, 377 U.S. 533, 566 (S. Ct. 1964). Likewise, the *Online Voting* amendment makes it impossible for the Supervisor of Elections to know who is actually voting and how many times they have voted. While it is possible for students to vote more than once in the current system, it is also possible for the Student Government staff to identify and punish double-voting. The current system may be susceptible to isolated instances of double-voting, but it is exceptionally rare and is always caught when Student Government professional staff pours over the voter rolls in the weeks following the election. With Online Voting no such safe guard is in place to ensure the most basic principle of a democratic election; one-person, one-vote. Because the *Online Voting* amendment makes it completely impossible to ensure all students have equal access to the polls and an equally weighted vote, it is unconstitutional under the Fourteenth Amendment, of the United States Constitution, and Article VI, of the State of Florida Constitution, and cannot be certified for the spring 2008 ballot.

Part III

Conclusion

The *Endowments Committee* and *Iraq War* referendum questions satisfy all of the statutory requirements to be certified for the spring 2008 Student Government election and shall be placed before the electorate for a vote. The *Online Voting* amendment does not satisfy "all constitutional and other requirements established by law" pursuant to §773.0, Student Body Statutes, and is not certified for the spring 2008 Student Government election. Because we find the *Online Voting* amendment facially unconstitutional we decline to reach the question as to whether it suffices the single-subject requirement of Article VIII, §3, of the Constitution of the Student Body. Until a higher judicial authority holds Online or internet voting lawful under the United States and Florida Constitutions it shall not be placed in the Constitution of the Student Body which is beholden to those sources of higher law.

It is so ordered.

Spicola, J. Adamzcyk, J., Kaufer, J. concur.
Spicola, J. concurs specially with an opinion.
Campbell, J. concurs in part and dissents in part.

Spicola, J., special concurring:

I concur with the judgment and reasoning of the majority and feel that this is the proper exercise of the court's review power to protect the constitutional rights of students. However, I feel that this issue has not reached maturity. While the exercise of the court's review in this case is proper based on the authority shown in the majority opinion, I feel that the proper course in this case would have been to allow the online voting amendment on the ballot even though it is unconstitutional under Florida law. In the event the amendment passed, this court could exercise its review power and strike down this amendment as unconstitutional under Florida law after a proper petition from an offended member of the student body.

Campbell, J., concurring in part and dissenting in part:

> "[T]he Student Body is *guaranteed* the right to submit initiatives and referendums for ratification by the electorate, the right to recall and remove student body officers, and the right to address its student body officials."
>
> -- Article I, Section 2, Constitution of the Student Body

I. BACKGROUND:

Forty years ago the students that drafted the Constitution of the Student Body reserved to themselves, and to future generations, the power to amend the student constitution. They reserved this check upon the power of government to ensure that government remains of the people, by the people, and for the people.

It is no easy task to amend the Constitution of the Student Body (hereafter "student constitution") by popular initiative. Article VIII of our student constitution requires the amendment's proponent first garner the signatures of at least 10% of the student body. In today's numbers, that is nearly 5,000 signatures. Next, the proposed amendment is added to the ballot for popular vote. Ratification requires three-fifths (60%) approval by the voters. According to our records, this arduous task has either never been attempted or never been accomplished at this university, until now.

For the past several months, a group of dedicated students have obtained the signatures of 5,683 students interested in putting the proposed online voting amendment up for democratic vote. This court is the only obstacle between these students and democracy.

Despite the fact that a United States District Court, the Democratic National Committee, and at least four states have accepted the concept of online voting in presidential primaries, despite the fact that there is no legal precedent anywhere prohibiting online voting, despite the fact that there are legitimate arguments that online voting will increase voter participation and decrease election costs, despite the fact that colleges and universities across this state and this nation allow online voting, and despite the fact that 5,683 members of this student body requested a vote on the issue, my fellow justices have somehow determined that online voting is, and forever will be, unconstitutional at the University of Florida.

II. ANALYSIS:

A. Jurisdiction.

I begin my analysis by conclusively proving that this court does not even have the jurisdiction to review the proposed amendment. Article VIII, Section 2 of the student constitution provides:

> Proposal by initiative.—Students may propose amendments to the constitution upon a submission of a petition ***to the student honor court chancellor*** joined by ten percent of the electorate not later than twenty-eight days before the ratification election. Each amendment proposed shall embrace only one subject and matter directly connected to that subject. (emphasis added).

As can be seen, the student honor court has jurisdiction over this matter, not the student supreme court. There is only one possible interpretation of the words "***to the student honor court***

chancellor." If the majority addresses the issue, they will argue that this was a mistake and should therefore be ignored. Mistake or not, real courts do not ignore constitutional wording when there is only one possible interpretation. Courts are supposed to interpret the laws, not rewrite them as they think fit. The judiciary must ask the law-making branch of government to correct the mistake. By accepting jurisdiction over this matter, the court clearly violated Article II, Section 3 of the Constitution of the Student Body which states, "No person belonging to one branch shall exercise any powers appertaining to either of the other branches . . . ." For the sake of argument I will pretend, as does the majority, that this court has jurisdiction over the matter.

B. Concise Survey of Online Voting.

The briefest amount of legal research informed me that in "January 2000, a lawsuit was filed in United States District Court for the District of Arizona by the Voting Integrity Project to prohibit Internet voting in the Arizona Democratic primary election. The suit was based on claims that the digital divide between those who have access to the Internet and those who do not would have the effect of disenfranchising ethnic minorities." The district court ruled against the plaintiff and approved the use of online voting. Rebekah K. Browder, Internet Voting With Initiatives and Referendums: Stumbling Towards Direct Democracy, 29 Seattle U. L. Rev. 485 (2005). Additionally, the Alaska Republican Party, the Michigan Democratic Party, the state of Washington and the Democratic National Committee have used online voting in presidential primaries. Id.; see also Gregory Katz, Overseas Voting: Online for the 1st Time, available at http://ap.google.com/article/ALeqM5jWHR0HWpnelXl3LlsRtz5WkmiOKAD8UKM5CO0 (last accessed February 10, 2008). No court, anywhere, has ruled that online voting is unconstitutional. That is, until now.

The majority argues that these elections are distinguishable from the current situation because they involve presidential primaries. I am told that the courts have ruled that there is no "fundamental right" to participate in a presidential primary. Thus, since no fundamental right is involved, online voting in the primaries receives low-level judicial scrutiny. On this point I agree with the majority. However, what the majority fails to recognize is that there is no fundamental right to vote in a student government election. Student government is a privilege, not a right, and a privilege that can be taken away by the administration. Because neither situation involves a fundamental right, the legal analysis should be the exact same: low-level judicial scrutiny.

C. Standard of Review.

The greatest display of judicial activism committed by the majority is the standard of review they invented. Because an amendment by popular initiative has never been done before at this university, the court had to decide upon the appropriate standard of review to scrutinize the proposed amendment. However, because Article IX, Section 4 of the student constitution subordinates the student constitution to the laws of Florida, the court was, or should have been, bound to use the same standard of review that the Florida Supreme Court applies when reviewing citizen initiative amendments to the Florida Constitution. The Florida Supreme Court explained the appropriate standard of review as follows:

> When the Court renders an advisory opinion concerning a proposed constitutional amendment arising through the citizen initiative process, no lower court ruling exists for the Court to review. Therefore, no conventional standard of review applies. **Instead, the Court limits its inquiry to two issues: (1) whether the amendment violates the single-subject requirement of article XI, section 3, Florida Constitution, and (2) whether the ballot title and summary violate the requirements of section 101.161(1), Florida Statutes (2003).** See, e.g., Advisory Op. to Att'y Gen. re Amendment to Bar Gov't From Treating People Differently Based on Race in Pub. Educ., 778 So.2d 888, 890-91 (Fla.2000). In addressing these two issues, our inquiry is governed by several general principles. **First, we will not address the merits or wisdom of the proposed amendment.** See, e.g., Amendment to Bar Gov't From Treating People Differently Based on Race in Pub. Educ., 778 So.2d at 891. Second, "[t]he Court must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people." Askew v. Firestone, 421 So.2d 151, 156 (Fla.1982). Specifically, where citizen initiatives are concerned, "the Court has no authority to inject itself in the process, unless the laws governing the process have been 'clearly and conclusively' violated." Advisory Op. to Att'y Gen. re Right to Treatment and Rehabilitation for Non-Violent Drug Offenses, 818 So.2d 491, 498-99 (Fla.2002); see also Amendment to Bar Gov't From Treating People Differently Based on Race in Pub. Educ., 778 So.2d at 891 ("**In order for the Court to invalidate a proposed amendment, the record must show that the proposal is clearly and conclusively defective.**").

Advisory Op. to the Att'y Gen. re Referenda Required for Adoption & Amendment of Local Gov't Comprehensive Land Use Plans, 902 So.2d 763, 765 (Fla. 2005) (emphasis added). Thus, the Florida Supreme Court limits itself to a very low-level standard of review, a two-prong test, when it examines proposed constitutional amendments. Further, for the Florida Supreme Court to invalidate a proposed amendment, the record must show that the proposal is "***clearly and conclusively*** defective." Id.

Just as the Florida Supreme Court uses a limited standard of review when scrutinizing proposed amendments, this court should have used a limited standard of review when scrutinizing the proposed online voting amendment. The student court's review should have been limited to one, at most two, issues. The first issue being whether the proposed online voting amendment violates the "single-subject" requirement of Article VIII, Section 2, of the student constitution. The second issue being whether to incorporate the Florida Supreme Court's second prong into the student court's common law: "whether the ballot title and summary violate the requirements of section 101.161(1), Florida Statutes." The second issue was fully within the court's discretion because we have no similar student statute.

Instead of applying the same standard of review that the Florida Supreme Court uses, the majority invented its own standard, what I call the "anything and everything" standard. The reason that the majority invented this standard is because the proper standard (i.e., the one that the Florida Supreme Court uses) would allow the proposed online voting amendment to pass to

the ballot. Since the majority did not like the standard that the Florida Supreme Court uses, they changed it. This aborted the proposed amendment before it ever had a chance to breathe.
Under the "anything and everything" standard, the court is free to guess at what constitutional violations might possibly occur in the future if the proposed amendment becomes law. The court is free to hypothesize, speculate, and make assumptions. In reviewing the merits and wisdom of the proposed amendment (something that the Florida Supreme Court will not do), the court can essentially strike down any proposed amendment for any reason at all, or no reason at all. This is unacceptable.

The court could easily apply the same standard of review that the Florida Supreme Court applies. First, the court could decide whether the amendment violates the "single-subject" principle and whether the text of the ballot title and summary are misleading, lengthy, or confusing. After this inquiry the court should certify the amendment to be placed on the ballot for public vote. Then, assuming the amendment is ratified by the people, if in the future the amendment violates someone's right, then at that time the individual may petition the court for substantive review. At that point in time the issue will be ripe for review. There will be two parties (an aggrieved Plaintiff and a defending government) and the court will be able to hold a proper hearing. Additionally, the court would also know the appropriate standard of review to apply based upon the complaint filed by the petitioner (Equal Protection, Due Process, Speech, etc...). This process makes more sense than the one created by the majority.

D. Stare Decisis and Voter Coercion.

Another reason why the court claims that it must overturn the proposed amendment is because the 2006 court held a similar proposal unconstitutional. Therefore, because it was unconstitutional in 2006, precedent requires that it must be unconstitutional now. Thankfully the U.S. Supreme Court does not adhere to this same train of thought.
The reasoning that the court used in 2006 was flawed then and it is flawed now. Thus, the court is free to overturn the previous court's decision. I will now explain why the previous court's decision was flawed and why, in this regard, this court's decision is flawed.

The previous court determined that a proposed online voting statute was unconstitutional out of fear that certain student organizations would tell their members how to vote and physically watch them place their votes (ex., stand over their shoulders and tell them how to vote). This nefarious conduct, called "voter coercion," would violate the principles of ballot secrecy and "one-person, one vote." The court believes that paper ballots alleviate this fear because voting booths allow members the freedom and privacy to vote at will. This argument is bad for three main reasons. First, it is speculative. Second, it assumes that student organizations will act so dishonorably as to force their members to vote a certain way. This concept is so distasteful that it is insulting that any court would make this assumption. If, in fact, someone is being forced to vote a certain way, the organization may be guilty of a more serious offense than voter coercion. Finally, and most significantly, if a student organization is participating in voter coercion, then the member is free to dissociate with that organization at will. If a member feels as though their vote is being coerced, that member is free to quit the dishonorable organization at any time and vote as he or she pleases. Since membership in the organization is voluntary, then any coercion due to that

membership must be voluntary as well. Members are always free to extricate themselves from the situation.

III. Conclusion.

The majority erred for three reasons: 1) the court did not have jurisdiction to decide the matter, 2) the court relied upon flawed precedent and 3) the court abused its power by failing to use the standard of review adopted by the Florida Supreme Court. The decision of the court should be reversed on appeal.

I concur with the court's holding regarding the two referenda and dissent with everything else.

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SUPREME COURT OF THE STUDENT BODY

Heard and Decided September 9, 2008

FRANK BRACCO V SUPERVISOR OF ELECTIONS

SPICOLA, C.J.

JURISDICTION

Our Jurisdiction comes from Article 5 Sec. 3 (b)(2) of the Constitution of the Student Body of the University of Florida. Petitioner Frank Bracco submitted a written petition alleging that the Supervisor of Elections violated Student Body Statutes 742.0 and 744.0. The Court notes that this matter should have been heard first by the Election Commission, however at this time no Election Commission is constituted and because of the time sensitive nature of the complaint we are acting as the only body capable of deciding this issue.

QUESTIONS PRESENTED

Based on Mr. Bracco's complaint we certified two questions. First, is the Swamp Party a political party under Student Body Statute 744.0? Second, whether the name Swamp is so similar to a previously registered political party that it would confuse a reasonable voter under Student Body Statute 744.0?

PART I

On the first question, whether Swamp is a political party under Student Body Statute 744.0 we answer in the affirmative. During argument, both the Petitioner and the Supervisor of Elections conceded that the Swamp Party was registered and on the ballot in the Spring of 2006. While the court finds that during the past 4 semesters the name Swamp has only been the name of a prospective political party under 742.0, during the Spring of 2006 Swamp was a registered political party. Therefore, based on that fact we find that Swamp is a previously registered political under 744.0(a)

PART II

On the second question, whether the name Swamp is so similar to a previously registered political party that it would confuse a reasonable voter, we leave that determination to the Supervisor of Elections. The Supervisor of Elections is charged with carrying out the mandate of the 700 codes. In the absence of an abuse of discretion this court will not overturn the decision of the Supervisor of Elections. No such abuse of discretion is evident in the instant case. Therefore, the decision of the Supervisor of Elections to deny Mr. Bracco's registration of the Swamp party is affirmed based on our reading of the Student Body Statutes as they are now written.

This Court takes issue with the Student Body Statutes 744.0 and 742.0 and the Political Parties Act generally because it does not contain any requirements for good faith efforts on the part of a registering prospective political party to have the intention of running a legitimate campaign. Also there is no provision in 744.0(a) governing how far into the past the Supervisor of Elections is to look at when determining if a party had been previously registered. The Supervisor suggested limiting the inquiry to four years.

We have no opinion on what this time constraint should be, but feel that a time constraint is necessary to keep all party names in the student's domain. Mr. Bracco stated and the Supervisor of Elections conceded the current holder of the Swamp party registration has failed to run a meaningful campaign in the past four semesters. Mr. Bracco contends that he has been denied the right to use the Swamp name despite the fact that the Swamp party has not run a campaign since Spring 2006. However, since we are bound by language of the Student Statutes as written we are compelled to uphold the determination of the Supervisor of Elections that allowing Mr. Bracco to register the Swamp party would confuse a reasonable voter.

Affirmed.
KAUFER, J., LAZINSK, J., and KERNER, J., concur
EVANS, J., did not participate in this decision.

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SUPREME COURT OF THE STUDENT BODY
September 11, 2008

SPICOLA, C.J.,

On this 11th day of September in the year 2008 the Supreme Court of the Student Body of the University of Florida met to fulfill the mandate of § 721.3 of the Election Commission Act in the Student Body Statutes. § 721.3 directs the Court to appoint members of the Election Commission. The Court notes that all applicants were of the highest quality and the decision was difficult, but a decision was made after careful consideration of the applicants. As directed by statute, this Court has appointed by majority vote, Alexandra Kamenetsky and Steven Lawson to the Election Commission subject to the approval of two thirds of the membership of the Student Senate of the University of Florida.

It is so ordered.

KAUFER, J., LAZINSK, J., and KERNER, J., concur
EVANS, J., did not participate in this decision.

SUPREME COURT OF THE STUDENT BODY

Here is the opinion. We have declined to accept review at this point based on the reasons outlined in the opinion. We have had no hearing on the matter and this decision is based on the collective courts reading of the complaints together. No deliberations occurred and we held a few drafting sessions via electronic means. (Dated 10/08/2008)

SAM MIORELLI V. SUPERVISOR OF ELECTIONS

Per Curiam

Petitioner asserts that this Court's jurisdiction sounds in Article V, Section 3 (b)(2) of the Student Body Constitution. This provision states that *this Court shall, upon written petition of any member of the Student Body and for good cause shown, order any student government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act. This provision acts as a broad grant of jurisdiction and authority*. However, this Court emphasizes that this jurisdictional provision should be invoked upon *good cause.* (Emphasis added).

These matters in controversy, consolidated into one *sua sponte*, involve the alleged failure of the Elections Supervisor to follow his own internal policies. While these allegations are serious, Subsection (3) of the above provision instructs this Court to hear appeals from lower tribunals as established by the Constitution and statutes. Accordingly, we find that the Elections Commission is the proper body to resolve these claims. If, after those proceedings, the Petitioner seeks judicial review, the doors to this Court would be open. This Court, without good cause, shall not act as a Court of first review.

All 3 petitions involve matters pertaining to the Elections Commission and Supervisors of Elections. The Student Statutes contain several statutes pertaining to the importance of the Elections Commission in resolving election based complaints. Particularly, the statues speak to the Supreme Court's jurisdiction relating to matters concerning elections complaints. Student Body Statute 401.4 states "The Supreme Court shall have jurisdiction over appeals from the Elections Commission as according to Student Body Statute 729.0." Student Body Statute 729.0 states that "All final determinations of the Election Commission may be appealed to the Supreme Court." Finally Student Statute 729.1 states "The Supreme Court shall review questions of fact from the Elections Commission and shall affirm those findings if they are not clearly erroneous."

Student Statute 723.0 states "[t]he Elections Commission is empowered to penalize violations of 700.001 to 790.999 or any other rules properly promulgated by the Elections Commission, under 722 *et seq*. Additionally, Student Statute 723.1 states the Elections Commission may formally recommend to the Supreme Court that the candidate

or political party be disqualified. Only the Supreme Court shall have the power to remove a candidate's name from the ballot, except as provided in section 713.4.

While the student statutes point to the Supreme Court having the final say regarding election disputes, in the instant matters, the Elections Commission has not heard any of the complaints stated by Petitioner. The Student Statutes clearly indicate the importance of the legislative intent of the Elections Commission to hear matters pertaining to student statutes 700.001-790.999. Therefore, this court does not have jurisdiction of the instant matter until the Elections Commission has heard and made a decision pertaining to Petitioner's Complaints. Once the Elections Commission has conducted a hearing for these matters and made a decision regarding the instant matters, this court will have jurisdiction for an appeal.

Accordingly, we dismiss these actions for lack of jurisdiction and instruct the petitioner to re-file these actions in the proper tribunal.

Affirmed.
Spicola, C.J., Kaufer, J., Kerner J., Lazinsk J. Concur
Evans, J., did not participate in this decision

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

Here is the opinion. We have declined to accept review at this point based on the reasons outlined in the opinion. We have had no hearing on the matter and this decision is based on the collective courts reading of the complaints together. No deliberations occurred and we held a few drafting sessions via electronic means. (Dated 10/08/2008)

SAM MIORELLI V. SUPERVISOR OF ELECTIONS

Per Curiam

Petitioner asserts that this Court's jurisdiction sounds in Article V, Section 3 (b)(2) of the Student Body Constitution. This provision states that *this Court shall, upon written petition of any member of the Student Body and for good cause shown, order any student government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act. This provision acts as a broad grant of jurisdiction and authority.* However, this Court emphasizes that this jurisdictional provision should be invoked upon *good cause.* (Emphasis added).

These matters in controversy, consolidated into one *sua sponte*, involve the alleged failure of the Elections Supervisor to follow his own internal policies. While these allegations are serious, Subsection (3) of the above provision instructs this Court to hear appeals from lower tribunals as established by the Constitution and statutes. Accordingly, we find that the Elections Commission is the proper body to resolve these claims. If, after those proceedings, the Petitioner seeks judicial review, the doors to this Court would be open. This Court, without good cause, shall not act as a Court of first review.

All 3 petitions involve matters pertaining to the Elections Commission and Supervisors of Elections. The Student Statutes contain several statutes pertaining to the importance of the Elections Commission in resolving election based complaints. Particularly, the statues speak to the Supreme Court's jurisdiction relating to matters concerning elections complaints. Student Body Statute 401.4 states "The Supreme Court shall have jurisdiction over appeals from the Elections Commission as according to Student Body Statute 729.0." Student Body Statute 729.0 states that "All final determinations of the Election Commission may be appealed to the Supreme Court." Finally Student Statute 729.1 states "The Supreme Court shall review questions of fact from the Elections Commission and shall affirm those findings if they are not clearly erroneous."

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complaints stated by Petitioner. The Student Statutes clearly indicate the importance of the legislative intent of the Elections Commission to hear matters pertaining to student statutes 700.001-790.999. Therefore, this court does not have jurisdiction of the instant matter until the Elections Commission has heard and made a decision pertaining to Petitioner's Complaints. Once the Elections Commission has conducted a hearing for these matters and made a decision regarding the instant matters, this court will have jurisdiction for an appeal.

Accordingly, we dismiss these actions for lack of jurisdiction and instruct the petitioner to re-file these actions in the proper tribunal.

Affirmed.
Spicola, C.J., Kaufer, J., Kerner J., Lazinsk J. Concur
Evans, J., did not participate in this decision

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

Heard and Decided January 30, 2009

Spicola, C.J., Lazinsk, J., Kerner, J., Carlton, J.

I. Introduction

A petition for an initiative was submitted to the Supreme Court of the Student Body to be placed on the spring semester ballot. The initiative asks: "Should the Student Body Statutes be amended to ensure that Student Government does not fund any facility or event that requires as a condition for use or entry the input, acquisition, or storage of biometric data." This initiative will be referred to as the *"Biometric Data"* initiative. We have jurisdiction under Article V, § 3(b)(1) of the Constitution of the University of Florida Student Body.

II. The Law

§ 700.4(q) of the Student Body Statutes defines an initiative as "a ballot vote proposing to revoke amend or adopt Student Body Law." Under Chapter 790 of the Student Body Statutes, students may propose referendum questions for inclusion on the ballot.

To be certified, a proposed referendum question must satisfy certain statutory requirements. § 790.1 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 2% of the Student Body at the time of submission. In addition, § 790.3 requires that petitions for referendum questions meet the requirements of § 773.1.

Under § 773.1 petitions for referendum questions must satisfy all of the following requirements:

1. All names must be or must be accompanied by the signature of the individual who signed the petition;
2. All signatures must be in non-erasable ink;
3. All names must be signed exactly as the student's name recorded with the Registrar's Office;
4. All names must be followed by student number;
5. Each page containing signatures shall have the proposed initiative statement of intent or referendum question stated in full at the top of the page;
6. Each page containing signatures shall include the identity and signature of the person responsible for securing signatures for that page and that person shall certify all of the following:
    a. All signatures were made by different individuals;
    b. No threats or coercive statements were made to induce a person to sign the petition;

c. The signature of the person responsible for securing the signatures may only be counted once.

7. Each page containing signatures shall include the statement: "Upon request, the full text of the amendment shall be made immediately available to any signatories."

III. Biometric Data Initiative

The *Biometric Data* initiative satisfies the statutory requirements of § 790.1 and § 773.1. The total number of signatures on the petition exceeds the number of signatures required by statute. The petition contained over 1,200 signatures, more than satisfying the requirements of § 790.1 and § 773.1. Furthermore, while the initiative lacks some clarity it is written clearly enough to accurately convey its intent to the voters.

IV. Conclusion

For the above reasons, the Court holds that the *Biometric Data* initiative shall be placed on the spring election ballot.

It is so ordered.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY
Heard and Decided February 22, 2009

In re Disqualification of Matthew Martz

Spicola, C.J., Lazinsk, J., Kerner, J., Carlton, J., Evans, J.

I. Introduction

The Election Commission submitted a recommendation for disqualification for Matthew Martz for not taking down a Facebook group allegedly in violation of student body statute 762.11 for misrepresenting a material fact namely that the Gator Party equals (=) the Unite Party. Mr. Martz refused to take down the group in violation of the Election Commission's order and was consequently recommended for disqualification. Mr. Martz maintains that Facebook group is his political opinion and therefore protected by the first amendment of the constitution. We have jurisdiction pursuant to Article 5 Section 3 of the Constitution of the Student Body of University of Florida

II. The Law

Student Body statute 762.11 statute says that no candidate or representative of a political party shall misrepresent any material fact in campaign material or in campaigning in any form. This statute is most akin to libel or defamation and our analysis will borrow from these areas of the law. Article I Section 2 of the Constitution of the Student Body accords all students the rights afforded to them by the laws and constitutions of the State of Florida and the United States of America so instruction from applicable case law is appropriate. Defamation has the following five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. Additionally, the burden of proof is on the Plaintiff. See Jews for Jesus, Inc. v. Rapp, 997 So.2d 1098, 1106 (Fla. 2008).

To determine whether a statement is actionable as defamation or whether it is a pure expression of opinion, the court must construe the statement in its totality, examining not merely a particular phrase or sentence, but all of the words used in a publication. Morse v. Ripken, 707 So.2d 921, 922 (Fla. 4th DCA 1998).

III. Statement of the Case

Matthew Martz made a publication by creating this group on Facebook. He was brought in front of the Election Commission where he was found in violation of Student Body Statute 763.11 and ordered to take down his Facebook group. However, instead of taking down the group or appealing the decision to this Court Mr. Martz decided to ignore the order. He has shown incredible disrespect towards the Election Commission, this Court and its Justices, and the Student Body Statutes and Constitution. He has insulted the integrity of this Court and its members. His actions and demeanor are repugnant to the proper administration of justice.

However, the Plaintiff's lack of respect for this body will not trump our respect for the Constitution. The Unite Party has some members that left the Gator Party, but the Unite Party is a separate and distinct entity from the Gator Party with different membership as well. Mr. Martz expressed that he wants to get rid of two political parties he disagrees with. Upon examining the entirety of the Facebook group and hearing Mr. Martz's oral argument it seems that he has extreme distaste for both political parties and does not feel there is a discernable difference between the two. While Mr. Martz is factually incorrect that the Unite Party is the Gator Party, that is his opinion. The Constitution of our nation, this state, and the Constitution of the Student Body protect his right to hold this opinion.

With regard to the publication the Plaintiff has failed to meet his burden of proving actual damages. The Plaintiff was asked multiple times how this publication has damaged his reputation and he was unable to present any evidence to meet that burden. However pernicious Mr. Martz's opinion may seem to the Plaintiff, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas. Id.

Accordingly, we reject the recommendation of the Election Commission to disqualify Matthew Martz from the Spring Election. We remand the matter to the Election Commission to refer Mr. Martz to University Judicial Affairs pursuant to Student Body Statute 728.43 for failing to comply with a properly adjudicated penalty and any other penalty the Commission deems necessary that is allowed by statute.

It is so ordered.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

Heard and Decided September 14, 2009

KERNER, Chief Justice

Introduction

A petition for an initiative was submitted to the Supreme Court of the Student Body to be placed on the Fall semester ballot. The initiative asks: ***"Should the Student Body Statutes be amended to protect voters and prevent coercion by eliminating "I Voted" stickers."*** The initiative is entitled ***"Voter Protection Initiative"***. The text of the initiative, which if passed would become a student body statute, reads: ***"762.14- Neither Student Government nor any of its officers or officials, employees, agents, designees, or representatives shall distribute, or cause to be distributed, any material, item, or object that indicates whether a student has or has not voted in any Student Government election. This includes, but is not limited to, "I Voted" stickers"***. This initiative will be referred to as the *"I Voted"* initiative. We have jurisdiction under Article V, § 3(b)(1) of the Constitution of the University of Florida Student Body.

The Law

§ 700.4(q) of the Student Body Statutes defines an initiative as "a ballot vote proposing to revoke amend or adopt Student Body Law." Under Chapter 790 of the Student Body Statutes, students may propose referendum questions for inclusion on the ballot.

To be certified, a proposed referendum question must satisfy certain statutory requirements. § 790.1 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 2% of the Student Body at the time of submission. In addition, § 790.3 requires that petitions for referendum questions meet the requirements of § 773.1.

In addition to complying with Florida State Statute 101.161(1), Florida case law, and Florida constitutional law,

Ballot Initiatives must also comply with Student Body Statutes and the Student Body Constitution.

Analysis

The "I Voted" initiative satisfies the statutory requirements of § 790.1 and § 773.1. The total number of signatures on the petition exceeds the number of signatures required by statute. The petition contained over 1,000 signatures, more than satisfying the requirements of § 790.1 and § 773.1. However, the initiative "Ballot Summary" fails to comply with the law of this state.

The Florida Supreme Court announced in *Advisory Opinion to the Attorney General v. Smith*:

> *We have made clear that the ballot title and summary must advise the electorate of the true meaning and ramifications of the amendment and, in particular, must be accurate and informative.*

664 So.2d 486; See Smith, 606 So.2d at 621.

Further, the Florida Supreme Court announced in Smith v. American Airlines, Inc.:

> *Thus, the statute requires that the ballot summary for a proposed constitutional amendment "state in clear and unambiguous language the chief purpose of the measure. The summary must give voters sufficient notice of what they are asked to decide to enable them to intelligently cast their ballots."*

606 So.2d 618 (Fla. 1992)

Further still, the Florida Supreme Court has announced that the purpose of section 101.161(1) is to assure that the electorate is advised of the true meaning and ramifications of an amendment, and has demanded that the title and summary be accurate, informative, objective and free from political rhetoric. See *Evans, 457 So.2d at 1355; Save Our Everglades, 636 So.2d at 1341.*

As stated earlier in this opinion, the ballot summary in the instant petition states: *Should the Student Body Statutes be amended to protect voters and prevent coercion by eliminating "I*

Voted" stickers. This ballot summary is fatally flawed, pursuant to applicable law, for the reasons listed below.

Presumption of Protection: This ballot summary goes further than implying that the proposed statute will protect voters; it states it clearly. While this may be the underlying goal and hope of the petitioner, this characterization is wholly inaccurate and fails to clearly and unambiguously convey to the reader the chief purpose of the proposed law, which would simply be to eliminate "I Voted" stickers and other items indicating that an elector has voted or not voted.

Presumption of Coercion: The ballot summary presumes that coercion exists within Student Government. This Court has not been asked to, and will not answer whether this presumption is correct. However, the ballot summary implies to the electorate that the student government is coercive and that this statute will protect them. While this proposed statute may well ultimately protect the student body as applied, obtaining student body support for a proposed statute on the basis that coercion exists within student government and protection is being afforded is improper.

Mischaracterization of Purpose: The ballot summary purports to eliminate "I Voted" stickers. However, the actual proposed statute would prohibit the distribution of any material, item, or object that would indicate that an elector had voted or not. This goes well beyond "I Voted" stickers and does not accurately convey to the elector the true depth and effect of the proposed statute.

Further, the ballot summary nowhere indicates who would be prohibited from distributing said items. The actual proposed statute would prohibit any Student Government officer, official, employee, agent, designee or representative from doing so.

Constitutional v. Statutory

This Court recognizes that the provisions of our state law talk directly to constitutional amendments only. However, what the petitioner is endeavoring to do (create or amend a statute) does not exist under state law. The student electors of the University of Florida, by allowing ballot initiatives that will add or amend statutory law, have decided to afford themselves broader options for effecting change from outside the confines of the Student Senate. However, this Court sees no authority or policy reason to diminish the protections afforded to them

through constitutional amendment process by not applying said protections to the ballot initiative process. Accordingly, this Court, in the instant case and in future cases, will afford these protections to the student body anytime the statutes or the constitution may be amended by ballot initiative.

Petitioners Arguments

This Court will not adopt petitioner's contention that the jurisdiction of this Court is so narrow as to not allow it to apply applicable state statutory, constitutional and case law to the instant action. In fact, this Court finds that it has an inherent duty to protect the student body in cases such as these and will now, and in the future, apply applicable state and federal law, where appropriate.

This Court recognizes the logic behind petitioner's argument that any defect in the ballot title or summary should be remedied by having the Court amend it. Aside from the anecdotal evidence put forth by the petitioner of the Gainesville City Commission doing so, the Court fails to find any authority for this remedy. Further, there is an inherent concern in amending wording that over 2,000 students signed their name to. The Court will not adopt this remedy now or in the future.

Remedy

This Court finds that the ballot title and summary fail to comply with applicable state law in that they are not objective, are not free from political rhetoric, and they fail to unambiguously and clearly convey the purpose of the amendment. This Court recognizes the well intentioned hard work of the petitioner. However, the Court does not take politically charged, non-objective, presumptive, and misleading attempts at amending the statutes of this great student body lightly. When this occurs under state law, the proper remedy is striking the proposed amendment from the ballot. Accordingly, when this occurs under student body law, the same remedy shall apply. Pursuant to *Advisory Opinion to the Attorney General v. Smith*, this Court orders the Supervisor of Elections to strike the instant ballot initiative from the ballot.

It is so ordered.

LAZINSK, J., CARLTON, J., and BREVDA, J., concur.
END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

Heard and Decided February 1, 2010

In Re: UF Apparel Referendum

KERNER, C.J.

This Student Court finds proper jurisdiction to hear this cause and further finds that all requirements regarding a ballot referendum in the above titled cause have been met. It is hereby ORDERED that the SUPERVISOR OF ELECTIONS place on the Spring 2010 ballot the following:

Ballot Title: UF Apparel Referendum

Ballot Question: Should the University of Florida join the Workers Rights Consortium to help ensure that licensed merchandise with the University of Florida and Gator logos is not made in sweatshops?

It is so Ordered.

LAZISNK, J., CARLTON, J.,BREVDA, J., and NIGLIAZZO, J. concur.

SUPREME COURT OF THE STUDENT BODY

Heard and Decided September 14, 2009

KERNER, Chief Justice

Introduction

A petition for an initiative was submitted to the Supreme Court of the Student Body to be placed on the Fall semester ballot. The initiative asks: ***"Should the Student Body Statutes be amended to protect voters and prevent coercion by eliminating "I Voted" stickers."*** The initiative is entitled ***"Voter Protection Initiative"***. The text of the initiative, which if passed would become a student body statute, reads: ***"762.14- Neither Student Government nor any of its officers or officials, employees, agents, designees, or representatives shall distribute, or cause to be distributed, any material, item, or object that indicates whether a student has or has not voted in any Student Government election. This includes, but is not limited to, "I Voted" stickers"***. This initiative will be referred to as the *"I Voted"* initiative. We have jurisdiction under Article V, § 3(b)(1) of the Constitution of the University of Florida Student Body.

The Law

§ 700.4(q) of the Student Body Statutes defines an initiative as "a ballot vote proposing to revoke amend or adopt Student Body Law." Under Chapter 790 of the Student Body Statutes, students may propose referendum questions for inclusion on the ballot.

To be certified, a proposed referendum question must satisfy certain statutory requirements. § 790.1 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 2% of the Student Body at the time of submission. In addition, § 790.3 requires that petitions for referendum questions meet the requirements of § 773.1.

In addition to complying with Florida State Statute 101.161(1), Florida case law, and Florida constitutional law,

Ballot Initiatives must also comply with Student Body Statutes and the Student Body Constitution.

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The Florida Supreme Court announced in *Advisory Opinion to the Attorney General v. Smith*:

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Voted" stickers. This ballot summary is fatally flawed, pursuant to applicable law, for the reasons listed below.

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Remedy

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It is so ordered.

LAZINSK, J., CARLTON, J., and BREVDA, J., concur.

SUPREME COURT OF THE STUDENT BODY

KERNER, Chief Justice **September 20, 2010**

The Court hereby withdraws its previous order only and further orders the Supervisor of Elections to place the proposed statute on the ballot, along with the following Ballot Title and Ballot Summary:

Ballot Title: Ban "I Voted" Stickers and other Indicia.

Ballot Summary: Should the Student Body Statutes be amended to prohibit Student Government from distributing "I Voted" stickers and other indicia that otherwise indicates whether an elector has voted or not?

This Court is still of the opinion that Section 790.4 of the Student Body Statutes places this Court in the difficult and possibly improper position of amending noncompliant Ballot Titles and Summaries and urges the Student Senate to address this issue. However, this Court is of the opinion that the petitioner and other interested parties should not bear the burden and consequence of a possibly defective statute.

In an effort to help develop the procedural processes of the Judicial Branch, this Court will take this opportunity to recognize that its scope of review in the instant matter is very constrained and therefore makes clear that it is not passing on the constitutionality of this measure. Any challenge to an amendment to our statutory or constitutional law initiated by the student body should be brought by an interested party after a particular measure becomes law.

This Court orders the Supervisor of Elections to strike only the proposed Ballot Title and Ballot Summary. This Court further orders the Supervisor of Elections to place the instant ballot initiative on the ballot for the Fall Election, along with the above amended Ballot Title and Ballot Summary.

It is so ordered.

LAZINSK, J., CARLTON, J., and BREVDA, J., concur.
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SUPREME COURT OF THE STUDENT BODY

Advisory Opinion

April 26, 2010

KERNER, C.J.

The Chief Justice of the Supreme Court of the Student Body issues this Advisory Opinion to clarify and interpret the new provisions of the Student Body Constitution, which was adopted during the Spring 2010 election cycle and which comes into effect on May 1, 2010.

BACKGROUND

Chancellor Lott was elected in the Spring 2010 election cycle to serve as the Chancellor of the University of Florida Honor Court. The question presented regards the disposition of this position in light of the recent Constitution Amendments adopted by the Student Body in the same election.

OPINION

It is the opinion of this student Court that on May 1, 2010, the new Student Body Constitution will take effect and be in full force. The Student Body Constitution is the ultimate source of any authority that a Student Body Officer holds. Where the authority of a Student Body Officer is further defined by statute, it ultimately derives from the Constitution and cannot exceed or be less than what is allowed by this document.

Where the Honor Court Chancellor has previously been elected by the Student Body for many years, the constitutional amendments adopted by the Student Body during the Spring of 2010 drastically alters this.

First and foremost, it is important to note that Section 4 of the Article V has been completely removed. Thus, on May 1, 2010, the Honor Court will cease to exist and thus the position of Honor Court Chancellor will no longer exist.

However, the drafters of the new constitution, in and through the 2009-2010 Student Government Constitutional Revision Commission apparently dealt with the complete abolition of the Honor Court by creating the position of Executive Director of the Honor Code Administration. See Article IV, Section 4(H).

This position, as a member of the President's Cabinet, is appointed by the Student Body President and subject to Senate confirmation.

Thus, on May 1, 2010, the Honor Court will cease to exist and the incoming Student Body President will be tasked with appointing an Executive Director of the Honor Code Administration.

Honor Court Chancellor-Elect Lott expresses concern regarding the lack of independence of the Executive Director of the Honor Code Administration because that position will be directly accountable to the Student Body President. This student Court will not address this issue as it was the will of the Student Body when they adopted the new Constitution and it is beyond our authority to opine.

SUPREME COURT OF THE STUDENT BODY

Heard and Decided February 1, 2011

Nigliazzo, C.J., Michel, J., Bajoczky, J., Houston, J., Welsh, J.

I. Introduction

Petitioner, a University of Florida students, submitted a certified question requesting that this Court interpret the Student Body Statutes chapter 799 (799.01-799.4) regarding a hypothetical referendum for placement on the upcoming election ballot. The referendum question asks: "Should the University of Florida implement a system of block tuition, in which every full-time undergraduate student pays a flat tuition rate of 15 credit hours per semester." This referendum will be referred to as the *"Block Tuition"* referendum. We have jurisdiction under Article V, § 3(b)(1) of the Constitution of the University of Florida Student Body.

II. The Law

§ 700.4(y) of the Student Body Statutes defines a referendum question as "an issue stated in the form of a question that shall be considered, when answered by the Student Body, to have the power of a resolution of Student Government." Under Chapter 790 of the Student Body Statutes, students may propose referendum questions for inclusion on the ballot.

To be certified, a proposed referendum question must satisfy certain statutory requirements. § 790.2 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 1% of the Student Body at the time of submission. In addition, § 790.3 requires that petitions for referendum questions meet the requirements of § 773.1.

Under § 773.1 petitions for referendum questions must satisfy all of the following requirements:

1. All names must be or must be accompanied by the signature of the individual who signed the petition;
2. All signatures must be in non-erasable ink;
3. All names must be signed exactly as the student's name recorded with the Registrar's Office;
4. All names must be followed by student number;
5. Each page containing signatures shall have the proposed initiative statement of intent or referendum question stated in full at the top of the page;
6. Each page containing signatures shall include the identity and signature of the person responsible for securing signatures for that page and that person shall certify all of the following:
    a. All signatures were made by different individuals;
    b. No threats or coercive statements were made to induce a person to sign the petition;

c. The signature of the person responsible for securing the signatures may only be counted once.

7. Each page containing signatures shall include the statement: "Upon request, the full text of the amendment shall be made immediately available to any signatories."

III. Block Tuition Referendum

The *Block Tuition* Referendum satisfies the statutory requirements of § 790.2 and § 773.1. The total number of signatures on the petition exceeds the number of signatures required by statute. The petition contained over 1,500 signatures, more than satisfying the requirements of § 790.2 and § 773.1. Furthermore, while the referendum lacks some clarity it is written clearly enough to accurately convey its intent to the voters.

IV. Conclusion

For the above reasons, the Court holds that the *Block Tuition* referendum shall be placed on the spring election ballot.

It is so ordered.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY
Heard April 5, 2011
Decided April 12, 2011
Opinion Published May 27, 2011

In re Sagar Sane

JUSTICE: NIGLIAZZO, C.J., BAJOWSKY, J., HOUSTON J., MICHEL J., and WELSH, J. concur.

The Supreme Court of the Student Body [the "Court"] here reviews the Election Commission's decision in the case of *Complaints Against The Progress Party*. We have jurisdiction. *See* § 729.0, Student Body Statutes. For the reasons explained below, we affirm.

I. Procedural History and Facts

On March 20, 2011, the Elections Commission [the "Commission"] heard arguments in the case of Complaints Against The Progress Party, specifically complaint #7. The Commission bifurcated the complaint into two separate actions: one against Sagar Sane and one against the Progress Party. The Elections Commission found Sagar Sane, on behalf of the Progress Party (§ 728.01), to be in violation of §§ 762.13 and 762.14 of the Student Government Codes. Sagar Sane, in a response plea to the Commission (see "Sane Answer" attached) admitted to distribution "I voted" stickers in order to suppress voter turnout. Sane also stated that he was a member of the Progress Party and acting on their behalf. The Commission ruled that the Progress Party is suspended from fielding candidates in the Fall 2011 election cycle and Sagar Sane was referred to the Supreme Court of the Student Body for a determination of proper sanctions. The Progress Party has not filed an appeal under § 729.0 of the Student Body Statutes, and therefore the Court has limited the scope of this review to Sane. It has come to the attention of the Court that Sagar Sane, at the time of this election cycle, was not a member of the student body. He is a non-student

who deliberately came on campus to interfere with a Student Government election.

II. Analysis

The Elections Commission found Sagar Sane to be in violation of §§ 762.13 and 762.14 of the Student Government Codes. Further, the Commission determined such tampering with the integrity of an election system constitutes an offense against the Student Body under § 778.1.

As seen in this Court's decision In re: John Clayton Brett v. The Pants Party, Case No. 2007-S-0007, the distribution of "I voted" stickers by individuals other then the Supervisor of Elections is prohibited under § 761.21. § 761.21 of the Student Body Statutes specifically provides that "[n]o candidate shall give, offer, or promise to any student or student organization any benefit not authorized by student body law in order to influence the votes of that student or members of that organization." The Court found that the distribution of these stickers violated this section; however, the Student Body Statutes have since been adapted with the passing of § 762.13 and § 762.14. These statutes state respectively that "[n]o candidate or representative of a political party may misrepresent any material as being the material of the Supervisor of Elections"; and "[t]he Supervisor of Elections and his/her designees have the exclusive right to distribute any material that indicates a student has already voted during the Student Government election cycle."

Members of the Progress Party attended the Court's hearing and provided a statement that Sane is not only an alumnus and not a student, but that he was not a member of the Progress Party. He was a former political opponent of the Progress Party and blatantly did this to harm their party. The Progress Party representatives were asked if they would like to contest the Commission's decision regarding their party, as is their right under § 729; however, they decided not to appeal the decision at this time.

III. Ruling

Sane, in direct violation of §762.13 and § 762.14, distributed "I voted" stickers in order to suppress voter turnout. These facts have not been disputed or contested. Therefore, the Court agrees with the Commission's finding that Sagar Sane is guilty of violating the above codes and under Student Body Statute §778.1; these acts are an offense against the student body.

Student Government will not work unless everyone plays by the rules. Unlike the real world, Student Government has few enforcement mechanisms for violation of an order. In voluntarily participating in Student Government, individuals and parties are also volunteering to play by the rules. Sane willingly chose not to play by the rules. This cavalier attitude cannot be tolerated. Let it be known this behavior, if done directly by a candidate or a political party could lead to the disqualification of the candidate and/or the political party as seen In Re: John Clayton Brett v. The Pants Party. In finding Sagar Sane guilty of violating election codes, this decision is to serve as a public reprimand of Sagar Sane and his behavior. Additionally, it is this court's decision that if Sagar Sane returns to the University of Florida for post-graduate education, he is banned from serving in student government, running for office, and participating in or organizing a political party.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

Heard & Decided September 16, 2011

MICHEL, Chief Justice

V. Introduction

This Court finds proper jurisdiction to hear this cause. Petitioners, all University of Florida students, submitted a certified petition regarding a referendum for placement on the upcoming election ballot. This Court read the attached petition, and held a hearing on the matter on September 16, 2011. The petition requested that a referendum posing the question: "Do you support repealing the 15% tuition increase at the University of Florida?" be placed on the Fall 2011 election ballot. This Court addressed the issue of compliance with the statutory requirements. Specifically, this Court evaluated compliance with Student Body Statutes § 773.1 and § 790.2. For the reasons set forth below, we grant certification of this referendum for the Fall 2011 election.

VI. The Law

§ 700.4 (aa) of the Student Body Statutes defines a referendum question as "an issue stated in the form of a question that shall be considered, when answered by the Student Body, to have the power of a resolution of Student Government." According to Chapter 790 of the Student Body Statutes, students may propose referendum questions to be placed on the election ballot. However, to be certified, a proposed referendum question must satisfy the statutory requirements. § 790.2 requires that referendum questions be proposed by either a 2/3 vote of the Senate or by a petition containing the signatures of at least 1% of the Student Body at the time of submission. Furthermore, § 773.1 requires that each of the signatures obtained by a petitioner conform to certain minimum standards to ensure that there has been no fraud in satisfying the requirements of § 790.2. Under § 773.1 all referendum petitions must satisfy all of the following requirements:

8. All names must be or must be accompanied by the signature of the individual who allegedly signed the petition.
9. All signatures must be in non-erasable ink.

10. All names must be signed exactly as the student's name is recorded with the Registrar's Office.
11. All names must be followed by student number.
12. Each page of signatures must have the proposed referendum question stated in full on the top of the page.
13. Each page of signatures must include the signature of the person responsible for securing signatures for that page.
14. Each page containing signatures must include the statement: "Upon request, the full text of the amendment shall be made immediately available to any signatories."

VII. Conclusion

The Court holds that the referendum question satisfies the statutory requirements of § 790.2 and § 773.1. The Court also holds that the referendum is properly written in the form of a question in accordance with § 700.4 (aa). While the Court notes that the referendum does not specify an actor and the proposed language is somewhat vague, we hold that the question is written clearly enough to accurately convey the legislative intent to the voters. For these reasons, the Court orders the Supervisor of Elections to place the instant referendum question on the ballot for the Fall 2011 election.

It is so ordered.

WELSH, J., HOUSTON, J., and BUCKHALTER, J. concur.
MASON, J., did not participate in this decision.

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SUPREME COURT OF THE STUDENT BODY

Heard and Decided October 10, 2011
Opinion Published November 6, 2011

Introduction

This action came before the Court on a motion for a temporary injunctive order to prevent the Student Senate and the Senate President from validating the results of the Fall 2011 Student Government election. Following a preliminary hearing, Petitioners also moved for a judgment declaring the Fall 2011 Student Government elections invalid, permanent injunctive relief enjoining the Student Senate from validating the results of said election, and a writ of mandamus ordering the Supervisor of Elections to execute a new election for the off-campus districts. This Court has jurisdiction under **Article V Sections (3)(b)(2) and (3)(b)(4)** of the Student Body Constitution.

Procedural History and Facts

At a hearing on October 2, Petitioners–all members of The Students Party, a Student Government political party as defined by § **740** of the Student Body Statutes–argued that technical difficulties associated with the new electronic voting system and a lack of clear instructions at the polls caused multiple student voters to cast ballots in the wrong electoral district. Petitioners also alleged that the Supervisor of Elections neglected to perform several functions required by the 700 codes. They contended that the Senate should be prevented from voting to validate the election results until a full investigation into the alleged discrepancies was performed.

Respondents admitted that some technical errors had occurred but insisted that the overall impact on the election was negligible. Respondents further argued that this Court does not have authority to prevent the Senate from validating the election totals, a function they described as a non-delegable power of the Legislative Branch. They cited particularly § **783.0**, the relevant text of which reads: *"The Senate shall have **sole responsibility** for validation of elections by a majority vote provided any decision to invalidate is based upon fraud or gross unfairness as supported by the findings of fact from the Elections Commission."*

Having found sufficient credible evidence to support good cause to order an investigation, this Court issued a temporary injunctive order prohibiting the Senate President and the Student Senate from validating the results of the Fall 2011 Student Government election until further order of the Court **[see Addendum A]**. This Court further ordered the Elections Commission to conduct an investigation into the election process after certifying several questions to that body for clarification **[see Addendum B]**. The Court reconvened on October 10 to hear the report of the Election Commission and to deliver a final decision on the matter.

Jurisdiction and Separation of Powers

Article I of the Student Body Constitution sets forth a declaration of basic rights which are guaranteed to every student. Among these is the right to vote in Student Government elections. **Article I Section (2)(A)**. Where an unlawful deprivation of this right is alleged, this Court has jurisdiction to "*order any Student Government official . . . to perform any lawful act or refrain or desist from an unlawful act.*" **Article V Section (3)(b)(2)**.

Accordingly, in the preliminary hearing this Court granted Petitioner's motion for temporary injunction, thereby enjoining the Student Senate from validating the results of the Fall 2011 Student Government election until further investigation. In the final hearing on the merits, this Court heard and ultimately denied Petitioner's request for permanent injunctive relief.

Respondents filed a motion to dismiss in both actions, arguing that this Court did not have authority to prevent the Student Senate from validating the election totals, a function they described as a non-delegable power of the Legislative Breach. In support of their position Respondents cited **Article III Section (6)(e)** of the Student Body Constitution, which states: "*The Student Senate shall have the power to . . . be the sole judge of the validity of the elections results.*"

We hereby reaffirm jurisdiction and reconcile these two provisions as follows. As arbiters of the Student Body Constitution it is the responsibility of this Court to ensure that the liberties afforded therein to all students are protected from infringement by the Student Government. Among these is the right to vote in Student Government elections. **Article I Section (2)(A)**. This Court further believes that implicit in the right to vote in a Student Government election is the right to vote in a *fair* Student Government election. Thus, we are compelled to investigate fully any substantial

allegations of unfairness in a general election before the Senate swears in its new members.

Contrary to Respondents' position, the exercise of this authority is not in contravention of the power delegated to the Student Senate to validate elections results. Construing these provisions together, we find that there is a difference between the assessment of election validity as reserved to the Student Senate and the discernment of election fairness as reserved to this Court.

To aid our analysis we look to the subsequent laws constructed upon the authority of **Article III Section (6)(e)**. Within the Student Body Statutes "*validation*" is defined as "*the action taken by the Student Senate that formally acknowledges the vote totals as presented by the Supervisor of Elections or Elections Commissioner is accurate.*" **§ 700.4 (ff)**. We hereby choose to prescribe the same narrow interpretation to "*validity*" as it appears in **Article III Section (6)(e)**. Accordingly, we conclude that assessment of validity, or the act of validation, is simply an accounting function in which the Student Senate acknowledges that the votes cast were accurately tabulated, while the assessment of electoral *fairness* is within the purview of this Court based on our construal of **Article I Section (2)(a)**.

This exercise of authority does not violate the separation of powers or encroach upon the Student Senate's power to establish its elections procedures. In evaluating electoral fairness, this Court will consider the degree of compliance with the Elections Codes as a general guideline for the contours of fairness. In evaluating the fairness of elections, this Court will focus on the primary authority of the applicable Student Body Constitution provisions and Student Body Statutes. Only when there is a lack of guidance from these two sources will the Court consider Florida and Federal law statutes and cases as persuasive.

Thus, we conclude that a challenge based on grounds of electoral unfairness is an independent right of action which falls squarely within the jurisdiction of the Supreme Court of the Student Body. To hold otherwise would be to risk irreparable harm to the student body and to the legitimacy of Student Government.

Standard of Review

We turn now to articulating the appropriate standard of review for examining allegations of systemic electoral unfairness. Students are entitled, constitutionally, to a fair

election. Unfairness can manifest in specific acts, omissions, or both. The Court finds that the appropriate standard of review is:

> "Were students materially prevented from exercising their political will?"

Specific acts, such as [but not limited to] requiring a student to pre-register before the time the student enters the voting booth on election day to be eligible to vote, may be found to materially prevent a student from exercising his or her political will. Alternatively, omissions, such as [but not limited to] establishing an insufficient number of voting locations, may quality as material unfairness as well.

The Court will consider allegations of unfairness as they occur. Allegations of unfairness are evaluated in terms of the broader electoral context.

It is important to distinguish alleged acts of systemic unfairness, to which the above standard of review applies, and individual alleged violations of the elections codes, for which appeals from the elections commission are evaluated on a different standard of review.

Merits of the Instant Case

This Court has long recognized the Student Body's inalienable right to a direct and secret vote. ***See Advisory Opinion of December 21, 2006***. At the hearing of October 11 the Election Commission testified that once a student positively selected a voting district he or she could not return to the log-in screen and select a different district. The Commission further testified that this inability to "click back" to the previous screen was necessary to prevent hacking, which protection in turn is necessary to prevent multiple voting and fraudulent voting. The only remaining question on this matter is whether the on-screen instructions clearly communicated the necessary information for students to correctly select their voting district.

The on-screen instructions were clear and unambiguous. The language could have been more emphatic-as it later was changed to be by the Supervisor of Elections-but any student reading the original instructions in their entirety could reasonably be expected to understand them. Moreover, once they selected their respective voting districts, students had the ability to change their vote for individual candidates and referendum questions all the way through the process until the moment they submitted their vote to be counted. The Supervisor of Elections also

testified that in previous years students could request a new paper ballot at any time prior to casting their vote. However, once they submitted an affidavit that they lived in a particular district, they could not change districts a second time during that election. It is apparent, then, that the restrictions placed on the electronic voting system were designed to imitate as closely as possible the accustomed safeguards of the paper balloting system.

Any non-paper voting system carries a strong presumption of constitutionality as long as it provides a level of protection for voters equivalent to that of the paper balloting system which has been used traditionally in Student Government elections. As the Court previously recognized, "because the Intranet [electronic] voting method complies almost lockstep with paper balloting, an extended analysis is not required to determine that it is a constitutional method of voting in SG elections." ***Id.*** In the instant case, the technical safeguards challenged by the Petitioners were necessary to provide a level of protection against hacking and fraud equivalent to that provided by the paper balloting system, which protections are necessary for democracy to function. Removing those safeguards would expose the entire electoral process to extreme risk of interference and subversion. Therefore, we find that the initial ballot did not materially prevent students from exercising their political will.

Petitioners cited numerous Student Body Statutes with which the Supervisor of Elections failed to comply during the Election Cycle. The Petitioners specifically cited §§ **714.1, 714.3, 716.3, 716.2, 714.7, 715.0, 715.1, 717.2, 717.3,** and **717.4** as statutes the Supervisor of Elections did not follow. We find that the conduct of the Supervisor of Elections during the Election Cycle did not result in an unfair election which materially prevented the students from exercising their political will. While this Court agrees with the Petitioners that the Supervisor of Elections should have followed many of these statutes more diligently, the time in which the Petitioners requested us to exercise our power to order the Supervisor of Elections to comply with the Student Body Statutes was inappropriate.

This Court has the explicit Constitutional power under **Article V Section 3(b)(2)** to order upon written petition any Student Government official to *"perform any lawful act or refrain or desist from an unlawful act."* This language indicates that we have the power to issue forward looking orders. We have previously ordered the Supervisor of Elections before an election to follow the Election Code more closely in ***Jardon v. Supervisor of Elections***, decided January 15, 2008. In

their brief, the Petitioners requested us to take the unprecedented step of looking retroactively at the Supervisor of Elections' compliance with the Election Code and declare that she *should have* followed the procedures more closely. The Petitioners had the Student Body Constitutional right to petition this Court in writing before and during the instant Election but failed to do so. We decline to interpret the Student Body Constitution as allocating to this Court a power which is not enumerated in the text of the Constitution when a simple remedy of requiring the Petitioners to petition us in writing before and during the Elections would suffice. We have the power to require the Supervisor of Elections to follow the Election Code more closely in the future, and by this opinion we hope it is clear to future election officials that compliance with the Election Code will be a requirement to conduct a fair election. We will remain faithful to the precedent set by ***Jardon*** and note that the most effective way this Court could have prevented alleged unfairness or procedural deviation during the previous Election was, upon written petition, to exercise our **Article V Section 3(b)(2)** power to order the Supervisor of Elections to follow the Election Code *before* or *during* the Election.

We decline to engage in Petitioners requested ex-post facto analysis of the Supervisor of Elections' compliance with the Student Body Statutes and instead apply a standard this Court has consistently used to judge compliance with other Student Body Statutes. Many of this Court's previous decisions have involved the review of ballot initiatives under § **773.1**. During these reviews, the Court has consistently applied the principle of allowing ballot initiative language that reasonably conveys the drafter's intent. ***See Decision of February 5, 2008; In Re Spring 2008 Referendum and Initiative Questions; Decision of January 30, 2009, "Biometric Data"***. Strict compliance with the Statutes without room for students to make errors and fix mistakes would impose a burden that would greatly discourage participation in Student Government. Therefore, this Court has only disallowed ballot initiative language which is so vague that a reasonable student could not infer the drafter's intent. ***See Decision of February 20, 2005, In Re Petition for On-Line Voting"***. We extend this flexible and permissive standard to Student Officials who make mistakes, learn of the error, and then fix the deficiencies. However, we will require a Student Official to strictly comply with a Student Body Statute if the Student Official is notified of the noncompliance and nonetheless fails to attempt to comply with the Student Body Statute at issue.

The Court notes that Petitioners did not request the Supervisor of Elections to comply with the Student Body Statutes before or during the Election cycle. However, the Petitioners did request that the electronic ballot be changed to fix a confusing design. In response to the Petitioners' requests the Supervisor of Elections did, by Petitioners' own admission, "fix the ballot." If the Petitioners were concerned about the Supervisor of Elections' non-compliance with the Student Body Statutes, they should have given her the opportunity to fix her mistakes by notifying her of the deficiencies or by petitioning us to order her to remedy the deficiencies, before or during the Election.

As a part of their argument to invalidate the Election results, the Petitioners cited § **700.3** as another example of the Supervisor of Elections' failure to follow the Student Body Statutes. The language of § **700.3** states that *"Student Government shall make every effort to comply and follow standards set forth in Florida Law governing elections."* We find that this language was intended by the Senate not as a mandate to follow the letter of Florida Law governing Federal, State, and Municipal elections, but was instead an aspirational statement. We do not believe, as the Petitioners argued, that this statement fills in for all areas that the Student Body Election Code does not cover. If the Senate wished to fully bind itself to Florida election laws and regulations it would have set out those standards in the Election Code. An application of Florida law to Student Government Elections would implicate a danger that principles of Florida law could be misapplied. As we mentioned *supra*, we will consider Florida and Federal standards as persuasive where the Student Body Constitution and the Student Body Statutes are not on point, but will not depend on these standards as a primary source of authority.

Finally, we will touch on an issue of concern that occurred during the proceedings at issue. As we have mentioned numerous times, under **Article V Section 2(b)** this Court has the exclusive power to adopt its own rules of practice and procedure. The procedures this Court adopts are designed with dual purposes of providing a forum in which student petitions may be fairly heard and maintaining a system in which the Court can render a timely decision on the merits of each Petition. The Court cannot fulfill these purposes if the parties to an action fail to follow the procedures.

The Court was specifically concerned with the Petitioners' disregard of the deadline to file a final petition on the merits and disregard of the page filing limitations as set forth in our procedures for Final Relief Hearings. The Petitioners argued

that this Court did not order the Petitioners to file briefs for the Final Requested Relief Hearing. While the Petitioners are correct that an order for the parties to file a brief did not appear in the text of our Order Certifying Questions to the Election Commission, this Court did order Petitioners to file a brief by the deadline contained in the Procedure during the hearing certifying the Elections Commission Questions.

We acknowledge that new procedures were created as the issues in this case arose and that the parties did not have ideal notice of the procedures. However, this Court cannot allow parties to disregard procedures that have been promulgated. In the future, strict compliance with the Court's adopted procedures will be required for each filing in a Petition or other action. If a party feels it has trouble meeting a deadline or fulfilling a requirement of the procedures, that party may request a variance from the procedure with the Chief Justice who will approve or deny each request. The variance will be for a limited amount of additional time or additional filing length as appropriate. Failure to follow the filing deadlines and requirements will be grounds for dismissal of the filing and, possibly, of the action in its entirety. This requirement applies regardless of whether the Court has followed these procedures for many years or is drafting the procedures specifically for an action.

Ruling

The preliminary injunctive order is hereby **DISSOLVED**. The Petitioners' requested relief is **DENIED**.

It is so ordered.

MICHEL, C.J., WELSH, J., MASON, J., and BUCKHALTER, J. concur. HOUSTON, J. did not participate in this decision.

Addendum A

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 3, 2011

THE STUDENTS PARTY, ANDREW HART, in his official capacity as President of the Students Party, JONATHAN OSSIP, CARLY WILSON,

Petitioners,

v.

MICAH LEWIS, in his official capacity as President of the Student Senate, THE STUDENT SENATE OF THE UNIVERSITY OF FLORIDA, TONI MEGNA, in her official capacity as Supervisor of Elections,

Respondents.

PRELIMINARY INJUNCTIVE ORDER

THIS ACTION came before the court on a motion for a temporary injunction. The court has found cause to enter an injunction.

PROHIBITED ACTIVITIES

IT IS HEREBY ORDERED the respondent, Micah Lewis, in his official capacity as President of the Student Senate, and the University of Florida Student Senate, are enjoined from validating the results of the Fall 2011 Student Senate election until further order of the court.

INVESTIGATION ORDER

IT IS FURTHER ORDERED that the Chairman of the Elections Commission initiate an investigation pursuant to guidelines articulated by this court.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.
f
IT IS SO ORDERED.

Michel, C.J., Buckhalter, J., Mason, J., and Welsh, J. concur.
Houston, J. did not participate in this decision.

Addendum B

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 5, 2011

THE STUDENTS PARTY, ANDREW HART, in his official capacity as President of the Students Party, JONATHAN OSSIP, CARLY WILSON,

Petitioners,

v.

MICAH LEWIS, in his official capacity as President of the Student Senate, THE STUDENT SENATE OF THE UNIVERSITY OF FLORIDA, TONI MEGNA, in her official capacity as Supervisor of Elections,

Respondents.

ORDER CERTIFYING INVESTIGATION QUESTIONS TO THE ELECTION COMMISSION

THIS ACTION is before the Court upon its entry of an order, dated October 3, 2011, directing the Chairman of the Elections Commission to initiate an investigation into the Fall 2011 Student Body election. The following questions have been certified by this Court for the Chairman of the Elections Commission's investigation.

IT IS HEREBY ORDERED that Grant Schnell, in his official capacity as the Chairman of the Elections Commission, no later than 12:00 NOON on October 8, 2011, present a written report and requested documents that, to the best of his knowledge after diligent inquiry, responds to the following questions and requests for production:

1. What were the procedures in administering the absentee ballot? Include a description of any instructions included with the absentee ballot and a description of the type of ballot used.
-775.0

2. How many District E voters requested absentee ballots, if any?

3. Did a meeting occur on the 4th Tuesday immediately preceding the 1st day of the elections informing students of the elections procedure? Please provide documentation if a meeting did occur.
-713.0

4. What form was used to notify students of Absentee ballots?
-714.3

6. Was a sample ballot and map of polling locations available at every polling location for distribution to interested parties?
-714.7

7. Describe (with documentation) the testing of the equipment including procedures used to test the equipment, and who was present during testing.
-715.1

8. Describe the procedures that were in place for the contingency that a voter could not vote electronically. Include the procedure that was in place for the contingency that a voter realized they were selected into the wrong District.
-715.2

9. Provide all copies of signs and disclaimers displayed at the polling locations.
-716.0
-716.1
-716.2

10. In residence halls, family housing, family villages, and colleges THAT ARE NOT POLLING LOCATIONS, please provide the polling location lists that were posted at these sites.
-716.3

11. What were the instructions to the poll workers for operating machines, including contingency plans in the case that a voter could not vote electronically?
-715.2
-717.0

12. What procedures were in place in case that the votes were too close under 717.4?

13. What occurred during manual recounts if the recounts occurred?
-717.4

14. Please provide any materials available to the students at the polling stations including any instructions on how to use the voting machines.

15. Which address from the Registrar's records did the automatic District selection in the voting program pull from? For example, did the District selection program import the students' emergency contact information, the local address, the permanent address, or the only address on file? Please clarify whether the periodic mandatory updates to the students' emergency records during registration through ISIS was used as the basis for the District selection.

16. In Steve Bourdon's capacity as the creator of the Secure Site Electronic Voting system, what was the **original intent** of the design mechanism by which a student could not go back to fill out an affidavit once he/she was directed to a ballot?

or alternatively,

Was Steve Bourdon's original intent in designing the mechanism by which a student could not go back to fill out an affidavit once he/she was directed to a ballot a **security measure** to prevent 'hacking,' including instances of double voting which occurring the Spring 2011 Student Government Elections?

17. Outline in detail the voting procedures and system in the Fall 2011 election.

18. Produce all instructions given to poll workers.

19. Determine the procedures to be used in a recount.

20. Determine if a manual recount was conducted in District D pursuant to Chapter 717.4, and if so, outline the procedures of that manual recount.

21. Determine the exact source of the addresses used to determine voter districts.

22. Determine what, if any, compliance was done in accordance with Chapter 700.3:

700.3 -- Student Government shall make every effort to comply and follow standards set forth in Florida Law governing elections. This shall include, but not be limited to: the review of the rules governing standards and certification of voting systems, the adoption of rules to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting, including write-in voting, and of counting, tabulating, and recording votes by voting systems used in Student Government elections; the security standards for voting systems, and the authorization and approval of the registration process for voter identification.

23. Determine what, if any, compliance was done in accordance with Chapter 713.11:

713.11 -- The Supervisor of Elections shall provide a complete list of his or her contact information and the contact information of all the members of the Elections Commission to each registered party president, independent candidate and any interested students.

24. Determine what, if any, compliance was done in accordance with Chapter 714.2:

714.2 -- The Supervisor of Elections shall maintain a page on the official Student Government website containing an electronic form allowing any elector to instantly apply for an absentee ballot over the Internet.

25. Determine what, if any, compliance was done in accordance with Chapter 714.3:

714.3 -- The Supervisor of Elections shall make all reasonable efforts to notify every elector, including those enrolled at satellite campuses, of the absentee balloting

process at least two weeks prior to the deadline stipulated by 714.1. The Supervisor of Elections shall ensure that all students are notified of the absentee ballot process, via at least two forms of direct online notification, at least two weeks prior to the deadline stipulated by 714.1

26. Determine what, if any, compliance was done in accordance with Chapter 714.7:
714.7 -- The Supervisor of Elections shall make available upon request a sample ballot and map with each of the polling locations indicated for inspection to any interested individuals at every polling location and the Student Government office.

27. Determine what, if any, compliance was done in accordance with Chapter 715.0:
715.0 -- The Supervisor of Elections shall ensure that all ballot counting equipment is properly zeroed and tested two days prior to the election. The zeroing and testing of the ballot counting equipment shall occur in the presence of the group listed in 717.3.

28. Determine what, if any, contingency plan was implemented pursuant to Chapter 715.2:
715.2 -- If Secure Location Electronic Voting is implemented, the Supervisor of Elections shall ensure that a contingency plan is in place in the event that there are circumstances that prevent electors from voting electronically.

29. Determine what, if any, compliance was done in accordance with Chapter 716.3:
716.3 --The Supervisor of Elections shall post a list of polling locations in the residence halls, family housing villages, and colleges in which a polling location is not located. Further locations may be added at the discretion of the Supervisor. The list shall be clearly visible, and must contain all information indicated in 716.2.

IT IS FURTHER ORDERED that the Chairman of the Elections Commission shall have the discretion to answer questions 16-29 by citing his answers to questions 1-15 if his answers to questions 16-29 would restate answers provided to questions 1-15.

IT IS FURTHER ORDERED that a hearing reviewing the Election Commission's written report and produced documents and allowing the parties to present final arguments on suggested remedies will commence on October 10, 2011 at a time that will be properly noticed to the public and governed by procedures outlined by this Court.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED.

Michel, C.J., Buckhalter, J., Mason, J., and Welsh, J. concur.

Addendum C

SUPREME COURT OF THE STUDENT BODY

Heard and Decided October 10, 2011
In re: The Students Party v. Lewis

This action came before the court on a motion for a declaratory judgment declaring the Fall 2011 Student Government elections invalid, permanent injunctive relief enjoining the Student Senate from validating the results of said election, and a writ of mandamus ordering the Supervisor of Elections to execute a new election for the off-campus districts. The Court hereby withdraws its preliminary injunctive order and further denies the petitioners' requested relief. The Court retains jurisdiction to issue a final order on this matter.

It is so ordered.

MICHEL, C.J., WELSH, J., MASON, J., and BUCKHALTER, J., concur. HOUSTON, J., did not participate in this decision.

END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure of the Supreme Court of the Student Body for Hearing Motions for Relief and Explanation of Intent*
October 2, 2011

PER CURIAM

Article 6, Section 2 of the Constitution of the University of Florida Student Body grants the Supreme Court of the Student Body ["Supreme Court"] the power to establish internal rules of practice and procedure. Accordingly, the Supreme Court has drafted the "Procedure of the Supreme Court of the Student Body for Hearing Motions for Relief" [attached as Addendum A].

Any person or political party who chooses to Petition the Supreme Court for a form of relief other than the appeal of a tribunal decision must comply with these procedures.

The Petitioner will file with the Supreme Court a Motion describing a request for relief. If the Supreme Court determines it has jurisdiction over the requested relief it will consent to hear the Motion. The Supreme Court will hear the Motion by following the procedure described in Addendum A and will email the Petitioners and Respondents a decision that will be published in the Supreme Court Reporter.

Addendum A

Procedure of the Supreme Court of the Student Body for Hearing Motions for Relief

The Supreme Court of the Student Body ["Supreme Court"] hereby establishes these procedures this 2nd day of October, 2011.

14. **PETITIONER'S MOTION FOR THE SUPREME COURT TO HEAR A RELIEF MOTION**: Any person or political party who chooses to file a Motion Requesting Relief ["Relief Motion"] pursuant Article V, Section 3 of the University of Florida Student Body Constitution shall file a Motion Requesting Approval to file a Relief Motion ["Approval Motion"] with the Supreme Court.

15. **METHOD FOR FILING APPROVAL MOTION**: An Approval Motion is filed by sending an email to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu].

16. **REVIEW OF APPROVAL MOTION**: The Supreme Court shall either approve or deny any Approval Motion within 24 hours after such Motion is received. If the Approval Motion is granted, the Supreme Court will schedule a hearing and post public notice of such hearing.

17. **TIME OF FILING PETITIONER'S RELIEF MOTION**: If Petitioner's Approval Motion is granted, Petitioner shall file a Relief Motion with the Supreme Court within 24 hours after such approval.

18. **RESPONDENT'S RESPONSE**: After the Supreme Court receives Petitioner's Relief Motion, the Chief Justice will immediately e-mail Petitioner's Relief Motion to Respondent. Respondent is under no obligation to file a response. If Respondent chooses to file a response, Respondent must file such response with the Supreme Court within 24 hours of the Supreme Court's delivery of Petitioner's Relief Motion to Respondent.

19. **METHOD FOR FILING MOTION AND RESPONSE**: A Relief Motion and Response is filed by e-mailing a copy of such Relief Motion or Response in Microsoft Word format to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu].

20. **FORM OF MOTION AND RESPONSE**:
    a. Motions and Responses shall be filed on 8 ½ x 11 inch paper.
    b. Motions and Responses shall not exceed 6 pages, typed, doubled spaced, Times New Roman, 12 point font, 1 inch margins.
    c. Motions and Responses shall include a list of relevant Student Body Statutes and/or Constitutional provisions, a Statement of Facts, and the Arguments of the person or political party.
    d. Arguments should be clearly and concisely written.
    e. Each individual argument should begin with the following phrase: "The Supreme Court of the Student Body should [grant or deny] Petitioner's Request for [Petitioner's requested form of relief] because [insert reasoning]."
    f. Motions and Responses shall include a synopsis of the evidence that each party will present to the Supreme Court during the hearing on the Relief Motion and applicable legal arguments.

21. **PROCESS FOR RELIEF MOTION HEARING**:
    a. Petitioner, followed by Respondent, will each have 10 minutes to present opening arguments. During this time, the Supreme Court will not question any of the parties.
    b. Petitioner will then present its witness through direct examination. After the Petitioner has finished questioning each witness on direct, the Respondent will cross examine the witness if it chooses to do so. Once the Petitioner has rested in calling witnesses on direct, the Respondent will call its witnesses and question its witnesses through direct examination. After the direct examination of each witness, the Petitioner may cross examine the Respondent's witness if it chooses to do so. The Supreme Court will not ask any questions of the witnesses during direct and cross examinations.

c. The scope of each cross examination will be limited to the scope of the opposing party's direct examination.
d. Each party will have a total of 30 minutes to examine witness on direct and cross examine the opposing party's witnesses. The clerk of the Supreme Court will keep each party's time. Time will be tolled for each party once the party notifies the Supreme Court that it has finished questioning a witness and begins when the party asks the witness a first question.
e. The Supreme Court may grant each party a 15 minute extension at its discretion. The requesting party must petition the Supreme Court for such an extension at the close of the initial time limit and show that during the extension it will present evidence that will not be unnecessarily cumulative. The Supreme Court at its discretion may terminate an extension at any time if the party presents evidence that is unnecessarily cumulative.
f. The Supreme Court may then call any party or witness to answer in the Supreme Court's direct examination. The party or witness called by the Supreme Court will not talk while a Justice asks a question. The party or witness will immediately stop talking, even if in the middle of an answer, once a Justice begins to ask a question. Each party or witness will only answer the Justice's questions and will not be permitted to present argument. The scope of a party's or witness's answer to the Justice's examination will be limited to the scope of the Justice's question. The Supreme Court shall have unlimited time for direct examination of parties or witnesses.
g. After the Supreme Court has finished examining parties and witnesses, each party will have 5 minutes to present a closing argument. At this time, the Supreme Court will not ask questions.
h. The Supreme Court will deliberate amongst itself and decide whether to grant or deny the Petitioner's Relief Motion. If it determines the action is appropriate, the Supreme Court may grant relief that differs from the Petitioner's requested relief. At the opening of the Supreme Court's deliberations the Chief Justice, or his or her designee, will make the following statement, or a substantially similar statement, to the parties, witnesses, and audience:

> *"The evidence and argument portion of this hearing is now closed. If you choose to stay during the Court's deliberations, you will have absolutely no speaking rights. Any person besides ourselves who chooses to speak will be immediately asked to leave by the Marshall."*

i. A decision on the Petitioner's Relief Motion will be rendered by the Supreme Court when the Chief Justice, or his or her designee, e-mails a copy of the decision to be published in the Supreme Court Reporter to the Petitioner and Respondent.

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Cecily Welsh

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END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure of the Supreme Court of the Student Body for Final Relief Hearings*
October 5, 2011

Procedure of the Supreme Court of the Student Body for Final Relief Hearing

PER CURIAM

Article 6, Section 2 of the Constitution of the University of Florida Student Body grants the Supreme Court of the Student Body ["Supreme Court"] the power to establish internal rules of practice and procedure. Accordingly, the Supreme Court has drafted the "Procedure of the Supreme Court of the Student Body for Final Relief Hearings" [attached as Addendum A].

Any student or political party named as a party in a proceeding before the Supreme Court must comply with these procedures.

Upon an order from the Supreme Court, Petitioner will file with the Court a Supplemental Brief in Support of Specific Relief. The Supreme Court will review the Brief by following the procedure described in Addendum A and will email the Petitioners and Respondents a decision that will be published in the Supreme Court Reporter.

The Supreme Court of the Student Body ["Supreme Court"] hereby establishes these procedures this 5th day of October, 2011.

22. **TIME OF FILING PETITIONER'S SUPPLEMENTAL BRIEF**: If Petitioner is ordered to file a Supplemental Brief in Support of Specific Relief ["Supplemental Brief"], Petitioner shall file a Supplemental Brief with the Supreme Court at a time specified by such order.

23. **RESPONDENT'S SUPPLEMENTAL BRIEF**: After the Supreme Court receives Petitioner's Supplemental Brief, the Chief Justice will immediately e-mail Petitioner's Supplemental Brief to Respondent. Respondent is under no obligation to file its own Supplemental Brief. If Respondent chooses to file a Supplemental Brief, Respondent must file such a Supplemental Brief with the Supreme Court within 24 hours of the Supreme Court's delivery of Petitioner's Supplemental Brief to Respondent.

24. **METHOD FOR FILING SUPPLEMENTAL BRIEFS**: A Supplemental Brief is filed by e-mailing a copy of such Supplemental Brief in Microsoft Word format to the following persons: the Chief Justice of the Supreme Court, the Associate Justices of the Supreme Court, and the Student Government Office Manager [SVernon@sg.ufl.edu].

25. **FORM OF SUPPLEMENAL BRIEF**
    a. Supplemental Briefs shall be filed on 8 ½ x 11 inch paper.

b. Supplemental Briefs shall not exceed 6 pages, typed, doubled spaced, Times New Roman, 12 point font, 1 inch margins.
c. Supplemental Briefs shall include a list of relevant Student Body Statutes and/or Constitutional provisions, a Statement of Facts, and the Arguments of the person or political party.
d. Arguments should be clearly and concisely written.
e. Each individual argument should begin with the following phrase: "The Supreme Court of the Student Body should [grant or deny] Petitioner's Request for [Petitioner's requested form of relief] because [insert reasoning]."
f. Supplemental Briefs and Responses shall include a synopsis of the relevant evidence presented to the Supreme Court by any witness or tribunal and applicable legal arguments.

26. **PROCESS FOR FINAL RELIEF HEARING**:

a. At its discretion, the Supreme Court may hear reports from any independent commissions or tribunals where appropriate. Only the Supreme Court may ask questions of the tribunal representatives at this time.
b. Petitioner, followed by Respondent, will each have 20 minutes to present oral arguments. During this time, the Supreme Court will not question any of the parties. The Petitioner may reserve time for a rebuttal statement out of its total time.
c. The Supreme Court may then call any party or witness to answer in the Supreme Court's direct examination. The party or witness called by the Supreme Court will not talk while a Justice asks a question. The party or witness will immediately stop talking, even if in the middle of an answer, once a Justice begins to ask a question. Each party or witness will only answer the Justice's questions and will not be permitted to present argument. The scope of a party's or witness's answer to the Justice's examination will be limited to the scope of the Justice's question. The Supreme Court shall have unlimited time for direct examination of parties or witnesses.
d. The Supreme Court will deliberate amongst itself and decide whether to grant or deny the relief specified in the Petitioner's Supplemental Brief. If it determines the action is appropriate, the Supreme Court may grant relief that differs from the Petitioner's requested relief. At the opening of the Supreme Court's deliberations the Chief Justice, or his or her designee, will make the following statement, or a substantially similar statement, to the parties, witnesses, and audience:

> *"The evidence and argument portion of this hearing is now closed. If you choose to stay during the Court's deliberations, you will have absolutely no speaking rights. Any person besides ourselves who chooses to speak will be immediately asked to leave by the Marshall."*

e. A final decision on the Petitioner's request for relief will be rendered by the Supreme Court when the Chief Justice, or his or her designee, e-mails a copy of the decision to be published in the Supreme Court Reporter to the Petitioner and Respondent.

Matt Michel

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Cecily Welsh
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END OF DOCUMENT

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure of the Supreme Court of the Student Body for Supplemental Briefs in Support of Specific Relief*
October 5, 2011

PER CURIAM

Article 6, Section 2 of the Constitution of the University of Florida Student Body grants the Supreme Court of the Student Body ["Supreme Court"] the power to establish internal rules of practice and procedure. Accordingly, the Supreme Court has drafted the "Procedure of the Supreme Court of the Student Body for Supplemental Briefs in Support of Specific Relief" [attached as Addendum A].

Any student or political party named as a party in a proceeding before the Supreme Court must comply with these procedures.

Upon an order from the Supreme Court, Petitioner will file with the Court a Supplemental Brief in Support of Specific Relief. The Supreme Court will review the Brief by following the procedure described in Addendum A and will email the Petitioners and Respondents a decision that will be published in the Supreme Court Reporter.

Addendum A

Procedure of the Supreme Court of the Student Body for Supplemental Briefs in Support of Specific Relief

The Supreme Court of the Student Body ["Supreme Court"] hereby establishes these procedures this 5th day of October, 2011.

27. **TIME OF FILING PETITIONER'S SUPPLEMENTAL BRIEF**: If Petitioner is ordered to file a Supplemental Brief in Support of Specific Relief ["Supplemental Brief"], Petitioner shall file a Supplemental Brief with the Supreme Court at a time specified by such order.

28. **RESPONDENT'S SUPPLEMENTAL BRIEF**: After the Supreme Court receives Petitioner's Supplemental Brief, the Chief Justice will immediately e-mail Petitioner's Supplemental Brief to Respondent. Respondent is under no obligation to file its own Supplemental Brief. If Respondent chooses to file a Supplemental Brief, Respondent must file such a Supplemental Brief with the Supreme Court within 24 hours of the Supreme Court's delivery of Petitioner's Supplemental Brief to Respondent.

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    a. Petitioner, followed by Respondent, will each have 20 minutes to present oral arguments. During this time, the Supreme Court will not question any of the parties.
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    c. A decision on the Petitioner's Supplemental Brief will be rendered by the Supreme Court when the Chief Justice, or his or her designee, e-mails a copy of the decision to be published in the Supreme Court Reporter to the Petitioner and Respondent.

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