SUPREME COURT OF THE STUDENT BODY

THE STUDENTS PARTY, APPELLENT VS. THE SWAMP PARTY, APELLEE

Heard and Decided: February 6, 2013

HACKER, J., delivered the opinion of the court, in which MICHEL, C.J., and ANDRADE, DIMATTEO, HALPERIN, AND SULLIVAN, J.J., joined. MASON, J. filed a special concurrence.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to hear appeals from "tribunals established by law." *Student Body Const. Art. V Sec. 3(b)(3).*

The instant case stems from two separate fact patterns. In the Spring Semester of 2012 this Court ruled on the interpretation of the 700 codes specifically relating to temporal limits on the election cycle. ***See In Re: Election Cycle, 2 U.F.S. Ct. 9 (2012).*** During the summer legislative session, the legislatures sought to articulate a system congruous with that decision. The resulting amendments form the 700 codes relevant to this case.

The Election Cycle for the Spring 2013 semester began on January 22, 2013. On January 24, 2013, the Swamp Party and Christina Bonarrigo held an event in Turlington Plaza to announce Ms. Bonarrigo's candidacy for Student Body President. On January 25, 2013, the Student's Party filed a complaint against Ms. Bonarrigo and the Swamp Party for violating § 761.2 prohibiting "Campaigning" as defined in § 700.4(d). The Swamp Party argued that argued that their event did not fall under the definition of "Campaigning" but rather the definition of "Campaign Activity" as defined in § 700.4(e). Campaign Activity is prohibited only before the start of the Election Cycle while Campaigning is prohibited before seven days prior to the first day of elections. ***See § 761.1.*** The Election Commission found for the Swamp Party. The Student's Party appealed the decision but instead of seeking the relief sought from the Election Commission, the Student's Party sought a declaration by this Court that §§ 700.4(d), 700.4(e), 761.1, and 761.2 are unconstitutionally vague.

Looking at the plain language as the statutes, it is impossible for this Court to determine the difference between Campaigning and Campaign Activity. We believe this was an oversight in the legislative process and will interpret the set of statutes as such. Campaigning and Campaign Activity, as used throughout the 700 codes, will be interpreted as interchangeable

and will be interpreted as having the full meaning ascribed in § 700.4(d). We hold that § 761.1 and § 761.2 are interpreted as if the legislature had struck § 761.2 during the amendment process to make way for the less restrictive § 761.1. This interpretation has the effect of allowing Campaigning and Campaign Activity during the term specified in § 761.2. Furthermore, this interpretation will prevent the statutes being used a sword or shield by either party and will allow the statute to remain in effect to serve its intent of allowing Campaigning and Campaign Activity while maintaining the academic integrity and educational mission of the University. Under this interpretation, we further hold that Ms. Bonarrigo and the Swamp Party did not commit the violations alleged by the Student's Party.

Ancillary to this holding are two matters of dicta. First, the announcement of an individual candidacy by an individual or a political party or the announcement by a political party of their support for an individual candidate falls within the meaning of Campaigning / Campaign Activity. Furthermore, the approximately four week temporal limitation of Campaigning / Campaign Activity would not violate the students' "right to vote in a fair Student Government election." ***1 U.F.S. Ct. 86 (2011).*** Finally, this Court urges the Legislature to make updates to the 700 codes consistent with this decision and the spirit of fair elections.

The appellants claim is hereby DISMISSED. It is so ordered.

SUPREME COURT OF THE STUDENT BODY

BILLY VRANISH, APPELLANT VS. TJ VILLAMIL, IN HIS OFFICIAL CAPACITY AS STUDENT BODY PRESIDENT, APPELLEE

Heard and Decided: March 21, 2013

HACKER, J., delivered the opinion of the court, in which MASON A.C.J., and ANDRADE, DIMATTEO AND SULLIVAN, J.J., joined. HALPRIN, J. concurred in part and dissented in part. MICHEL C.J., took no part in the consideration of the case.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to "interpret any provision of the Constitution" *Student Body Const. Art. V Sec. 3(b)(1) and (2).*

I. Facts and Procedural History

On January 27, 2013, the Student Body President, TJ Villamil, assembled the executive committee to, *intera alia*, remove the current External Affairs Director, Billy Vranish from his cabinet position under its authority granted in § 566.11 of the Student Body Statutes. The executive committee reached the required majority vote and Vranish was removed from his position. The meeting of the Executive Committee was properly noticed.

Vranish filed a petition with this Court to review his dismissal based on two grounds. Chief Justice Michel recused himself from the proceedings due to a prior relationship with Vranish. The court held a hearing on February 24, 2013. The Court, without all justices present could not reach a majority. Vranish petitioned the court for a rehearing *en banc* and this Court granted his petition.

Vranish first contended that he was not properly removed from his position because the Executive Committee did not report a finding of "malfeasance, misfeasance, or nonfeasance" as required by § 566.11.[1] Next Vranish contended that his removal was improper because the alleged reason for removal violated the

[1] In the time between the first hearing and the rehearing *en banc*, the Executive Committee reconvened and found malfeasance in Vranish's performance of his cabinet duties.

anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

Villamil asserted several defenses to the removal of Vranish. First Villamil contends that § 566.11 is an unconstitutional limitation of his removal power granted in Art. IV § 5 of the Student Body Constitution. Additionally Villamil contends the removal was proper based on the subsequent finding of malfeasance. Finally Villamil argued that there is a lack of evidence for this Court to find the Executive Committee violated the anti-discrimination clause in the Student Body Constitution.

II. The President's and Executive Committee's Removal Power

We first address the issue of the presidents removal power. According to Art. IV § 5 of the Student Body Constitution, "Officers of the executive departments . . . shall be subject to removal by the Student Body President." Essentially, this provision gives the president unilateral authority to remove a cabinet director. At first glance, it may seem that § 566.11 is in conflict with Art IV § 5; however, upon closer inspection, the statute is operable within the confines of the constitution. While the legislative branch may not place limits or restrictions on the executive branch's authority, it may create procedures for the implementation of its own authority. In the case of § 566.11 the legislature has delegated additional removal authority to the Executive Committee. It is important to note that § 566.11 requires a simple majority of the executive committee, which can be reached without the vote of the Student Body President. We also caution that both removal procedures must comply with the anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

During oral arguments, this Court was also asked to modify the language granting the President's removal authority in Art. IV § 5 of the Student Body Constitution. While this Court is charged with the interpretation of the Student Body Constitution, we are not in a position to modify the rights and privileges of the Constitution itself. It would undermine the government as a whole for this Court to modify the very document from which it derives authority.

This Court also acknowledges Vranish's argument that it may not be in the best interest of the Student Body for the President to have unilateral removal authority for Executive Officer positions. We note that the Student Body does have

remedies such as amending the Student Body Constitution or holding a recall election should they feel the President is improperly exercising his or her authority.

III. Vranish's Claim of Anti-Discrimination

Vranish also claimed that the Executive Committee violated the anti-discrimination clause in Art. I § 4 of the Student Body Constitution by removing Vranish for his political beliefs. The only evidence presented in regards to this claim was inadmissible hearsay. Due to a lack of evidence, the Court cannot evaluate this claim. We do note, however, that there is a fine line between removal for political beliefs or support and removal based on a disagreement over policy. While the former is in clear violation of the anti-discrimination policy, the latter is an example of a legitimate removal.

IV. Finding of Malfeasance, Misfeasance, or Nonfeasance

As a final argument, Vranish contends the Executive Committee did not meet its burden under § 556.11 of finding malfeasance, misfeasance, or nonfeasance as a grounds for removal. At the second Executive Committee meeting on March 20, 2013, the committee found malfeasance. This finding of fact by the Executive Committee can only be reviewed for clear error. This Court has a practice of not intervening into executive branch authority and does not find clear error in this instance.

V. CONCLUSION

We therefore hold the following:

1. the removal of Vranish by the Executive Committee was proper;
2. the Executive Committee did not violate the anti-discrimination clause in Art. I § 4 of the Student Body Constitution;
3. the finding of malfeasance by the Executive Committee was not clearly erroneous; and
4. under the current Student Body Constitution, the President has the unilateral authority to remove Executive Officers from their positions.

IT IS SO ORDERED.

SUPREME COURT OF THE STUDENT BODY

In re: Proposed Referendum Addressing Investing by the University of Florida Heard and Decided September 12, 2014
Opinion Published September 26, 2014

MCDONALD, C.J.

This action comes before the Court as a petition to propose a referendum question in accordance with Section 790.2, Student Body Statutes. Section 790.2 requires that all such petitions must be accompanied by the "signatures of not less than 1% of the Student Body enrolled at the time of the submission." Under Section 790.4, the role of the Court is to "review and amend the initiative or referendum to ensure that it effectively conveys its legislative intent and fulfills all of the requirements of 773.1." "Failure to meet the requirements of Student Body Statutes 773.1 may result in particular signatures or the entire petition being disqualified by the Supreme Court. " § 790.5, Student Body Stat. (2014). We begin our review by ensuring that the signatures accompanying the referendum meet the requirements of 773.1 and that the total number of signatures meeting these requirements is not less than 1% of the Student Body enrolled at the time of the submission.

At the time the petition was submitted to this Court, the total number of students enrolled at the University of Florida was 49,555; therefore, the petition must be accompanied by not less than 496 signatures. The petition in this case included 24 pages of signatures containing a total of 579 signatures. These signatures were submitted to the University of Florida Student Government administrative staff for review based on the following criteria:

1. The student ID# listed corresponds to the student name listed.
2. The student ID# listed is valid.
3. The student ID# listed is for a current University of Florida student (enrolled in at least 1 credit hour).
4. The student signed the petition.

After eliminating any signatures that did not comply with these criteria, the Student Government administrative staff found that 510 signatures met the criteria listed above. When the Court met on September 12, 2014 to review the petition, we accepted the findings of the Student Government administrative staff and further reviewed the signatures based on the additional criteria listed in Section 773.1.

Section 773.1(e) requires that "[e]ach page containing signatures shall have the proposed initiative statement of intent or referendum question stated in full at the top of the page." During the Court's review of the signatures, it was discovered that the referendum question listed at the top of one of the pages of signatures was materially different from the proposed referendum question.[1] This page contained a total of 21 valid signatures that had not been eliminated by the Student Government administrative staff's review. Eliminating these signatures would drop the total number of valid signatures below the required 496 signatures—from 510 to 489.

At oral argument, the petitioner asked this Court to apply a "flexible and permissive" standard first announced by this Court in Students Party v. Lewis, 1 U.F.S.C. 85, 90 (Nov. 6, 2011). The petitioner argued that in light of this standard the Court should either accept the petition and signatures as is or grant an extension to allow additional signatures to be collected. However, the situation in Lewis to which this Court applied a "flexible and permissive" standard is distinguishable from the present case. In Lewis, the Court was reviewing whether the language of an initiative properly conveyed the drafter's intent. 1 U.F.S.C. at 90. The Student Body Statutes give limited guidance to the Court in this area and merely provide that the Court "shall review and amend the initiative or referendum to ensure that it effectively conveys its legislative intent." § 790.4, Student Body Stat. (2014). Therefore, a "flexible and permissive" standard is appropriate in this area because the Statute contemplates such flexibility in the Court's review. When the Court is reviewing signatures, however, the Statutes (specifically, sections 790.4, 790.5, and 773.1) are less permissive, providing a clear set of guidelines that must be followed. In re: "Certification of the proposed referendum addressing President Machen's stance on alcohol at UF", 1 U.F.S.C. 7, 8 (Feb. 2, 2006). Therefore, the appropriate standard in this area is one of strict adherence to the Statutes.

Because this Court must strictly adhere to the Student Body Statutes when reviewing signatures accompanying a referendum or initiative, the page of signatures where the

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[1] The proposed referendum question read as follows: "Should the University of Florida stop investing in companies that are involved in human rights abuses and that support occupations illegal under international law?" However, the referendum question was listed at the top of one of the pages of signatures as: "Do you support the University of Florida divesting from companies involved in human rights violation?"

referendum question listed materially differs from the proposed referendum question must be eliminated as not complying with Section 773.1. With these signatures eliminated, the petitioners have failed to obtain the required number of signatures under Section 790.2. Accordingly, their petition is hereby **DENIED**.

It is so ordered.

GRIFFIN, J., LANCOS, J., MALLOY, J., PULIGNANO, J., and THACKER, J. concur.

SCHEIN, J., dissents.

END OF DOCUMENT

IN RE PADRON-RASINES

JUSTICE MALLOY delivered the opinion of the Court.

This case involves the role of the Student Government Executive Committee ("SGEC") in appointing executive positions of the University of Florida's Student Government. The SGEC is comprised of six students from multiple branches of Student Government and has had, until this decision, a binding vote to appoint principally executive officers. The Court finds that this practice is unconstitutional.

The Separation of Powers doctrine ensures that no branch oversteps its power, encroaches upon another branch, or blurs the voters' ability to delineate which actor is responsible for certain decisions within government. The three branches exist to provide balance and check the power of one another. The SGEC is currently comprised of members of both the legislative and executive branches of Student Government. The composition of the SGEC, in and of itself, is not a violation of Constitution.

However, the SGEC may not have a binding vote to appoint officers that are principally executive in nature. That role belongs solely to the executive branch which is headed by the Student Body President. The Student Body President may collaborate with any individual or branch he or she chooses, but the President retains final decision making power. Upon appointment, the legislature has the right to confirm the executive's candidate. The current practice places the legislature on both sides of the appointment process and is a clear violation of the Constitution and the framers' intent.

Nothing in this opinion requires that any prior SGEC appointee be removed, but it is also within the executive's sole discretion to remove any principally executive officer in accordance with the Constitution. Removal then triggers the President's unfettered right to begin the appointment process anew.

LANCOS, J., PULIGNANO, J., SCHEIN, C.J., SCURRY, J., AND SIRAGUSA, J. concur.

Interpretation of The University of Florida Constitution: Section 4 of Article VIII Decided June 25, 2016

The Chief Justice delivers the opinion of the Court:

At issue is whether Section 4 of Article VIII of the University of Florida Constitution (the "Constitution") permits the ratification of proposed amendments which receive three-fifths approval of the total ballots cast, or three-fifths approval of ballots cast for or against a particular ballot line item. In relevant part, Section 4 of Article VIII provides "[a] three-fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments." UF CONST. art. VIII, § 4.

It is a fundamental rule of Constitutional interpretation that the plain meaning of a term is given effect in the absence of any indication to the contrary.

Here, § 4 clearly and unambiguously states a proposed amendment must receive three-fifths approval of "those voting in the spring general election" to be ratified. UF CONST. art. VIII, § 4. Given its plain meaning, we hold § 4 permits ratification of an amendment where the amendment is ratified by three-fifths approval vote of the total ballots cast "in the spring general election." *Id.*

The Court recognizes this interpretation, in its retroactive capacity, necessarily voids a number of amendments mistakenly considered ratified in the past. These amendments include:

In 2008, the following amendment was passed:

> Should the composition of the Student Senate be redefined in Article III, Section 2 of the Student Body Constitution as follows? FALL CLASS-Forty to fifty members elected in the fall general election as apportioned by law from on-campus area governments as defined by law and from off-campus areas as defined by law. SPRING CLASS-Forty to fifty members elected from the colleges and independent schools recognized by the Student Senate as defined by law.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=OMvZsxI5Xs4%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 42 (last visited June 25, 2016).

This amendment received 4,630 yea votes. *Id.* However, there were 8,129 total ballots cast in the Spring 2008 General Election. *Id.* at 40. Therefore, this amendment received a 56.95% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

In 2010 the following amendment was passed:

> Should the Student Body Constitution be amended to: change the time for appointment of Summer Replacement Senators from May 1 to the last meeting of spring term; remove verbiage that purports to allow the Student Senate to contract on behalf of the student body; permit the Student Senate to amend election laws within four weeks, rather than five weeks, of an election; comply with Florida Board of Governors Resolution 08-23 by preserving the role of the Honor Code Chancellor, now referred to "Honor Code Executive Director," and allowing this executive director to be appointed by the Student Body President; amend Article III to read "Funding Fee Increase Restrictions", instead of "Budget Restrictions"; ensure that terms of executive department heads expire concurrently with the terms of the elected executive officials; remove any reference to the "Student Honor Court" and "Student Honor Court Bar Association;" direct the submission of proposals by initiative to the Chief Justice of the Student Body; amend the proposal initiative process to provide that a petition carrying the signatures of 5% of the student body shall be placed on the ballot; authorize the Elections Commission to determine if initiative ballot titles and summaries are accurate and lawful and amend ballot titles and summary if they determine that they are not accurate, subject to appeal to the Student Body Supreme Court; require 2/3 of the trial body of the Student Senate for conviction of impeachment, instead of 3/4; make grammatical and other minor corrections and replacements.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 4 (last visited June 25, 2016).

This amendment received 5,525 yea votes. *Id.* However, there were 9,775 total ballots cast in the Spring 2010 General Election. *Id.* at 1. Therefore, this amendment received a 56.5% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

Likewise, in 2014, the following amendment was passed:

> Should the anti-discrimination policy of Student Government be updated to include genetic information, in compliance with the University of Florida's anti-discrimination policy, and read as follows: Student Government nor any organization that receives funds shall not discriminate with respect to race, creed, color, religion, age, disability, sex, sexual orientation, gender identity and expression, marital status, national origin, political opinions or affiliations, genetic information, and veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act, or any other classification as provided by law?

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 82 (last visited June 25, 2016).

This amendment received 4,516 yea votes. *Id.* However, there were 7,919 total ballots cast in the Spring 2010 General Election. *Id.* at 28. Therefore, this amendment received a 57% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

Last, in 2016, the following amendment was passed:

> Section 9: The Executive Branch should guarantee verified real-time online remote access to voting on election day in Student Government elections to all members of the electorate beginning in Fall 2016 elections, where 'Online Remote Access' to voting is defined as the ability to cast a ballot from any location with a device connected to the internet and equipped with an Internet Browser. 'Verified' refers to the ability of the student Government to ensure no ballots are fraudulent. 'Real-time' is defined as the condition that votes must be registered by the voting system as they are cast without the involvement of a proxy.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 159 (last visited June 25, 2016).

This amendment received 6,047 yea votes. *Id.* However, there were 10,694 total ballots cast in the Spring 2010 General Election. *Id.* at 124. Therefore, this amendment received a 56.5% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

To avoid any confusion in the interpretation of future election results, and to ensure all voters understand the meaning of abstaining to vote on a proposed amendment to the

Constitution, it is recommended each ballot clearly and unambiguously states that three-fifths approval of the total ballots cast in the spring general election are required to ratify such a proposed amendment.

In reaching this decision, this Court did not consider the issue of whether abstentions are to be given the effect of a "nay" vote.

Pursuant to our holding here, the foregoing amendments are stricken.

It is so ordered.

ANGSTADT, J., ROBINSON, J., SCURRY, J., MCCARTHY, J., ALLEN, J. concur.

SIRAGUSA, J., took no part in the consideration of this matter.

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for Hearing Petitions Filed*
August 30, 2016

PER CURIAM

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 30th day of August in the year 2016 to establish rules of procedure for the hearing of those petitions filed with the Court by members of the student body that are taken up for consideration by the Court. These rules of procedure are as follows:

Oral Argument

Speaker: Those students whose signatures are on the petition being argued may elect one (1) current University of Florida student to present an argument on behalf of the petition being heard. The name of the elected speaker must be submitted to the Chief Justice via email prior to the scheduled start time of the hearing regarding the petition being argued. *To avoid potential confusion stemming from the submission of multiple speaker names, the speaker name submitted by the student whose signature appears earliest on the petition will represent the petition in oral argument.*

Opposition: Opposing arguments may be heard. For members of the general student body to establish standing to argue in opposition to a petition being heard by the Court, those members of the general student body shall file a petition with the Court articulating that position. Notwithstanding the aforementioned filing requirement, the Student Body Solicitor General will always have standing to present opposing arguments to any petition heard by the Court at any time.

Order of Presentation: In the event opposing arguments are to be presented to the Court, the speaker representing the petition first filed with the Court will present oral argument before his or her opposition.

Time Constraints: Any speaker presenting oral argument to the Court will be provided twenty (20) minutes to present his or her argument. In the event his or her time expires, a speaker may ask the Court for leave to briefly conclude his or her argument.

Reservation for Rebuttal: In the event opposing argument are to be presented to the Court, the speaker first presenting oral argument may reserve up to five (5) minutes of his or her time for rebuttal.

Hearing of Multiple Related Petitions: In the event multiple petitions are being heard during one hearing, related petitions may be heard in succession prior to the beginning of deliberation.

Deliberation

Commencement and Duration: At the close of oral arguments, the Court will begin deliberation. No time constraints are imposed on deliberations. Deliberations will take place until a member of the Court moves to vote on a matter, if such a motion is seconded by another member of the Court, the Court will vote on the matter moved upon.

Assignment of Opinion and Adjournment: After a matter has been voted on, the Chief Justice will assign a member of the Court to write and circulate an opinion to all other members of the Court for comment, and adjourn the hearing.

Filing of Opinion: Upon reaching a consensus on the language of an opinion, the Court will file said opinion with the Senate Secretary for publication in the court reporter.

The Court hereby adopts the foregoing rules of procedure.

SUPREME COURT OF THE STUDENT BODY

Reconsideration pursuant to petition by Student Body:
UF Student Tribunals' & UF Student Committees' Application of State and Federal Law.

ANGSTADT, J. delivers the opinion of the Court:

On November 15, 2016, the Supreme Court of the Student Body of the University of Florida, pursuant to two petitions correctly and timely filed and oral argument by the student body, reconsiders the decision issued by the Court on December 21, 2006[1] (the "2006 Decision"). Ultimately, petitioners ask whether the Court erred in reaching the 2006 Decision, holding that remote location online voting is unconstitutional.

Affirmed.

I

Petitioners ask whether and to what extent bodies within the University of Florida Student Government may rely on the United States Constitution, the Florida Constitution, federal statutes, and Florida statutes in reaching their decisions.

The University of Florida Student Government is not bound by the United States Constitution, the Florida Constitution, federal statutes, and Florida statutes, but may consider such sources persuasive. Accordingly, we affirm the 2006 Decision and address the series of questions before the Court in turn.

A

The University of Florida Student Government derives its power from the University of Florida Student Body Constitution ("Constitution").[2] Relevant here, the judicial branch is gifted authority via Article V of the Constitution, whereby all judicial power is vested in the University of Florida Supreme Court.[3] The Court's primary purpose is to interpret provisions of the Constitution or any law pursuant to written request by twenty members of the student body or request of the Student Body President. [4] The Constitution also grants the Court the right to adopt its own internal rules of practice and procedure.[5] In making decisions, we hold the Constitution and precedent set by this Court are the foremost binding authorities.

B

Petitioners now ask whether and to what extent the United States Constitution, Florida Constitution, federal statutes or Florida statutes may be considered persuasive.

Commensurate with logic, where the Court is unable to find guidance within the foremost authorities, the Court may look to outside sources for guidance. In other words,

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[1] December 21, 2006, 1 S.C.R. 11 (2006).
[2] UF Const. Art. II (2016).
[3] UF Const. Art. V (2016).
[4] UF Const. Art. V, §3(b) (2016).
[5] UF Const. Art. V, §2(b) (2016).

the Court may rely on outside sources including, but not limited to, the United States Constitution, the Florida Constitution, federal statutes, or Florida statutes as persuasive authority. These are documents, many of which have withstood the test of time and are the product of well-reasoned debate, which have facilitated successful and fair governance. Though not binding without express adoption, there is no reason such sources should not influence us here.

Where a persuasive authority is adopted by one of this Court's holdings, the source law still remains persuasive. It does not become a primary source. Rather, it is the holdings of this Court, regardless of where the language comes from, that this or any future University of Florida Supreme Court is considered bound. This is to provide consistency and adequate notice to the student body, and ensure University of Florida laws are derived from a representative political process.

C

Finally, petitioners ask whether the 2006 Decision was correctly decided and is still valid student law. We affirm the 2006 Decision as correctly decided and valid student law.

The cogent 2006 Decision is premised on a concern for voters.[6] The 2006 Court outlined a very real and likely scenario in which members of an organization are forced to vote under supervision of their organization's superiors. This coercion could, of course, ensure that solely the interests of large organizations are represented in Student Government.[7]

In short, petitioners suggest the 2006 Decision deferred, improperly and without adequate notice, to Florida law.[8] We disagree. The Court relied on the Constitution as a primary authority,[9] and bolstered its reasoning with Florida law.[10] For some time, the Constitution has given notice that students are to be provided a secret vote.[11] Since 2006, the Florida laws cited in the 2006 decision have been expressly adopted into the University of Florida's jurisprudence.[12]

The 2006 Decision is affirmed.

II

Petitioners ask the same questions of the Court in regard to the University of Florida Student Government's legislative branch, particularly the Senate Judiciary Committee. We address petitioners' questions in turn.

A

First, petitioners ask whether the Senate Judiciary Committee may rely on the United States Constitution, Florida Constitution, federal Statutes, or Florida statutes to fail proposed student legislation. We answer this question in the affirmative.

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6 *Id.* at 14-15. Particularly, voter coercion. *Id.*

7 *Id.*

8 Specifically, Fla. Stat. § 101.041, and Fla. Const. Art. VI, § 1.

9 December 21, 2006, 1 S.C.R. 11, 12 (2006).

10 *Id.* at 12-13.

11 UF Const. Art. III, § 7(d) (2016).

12 December 21, 2006, 1 S.C.R. at 11.

The University of Florida Student Government derives its power from the Constitution.[13] The legislative branch is gifted authority by Article III of the Constitution, whereby all legislative powers are vested in the University of Florida Student Senate.[14] The Constitution likewise grants the Student Senate the right to adopt its own rules of procedure.[15]

The Senate has done so, adopting the University of Florida Senate Rules and Procedures. The judiciary committee, at the heart of this petition, is governed by Senate Rule 11(4)(c).[16] In particular, the Judiciary Committee has been given the responsibility of reviewing legislation for its constitutionality.[17]

As addressed above, the University of Florida Student Government may be persuaded by alternative sources.

B

Petitioners invite us to expand the power of the Court, enabling review of proposed legislation which fails in committee. We decline their invitation.

The University of Florida Student Government derives its power from the Constitution.[18] This is not a power which can be found or logically derived from the authority granted to the judicial branch by the Constitution.[19]

The Court's power is limited to reviewing laws and the Constitution. In order to be law, proposed legislation must first make it through committee, then be approved by the full Student Senate, then be signed into law by the Student Body President. It is only then this Court may have jurisdiction for review.

III

Because failed legislative proposals are not subject to review by the Court, we lack jurisdiction over and do not reach the remainder of petitioner's questions.

Request for reversal denied.

It is so ordered.

TRIBBEY, C.J., SIRAGUSA, J., SCURRY, J., ROBINSON, J., MCCARTHY, J., ALLEN, J. concur.

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[13] UF Const. Art. II (2016).
[14] UF Const. Art. III, § 6(a) (2016).
[15] UF Const. Art. III (2016).
[16] UF Senate Rules and Procedures §11(4)(c) (2016).
[17] UF Senate Rules and Procedures §11(4)(c)(ii) (2016).
[18] UF Const. Art. II (2016).
[19] UF Const. Art. V (2016).

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided January 11, 2018

In re: "PETITION REGARDING WHETHER THE UF SUPREME COURT CAN INTERPRET SENATE RULES AND PROCEDURES"

Boyett, J.,

Petitioner asks whether this Court can interpret the senate rules and procedures enumerated in Article III § 6 of the University of Florida Student Body Constitution. We rule it can.

I.

At its core, Petitioner wishes us to determine the scope of our judicial power under Article V of the Constitution. Petitioner argues the doctrine of "separation of powers" vests in the Senate discretion to decide its own rules and procedures without judicial interference. He argues these rules and procedures are checked only by the politics of the Senate itself (and by the democratic process). While we agree certain political and discretionary zones exist outside this Court's province, Petitioner's arguments are unpersuasive.

While there is no enumerated "separation of powers clause" in the UF Constitution, it is a doctrine built into the very spirit of our Federal, State, and School government. The idea is simple—each branch is vested with certain key powers and responsibilities. The Senate can pass legislation—the president is the arm of diplomacy, and so on.

"It is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The Court has a duty to determine whether laws and executive actions are lawful. This is a pillar of our Constitutional democracy.

But, as Petitioner correctly points out, the Legislative and Executive branches are vested with specific spheres of discretionary power. Such spheres are out of the Courts reach, and the branch itself must determine the lawfulness of its own decisions within such spheres. If this discretion is abused, it is up to the vote to check the branch. Thus, the term "discretionary powers" is often equated with the term "political powers." *Marbury*, 5 U.S. 137 at 165–166 ("By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience.").

These spheres of discretion are enigmatic. Typically, they guard pockets of political discretion—areas of non-law. But, the Court need not presently locate and count every specific sphere of discretion. The Senate Rules and Procedure are not among them.

II.

This Court alone is given the province to determine what the law is—thus we are given the duty to determine whether something *is* law. Additionally, because rules and procedures are an enumerated power under the UF Constitution, the Court has the duty to review whether the Senate is lawfully executing this Constitutional grant of power. We have the province of determining the meaning of the rules and procedure clause. What constitutes a "rule or procedure" is therefore certainly subject to judicial review.

Senate rules and procedures are enumerated as an Article III power of the senate in the UF Constitution. But, our Constitution goes no further in defining where procedure ends and legislation begins. Where do we draw the line? And *who* draws the line?

If the Senate were to create unconstitutional rules or procedures, it cannot be said the rules are immune to judicial rule due to "separation of powers." There very well may be specific senate procedures that are best interpreted solely within the discretion of the legislature. But, it would be anathema to doctrine of separation of powers to say that the stamp "rules and procedures" allows the Senate to act unilaterally on a matter—immune from the review of the Court. After all, it is the Senate that labels one thing legislation and another a procedure.

This would be a dangerous game to play. Any decision the Senate wishes to be protected from the Court could simply be labeled and passed as rules or procedures. Thus, rules and procedures must be subject to judicial review. There must be an arbiter to decide whether the Senate has abused its authority to determine its own rules and procedures under Article III § 6 of the UF Constitution. The rules and procedures in their entirety are not discretionary. It would be unconscionable to rule otherwise.

Thus, the Court has the authority to determine the legality and constitutionality of the Senate's rules and procedures.

IT IS SO ORDERED.

MCCARTHY, C.J., ALLEN, J., BECKER, J., WALLACE, J. concur.

Validity of Referendum Expanding the UF Supreme Court from Five to Seven Members Decided on February 20, 2018

Associate Justice Wallace delivers the opinion of the Court:

At issue is whether the referendum expanding the number of UF Supreme Court justices in the UF Constitution from five to seven justices (the "2012 Referendum") was constitutionally passed. Section 4 of Article VIII of the University of Florida Constitution (the "Constitution") permits the ratification of proposed amendments which receive three-fifth's approval of the total ballots cast, or three fifth's approval of ballots cast for or against a particular ballot line item. In relevant part, Section 4 of Article VIII provides "a three- fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments." The UF Supreme Court, in its decision in Interpretation of The University of Florida Constitution: Section 4 of Article VIII decided on June 25, 2016, held that Section 4 permits ratification of an amendment where the amendment is ratified by a three-fifths approval vote of the total ballots cast in the spring general election.

Article I, Section 2, subsection (b) of the Constitution grants students the right to submit referendums for ratification by the electorate. UF Student Body Statute 790.21 states that "referendum questions approved by a majority of students voting on the question shall be considered enacted and shall be treated in the same manner as resolutions adopted by the Student Senate."

Here, the following question was listed as a referendum on the Spring 2012 ballot:

> Should the Study Body Article V, Section 3 be amended so that "The Supreme Court consists of the Chief Justice and six justices," (as opposed to the current number of four justices)? Changing this Amendment (as described in the brackets above) would mean that 5 members, as opposed to the current number of 4 would constitute a quorum. Additionally, the concurrence of judgment, which is necessary for any decision, would then consist of 4 members, as opposed to the current amount of 3.

The 2012 Referendum received 4688 yes votes out of 10644 total ballots cast in that Spring 2012 election. Even assuming arguendo that this referendum was actually an "amendment," the question still received only 44% of the vote, and thus did not receive the three-fifth's approval from the student body that is necessary to ratify constitutional amendments. In addition, students may not change the Constitution through referendums, rather the student body can only exercise that power by submitting an amendment under Section 4 of Article VIII of the Constitution. Referendums, in contrast, are treated as resolutions adopted by the Student Senate, if approved according to UF Student Body Statute 790.21. They are not to be treated as amendments.

The Court holds today that the 2012 Referendum expanding the number of justices on the UF Supreme Court was not constitutionally enacted, and therefore the referendum is retroactively voided. As a result, the UF Supreme Court hereby returns to

having five justices, with four justices necessary for quorum, and three justices necessary for a concurrence. Furthermore, the Court holds that a referendum is not a constitutional means for the student body to amend the Constitution.

It is so ordered.

MCCARTHY, C.J., ALLEN, J., BECKER, J., BOYETTE, J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided November 7, 2018

In re: "GREEN"

C.J. Baker, E. delivers the opinion of the Court:

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 7th day of November in the year 2018, to discuss a question that was presented by Ian Green, the Student Body President.

This court has jurisdiction under Article V, Section (b)(1)(B) of the Student Body Constitution which reads: "The Supreme Court: shall interpret any provision of the constitution or any law upon written: request of the Student Body President." Univ. of Fla. Student Body Const. art. V, § (b)(1)(B).

Background

On November 4, 2018, this court was contacted by Mr. Ian Green, the Student Body President, via e-mail. The content of the e-mail read as follows:

> Article VIII, Section 3(a)(5) & (6) of the Constitution reference the Director of Student Activities & Involvement as both a member and appointing authority for the Constitutional Review Commission. This position/title no longer exists within the institution; however, it previously served as the primary advisor for Student Government. With the creation of the Department of Student Government Advising & Operations, would Article IX, Section 1(a) of the Constitution of the Student Body indicate that the Senior Director of Student Government Advising & Operations will now serve in this role?

The Law: University of Florida Student Body Constitution

"Unless otherwise qualified in the text, the following rules of construction shall apply to the constitution: references to a specific university department or position shall also include the successor department or position." Univ. of Fla. Student Body Const. art. IX, § 2.

"During January of 2019, and each tenth year thereafter, there shall be established a constitution revision commission composed of the following twenty members: (5) the Director of Student Activities and Involvement; and (6) one student and two

members of the faculty or staff selected by the Director of Student Activities and Involvement." *Id.* at art. VIII, §§ 3(a)(5)–(6).

Discussion

When the Constitution was last revised, there was no full-time direct Student Government Advisor. The Director of Student Activities and Involvement served as the primary advisor for Student Government at this time, as Student Government was under the masthead of Student Activities and Involvement. Since then, some changes have been made to the organization of Student Government. First, the position and title of Director of Student Activities and Involvement no longer exists. Second, a position was made for a full-time direct Student Government Advisor. This position is the Senior Director for Student Government Advising and Operations. Lastly, Student Government separated from Student Activities and Involvement to become its own department.

Because the position of Director of Student Activities and Involvement no longer exists, it becomes necessary to look to the successor clause as found in Article IX, Section 1(a). The Court feels it is important to address this issue at this time as the Constitution Revision Committee will be meeting in the Spring and it is important to have a full committee for the revision process. Keeping this in mind, this Court reads "the successor department or position" to include the new position of Senior Director for Student Government Advising and Operations for the upcoming revision of the University of Florida Student Body Constitution. The revision committee may make permanent changes to the University of Florida Student Body Constitution that reflect these organizational changes if they so please.

It is so ordered.

BOYETTE, J., WALSH, D., WATSON, A. concur.
SAMEI, A. took no part in this decision.

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for Hearing Petitions Filed*
October 2, 2018

PER CURIAM

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 2nd day of October in the year 2018, to establish rules of procedure for the hearing of those petitions filed with the Court by members of the student body and are taken up for consideration by the Court. These rules of procedure are as follows:

Preliminary Matters

Submitting petitions to the Court: Petitions must be presented with a memorandum and must be submitted to the Chief Justice via email.

Memorandum requirements: The memorandum submitted with the petition must include the following: (1) Brief description of the facts of the case; (2) Reference to University of Florida rules, statutes, or codes applicable to the case; (3) Request for relief and the relief to which the parties assert that they are entitled; (4) The names and signatures of the students who are presenting the petition to the Court.

Preliminary Hearing: The Court reserves the right to grant or deny writ of certiorari in any case. The Court shall have a public hearing when deciding whether to grant or deny writ of certiorari. During such public hearings, only members of the Court shall speak and discuss whether to grant or deny writ of certiorari. The Court shall base its final decision on a majority vote.

Oral Argument

Speaker: Those students whose signatures are on the petition being argued may elect one (1) current University of Florida student to present an argument on behalf of the petition being heard. The name of the elected speaker must be submitted to the Chief Justice via email prior to the scheduled start time of the hearing regarding the petition being argued. *To avoid potential confusion stemming from the submission of multiple speaker names, the speaker name submitted by the student whose signature appears earliest on the petition will represent the petition in oral argument.*

Opposition: Opposing arguments may be heard. In order for members of the general student body to argue in opposition to a petition taken before the Court those members must first establish standing by filing a memorandum and a petition with the Court prior to the hearing articulating their position. Notwithstanding the aforementioned filing requirement, the Student Body Solicitor General will always have standing to present opposing arguments to any petition heard by the Court at any time. The Court reserves the right to consolidate opposing petitions in order to facilitate expediency and efficiency.

Order of Presentation: In the event opposing arguments are to be presented to the Court, the speaker representing the petition first filed with the Court will present oral argument before their opposition. Any speaker presenting oral argument to the Court will be provided twenty (20) minutes to present their argument. In the event their time expires, a speaker may ask the Court for leave to briefly conclude their argument. During initial oral presentation, the petition's oral representative must reserve time for rebuttal if desired. Rebuttal time will be subtracted from the twenty 20 minutes provided up to five (5) minutes.

Reservation for Rebuttal: In the event opposing arguments are to be presented to the Court, the petitioner may reserve up to five (5) minutes of their time for rebuttal. The request to reserve must be made during the petitioner's initial oral presentation.

Hearing of Multiple Related Petitions: In the event that multiple petitions are being heard during one hearing, related petitions may be heard in succession prior to the beginning of deliberation.

Deliberation

Commencement and Duration: At the close of oral arguments, the Court will begin deliberation. No time constraints are imposed on deliberations. Deliberations will take place until a member of the Court moves to vote on a matter, if such a motion is seconded by another member of the Court, the Court will vote on the matter moved upon. During deliberation, only members of the Court may speak unless a non-member is explicitly given permission by the Court. The Court reserves the right to ask anyone who disrupts deliberations to leave.

Assignment of Opinion and Adjournment: After a matter has been voted on, the Chief Justice will assign a member of the Court to write and circulate an opinion to all other members of the Court for comment and adjourn the hearing.

Filing of Opinion: Upon reaching a consensus on the language of an opinion, the Court will file said opinion with the Senate Secretary for publication in the court reporter.

The Court hereby adopts the foregoing rules of procedure.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided April 11, 2019

In re: "RUSSEL"

WALSH, J., delivers the opinion of the court:

Petitioner requests this court overturn our 2016 decision, *Interpretation of The University of Florida Constitution: Section 4 of Article VIII* and restore any amendments that failed on the grounds of that decision. Petitioner argues that purportedly conflicting Florida statutes mandate the prohibition of the Art. VIII § 4 requirement to include abstention votes in calculating amendment thresholds in student government elections due to conflicting laws of the State of Florida. Further Petitioner argues that because of the hierarchy of laws conflict, student government policy must be changed to reflect the Florida Statutes, and that abstention votes should not be considered as "votes" in our student government constitutional amendment process. Petitioner's arguments and requests for relief rely on a fundamental misunderstanding of the law and past precedent and are therefore denied.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(1)(a) ("The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body . . ."). Petitioner is requesting interpretation of our constitutional amendment process outlined in UF Const. Art. VIII § 4. The signature threshold is met, and this court has jurisdiction.

II. Hierarchy of Laws

"The provisions of the student body constitution are governed by and subordinate to the constitution and laws of the State of Florida as well as the policies of the Board of Regents and the University rules as set forth in the Florida Administrative Code." Univ. of Fla. Const. Art. IX § 4. Accordingly, if a conflict arises between Florida and Student Body law, Florida law must prevail. The crux of this case relies on whether or not a conflict exists. A conflict for the purposes of constitutional analysis may be found where there is a statute meant to apply to the university, which the university fails to comply with. Determining whether a statute is meant to apply to the university is a matter of statutory interpretation.

Petitioner cites various sections within Title IX of the Florida Statutes to support his claim. Title IX of the Florida Statutes consists of Chapters 97 through 106[1] and is generally referred to as The Florida Election Code. *See* § 97.011 Fla. Stat. (2018). However, individual analysis of

[1] Title IX also consists of Chapter 107, but this is not part of The Florida Election Code as defined in section 97.011.

petitioner's cited statutes is unnecessary, as these statutes aren't applicable to student government elections. When viewed in context of the preceding and subsequent sections, it is clear that these sections specifically apply to elections for the State of Florida. For example, § 97.021(12) defines election as, "any primary election, special primary election, special election, general election, or presidential preference primary election." § 97.021(12) Fla. Stat. (2018). Also, general election is further defined as, "an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law." § 97.021(16) Fla. Stat. (2018). When taken in the context of the other sections within Title IX of the Florida Statutes, alongside the section's defined terms, it is irrefutably clear that the sections Petitioner cited apply specifically to elections that the State of Florida must oversee.

Petitioner's argument continues to unravel when viewed in light of other sections of the Florida Statutes. Chapter 1004, titled Public Postsecondary Education, has a section concerning university student governments. *See* § 1004.26 Fla. Stat. (2018). This section directs student governments to adopt internal procedures to govern the operation and administration of the student government and the execution of all other duties prescribed to the student government by law. *See* § 1004.26(3)(a)–(b) Fla. Stat. (2018). In addition, this section provides that "[t]he qualifications, elections, and returns, the appointments, and the suspension, removal, and discipline of officers of the student government shall be determined by the student government as prescribed by its internal procedures." § 1004.26(4)(a) Fla. Stat. (2018).

"[I]t is a commonplace of statutory construction that the specific governs the general." *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384–385 (1992) (citing *Crawford Fitting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 445 (1987). Here, the specific provisions regarding university student government elections must be read to supersede any general sections regarding State of Florida elections.

The State directed university student governments to develop their own internal policies regarding elections. If the State wanted university student governments to follow its own procedures for elections, it would have directed student governments to do so instead of allowing for the creation of internal policies. Therefore, since the State intended for student government election procedures to be determined by the university student government, there is no conflict between the State of Florida's laws and the policies raised for review in this case. This Court finds no hierarchy of laws conflict.

III. Review of the 2016 Decision

Because there is no hierarchy of laws conflict between the University of Florida Student Government's electoral process and the State of Florida's laws, the Court finds no reason to reverse our 2016 decision regarding abstention votes and the decision stands.

IV. Conclusion

THEREFORE, Petitioner's argument fails to persuade this Court that the 2016 case *Interpretation of The University of Florida Constitution: Section 4 of Article VIII* violates the State of Florida's laws. Petitioner's request for relief is denied.

It is so ordered.

BAKER, C.J., BOYETT, WATSON, J.J. concur.

SAMEI, J. took no part in this decisio

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 8, 2019

In re: “Murphy”

REDDIN, J., delivers the opinion of the court:

Student Body President, Michael Murphy, asked the Court to interpret numerous sections of the 200 codes regarding timelines for executive appointments by the Student Body President. Specifically, the Court reviewed codes: 215.4, 215.61, 216.4, 217.4, 218.4, 219.4, 220.4, 221.4, 222.4, 223.4, 224.4, 227.4, and 228.4. Upon examination of the relevant codes the Court concluded that these specific codes violate the separation of powers doctrine that is followed by both the United States of America and the University of Florida. The Court found that the violation unjustly limited the power given to the Student Body President while allocating too much power to the Student Senate.

After careful deliberation and examination the Court has determined that these code provisions violate the separation of powers doctrine and unfairly restrict the power of the Student Body President to make executive appointments.

Therefore, the Court finds these statutes unconstitutional, and they must be struck down.

It is so ordered.

WALSH, C.J., MALIK, CLEMENTE, WERK, J.J. concur

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 9, 2019

In re: "SHAW"

WERK, J., delivers the opinion of the court:

Petitioner, Senate President Libby Shaw, requests a ruling on the constitutionality of the constructive absences and subsequent resignation by non-attendance of Senator Ashley Grabowski and Senator Ben Lima. Petitioner's request requires the interpretation of Rule I(4)(b)(ii) of the Student Senate Rules and Procedures, which allows for the Senate President to order the removal of a Senator for disruptive behavior, following two warnings, at his or her discretion. Petitioner's decision to rule two Senators constructively absent pursuant to Rule I(4)(b)(ii) follows the intent of the Rules and Procedures and is constitutional.

I. Jurisdiction

Petitioner seeks jurisdiction under Article V § 3(b)(1)(a) which states that "The Supreme Court shall interpret any provision of the constitution or law upon written petition of twenty members of the Student Body." Petitioner is requesting interpretation of the Student Senate Rules and Procedures. It was decided in *In re: "Petition Regarding Whether the UF Supreme Court Can Interpret Senate Rules and Procedures"* that the Supreme Court can interpret the Senate Rules and Procedures. Additionally, the signature threshold is met. Thus, this Court has jurisdiction.

II. Facts

On May 28, 2019, Senator Ashley Grabowski and Senator Ben Lima walked out of the meeting of the Student Senate and missed multiple roll call votes, resulting in one full absence for the May 28th meeting. At the meeting of the Student Senate on June 18, 2019, Senator Ashley Grabowski and Senator Ben Lima were deemed to be constructively absent by Senate President Libby Shaw after being issued three warnings for disruptive conduct. Senate President Shaw cited Rule I(4)(b)(ii) for her decision.

After being deemed constructively absent, Senator Grabowski and Senator Lima missed over two roll call votes and final roll call, which resulted in one full absence for each Senator. This caused each Senator to reach the established limit for absences under Student Body Statute 323.33, which states that a Student Senator will resign by non-attendance if he or she "accumulates two (2) unexcused or three (3) combined absences (excused or unexcused) from the Student Senate."

III. Constructive Absence

The issue presented to the Court is whether the Student Senate Rules and Procedures allow for a Senator to be ruled constructively absent for disruptive behavior at the discretion of the Senate President. To determine this, the Court must look to Rule I(4)(b)(ii), which allows the Senate President to order the removal of a Senator, for disrupting meetings of the Senate, by the

Sergeant-at-Arms following the issuance of at least two warnings. Per the Rules and Procedures, the issuance of a warning or removal for disruptive behavior is left to the discretion of the Senate President.

While it is not the Court's place to determine what is or is not considered disruptive, as this is explicitly left to the discretion of the Senate President, we can decide whether a constructive absence is equivalent to a removal by the Sergeant-at-Arms under Rule I(4)(b)(ii). The Senate's rationale behind a constructive absence is that it would be inappropriate for a student to physically remove another student from a meeting of the Student Senate, and that a constructive absence allows for the record to reflect an absence as if the Senator was removed without any physical contact.

We, the Court, do not advocate for the physical manhandling of any student, and we agree that a constructive absence allows for the removal policy to be followed while respecting each student's personal boundaries. If a Senator was physically removed from a meeting, he or she would miss roll call votes just like a constructively absent ruling reflects. Thus, the policy of a constructive absence allows the intent of the Rules and Procedures to be followed without any mistreatment of a student.

IV. Resignation by Non-Attendance

With the constructive absence policy upheld, Senators Grabowski and Lima should receive a half-absence for each roll call vote missed, for a total of one absence per meeting pursuant to Rule IV(1)(c) of the Senate Rules and Procedures. This one absence, combined with one absence from the meeting on May 28, 2019, gives Senator Grabowski and Senator Lima, each, two unexcused absences. Under Student Body Statute 323.33 and Rule IV(1)(c), the Court agrees that the resignation by non-attendance of Senators Grabowski and Lima stands.

V. Conclusion

THEREFORE, the ruling of a Senator as constructively absent, due to disruptive behavior, by the Senate President is constitutional pursuant to Rule I(4)(b)(ii) of the Student Senate Rules and Procedures. The subsequent resignation by non-attendance pursuant to this policy is upheld.

It is so ordered.

WALSH, C.J., REDDIN, MALIK, CLEMENTE, J.J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 9, 2019

In re: "GANT"

MALIK, J., delivers the opinion of the court:

Petitioner, Student Senator Jonathan Gant, asked the Court to provide relief by ordering the Student Senate Rules and Ethics Committee to desist from filling his vacant seat and to reinstate his seat in the Student Senate. Petitioner was removed pursuant to Student Body Statute 323.33 for exceeding the number of allowed absences from Student Senate meetings. Petitioner attributes his unfavorable outcome at the hearing before the Rules and Ethics Committee to a prejudicial misreading of Statute 323.45(3) which provides guidelines for unacceptable reasons for absences from regular Student Senate meetings. We, the Court, hold this to be harmless error.

Petitioner's exceeds his number of allowable absences from Student Senate because he had to unexpectedly drive to Orlando to pick up his family dog and cites this as a "non-avoidable personal emergency." It is the opinion of this Court, by the reading of Statute 323.46, that this is not an acceptable reason for absence in accordance with those examples provided in the statute. Further, even if this was an acceptable personal emergency, 323.45(3) merely indicates those instances *may* be approved. Statutes 323.47 and 323.5 further reinforce the Student Senate's role in determining the validity of all excuses. Senator Zlatanoff's misreading of the statute at issue was harmless error – a proper reading would have included all the language of 323.45, 323.46, 323.47, and 323.5, and the result would have been the same by statutory interpretation.

THEREFORE, the Court defers to the decision of the Student Senate Rules and Ethics Committee, and the petition is denied. The subsequent resignation by non-attendance is upheld.

It is so ordered.

WALSH, C.J., WERK, CLEMENTE, REDDIN, J.J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided January 16, 2020

In re: "MERWITZER I"

WALSH, C.J., delivers the opinion of the court:

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(1)(a) ("The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body . . ."). Petitioner is requesting interpretation of the following Election Code sections to determine constitutionality: §§ 723.4, 761.1, 761.3, 762.0, 762.11, 762.12, 762.51, 765.0, and 765.1. The signature threshold is met, and this court has jurisdiction.

II. Analysis

Petitioner asks the Court to determine whether nine separate sections of the Election Code are constitutional. The Court has found the following sections unconstitutional: §§ 762.11, 762.12, 762.51, 765.0, and 765.1. As such, they must be struck down. However, the other requested sections are found to be constitutional and are therefore upheld.

A. Upheld Sections

Section 723.4 is constitutionally sound. Petitioner requests that the section be stricken because the phrase "irreparable harm" is unconstitutionally vague. However, this is not accurate. Irreparable harm is a legal term found in case law. One example of irreparable harm analysis is when a court must determine whether to grant a preliminary injunction. Because of this, the Court finds Petitioner's complaint as to section 723.4 without merit.

Sections 761.1 and 761.3 are also upheld. Petitioner claims that both place restrictions on free speech by limiting the time when campaign activity may occur and when there may be campaign websites. Although free speech is a guaranteed right by the First Amendment of the United States Constitution, certain exceptions to free speech have been found to be constitutional by courts. One such exception is the time, place, and manner doctrine. The Supreme Court of the United States has allowed such restrictions so long as they serve a legitimate governmental purpose. Here, the election code restrictions on campaign times do serve a legitimate governmental purpose. The Court has to take into account the educational mission of the University of Florida. Also, elections are time consuming and take away from educational pursuits of students. Elections can take away from the educational experience. Elections can be a substantial disruption. Because of these considerations, the Court finds that the restrictions that sections 761.1 and 761.3 put in place are constitutional.

Finally, the Court has found section 762.0 constitutional. Petitioner contends that requiring registering of campaign material with the Supervisor of Elections prevents conducting

spontaneous expressive activity. However, students have a right to know which individuals or political parties are supporting an election advertisement. In addition, "registering" in the context of section 762.0 merely means submitting or turning in an advertisement. Therefore, the Court finds that section 762.0 is also constitutional.

B. Stricken Sections

While the aforementioned sections are constitutionally sound, Petitioner's other complaints have merit. Sections 762.11 and 762.12 have good intent—their purpose is to prevent political parties from lying or stretching the truth. However, the language "misrepresenting a material fact" is too broad, and, as Petitioner correctly stated in his complaint, satire is free speech. The language of sections 762.11 and 762.12 prevent political satire, which is recognized as free speech, and therefore must be struck down as unconstitutional.

Sections 762.51, 765.0, and 765.1 are also all unconstitutional. Sections 762.51 and 765.1 place restrictions on campaign banners. However, UF Regulation 6C1-2.0161 has specific guidelines for student banners. Because these sections are more restrictive than the UF Rule on Banners, they must be struck down. In addition, UF Regulation 2.005 creates regulations for the use of outdoor areas on campus. Because section 765.0 conflicts with this UF Regulation, it also must be struck down as unconstitutional.

III. Conclusion

THEREFORE, the Court has found the following sections unconstitutional: §§ 762.11, 762.12, 762.51, 765.0, and 765.1. They must be struck down. Sections 723.4, 761.1, 761.3, 762.0 are all constitutional and shall be upheld. Petitioner's request for relief is granted in part and denied in part.

It is so ordered.

CLEMENTE, MALIK, REDDIN, J.J. CONCUR