UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided January 22, 2023

In re: Affiliation Form Vacancy

VAN DE BOGART, J. delivers the opinion of the Court.

Petitioner Naeliz Imelda Lopez ("Petitioner") petitions this Court to: (i) order the Student Senate to hold a vote to expel Petitioner from the Student Senate pursuant to Article III, Section 6(c) of the Constitution and (ii) vacate Petitioner's previous seat if the Student Senate has filled it.

First, this Court declines Petitioner's requested relief to order the Student Senate to hold a vote to expel Petitioner, as the Senate Rules do not require this procedure for the vacancy of Petitioner's Student Senate seat. Second, this Court declines Petitioner's requested relief to vacate Petitioner's previous Student Senate seat that has now been filled.

I. Jurisdiction

This Court has jurisdiction under Article V Section 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"), providing that "[t]he Supreme 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." As this Court stated in *In re*: "Ortiz Standing," "[f]or a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and [be] (3) redressable by this court."

II. Background

On October 31, 2022, Petitioner's Student Senate seat was vacated under Student Body Statute 323.32 due to a failure to have an Affiliation Form in file with the Senate President or Senate Secretary. Student Body Statute 323.32 dictates that a failure to turn in an Affiliation Form is cause for a vacancy to occur. Further, Student Body Statute 340.11 provides that vacancy shall occur upon the resignation, removal, expulsion, or impeachment of a Student Senator or the abandonment of the seat by the Student Senator.

The Student Body Statutes do not specify the mechanism for vacancy of a Student Senate seat due to the failure to turn in an Affiliation Form. Petitioner asserts the circumstances require expulsion from her Student Senate seat. Article III, Section 6(c) of the Student Body Constitution requires that the expulsion of a Student Senator result from a two-thirds vote of the Senate. Thus, Petitioner argues the vacancy of her Student Senate seat was unconstitutional because it required a two-thirds vote of the Senate.

III. Analysis

A handful of requirements must be met to maintain one's Student Senate seat. One of these requirements is that Student Senators must keep an Affiliation Form on file with the Senate President or Senate Secretary, per Student Body Statute 323.32. Notices are sent to the Student Senators to turn in their Affiliation Forms, and they must comply with the Student Body Statute.

When examining the forms of removal from one's Student Senate seat, Student Body Statute 340.11 reads that abandonment of a seat by a Student Senator is a definition of vacancy of a Student Senate seat. Although Student Body Statute 323.32 does not specify the type of vacancy that occurs when a Student Senator fails to keep an Affiliation Form on file, and the other forms of vacancy listed by 340.11—

resignation, removal, expulsion, or impeachment—each have a procedural process noted elsewhere in the Student Body Statutes that carry out the vacancy, abandonment is inherently different. *Merriam-Webster* dictionary defines "abandon" as "to cease from maintaining, practicing, or using."[1] Regarding abandonment, the Student Senator's actions, including the failure to keep an Affiliation Form on file, decide their seat vacancy.

Here, Petitioner failed to meet a threshold requirement to continue her membership in the chamber. This Court is of the opinion that if Student Body Statute 323.32 is not followed, the Student Senator's seat is, in effect, abandoned. Abandonment can be decided by an individual Student Senator's failure to comply with the Student Body Statutes, in alignment with the facts of this case.

Moreover, the process by which Petitioner's Student Senate seat vacancy occurred complied with the Student Body Statutes, despite the fact the Statutes do not outline abandonment procedures. Whether the Student Body Statutes' lack of an approach to the procedure for abandonment is sufficient is not the Court's place to decide; instead, it is for the legislature to determine. As this case comes before the Court, abandonment of a Student Senate seat does not require a two-thirds vote of the Senate, like Petitioner claims.

As such, this Court finds Petitioner abandoned her Student Senate seat, which does not require the expulsion procedure Petitioner requests. Instead, the Student Senate properly vacated Petitioner's seat due to her failure to keep an Affiliation Form on file with the Senate President or Senate Secretary.

IV. Conclusion

THEREFORE, the Court (i) DENIES ordering the Student Senate to hold a vote to expel Petitioner from the Student Senate pursuant to Article III, Section 6(c) of the Constitution and (ii) DENIES vacating Petitioner's previous seat because the Student Senate has filled it.

It is so ordered.

WIELE, C.J., NEERANJAN, J., RUNYAN, J., ALLEN, J. concurring.

[1] *Abandon*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/abandon (last visited Feb. 3, 2023).

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided March 21, 2022

In re: Resign to Run Act

ALLEN, J. delivers the opinion of the Court.

Former Student Senator Faith Corbett ("Petitioner") petitions this Court to determine that the Resign to Run Act (Student Senate Bill ("SSB") 2022-1009, codified at Student Body Statute ("SBS") 739.0–739.4) does not apply when an individual has not qualified as a candidate for more than one office, or in the alternative, determine that the Resign to Run Act allows for the revocation of resignations that have not yet taken effect. Further, Petitioner asks the Court to enjoin Senate President Pro-Tempore Giordano from removing Petitioner's name from the Senate rolls or otherwise attempting to prevent Petitioner's exercise of Petitioner's elected office.

I. Jurisdiction

This Court has jurisdiction under Article V Section 3(b)(1)(A) of the University of Florida Student Body Constitution, providing that "[t]he Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body." Petitioner requests interpretation of the Resign to Run Act, and presented to the Court a written petition with the required number of signatures from the Student Body.

However, Petitioner fails to properly establish jurisdiction under Article V Section 3(b)(2) of the Constitution, providing that "[t]he Supreme 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." To properly establish jurisdiction under Article V Section 3(b)(2), a petitioner must plead "(1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court." *See In re:* Ortiz Standing. As such, this Court denies without prejudice Petitioner's request for relief that the Court enjoin Senate President Pro-Tempore Giordano from removing Petitioner's name from the Senate rolls or otherwise attempting to prevent Petitioner's exercise of Petitioner's elected office. Accordingly, the Court considered only Petitioner's request that the Court interpret the Resign to Run Act.

II. Background

On February, 7, 2023, Petitioner emailed Supervisor of Elections Ethan Halle and Senate President Pro-Tempore Catherine Giordano stating that, "Pursuant to code 739.1, this is my official notice of resignation from my position as a Senator, effective on the validation of election results." Petitioner had declared her candidacy for Student Body President and resigned her seat as Senator pursuant to the Resign to Act. However, on March 1, 2023, Petitioner lost her election and again emailed the Supervisor of Elections and Senate President Pro-Tempore stating, "I hope this finds you well. Seeing that there is no guideline within 739.2 suggesting a permanent resignation -- and that there is no measure from preventing the revocation of such a resignation. I am revoking the resignation I submitted earlier this campaign cycle." At present, Petitioner seeks a backdoor

loophole back into the Student Senate now that Petitioner's party has gained majority control of the Senate.

III. Analysis

In 2018, the State of Florida enacted the present form of Florida's Resign to Run law. *See* § 99.012, Fla. Stat. (2022). The statute provides that "[n]o officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds." § 99.012(3)(a), Fla. Stat. Further, the statute expressly prohibits the revocation of a resignation made pursuant to the Resign to Run Law. § 99.012(3)(b), Fla. Stat. ("The resignation is irrevocable.").

On May 31, 2022, the University of Florida Student Senate passed SSB 2022-1009, also known as the Resign to Run Act. Codified in the 700 codes, the legislation provided that, "[n]o person may qualify as a candidate for more than one elected student government office, whether legislative or executive, if the terms or any part thereof run concurrently with each other without resigning from the office they presently hold." SBS 739.0. Further, the legislation stated that "[t]he resignation must be effective immediately upon the validation of the election results for the general election in which the candidate in question is running." SBS 739.2. The key language that this Court focuses on is not what was included in the legislation, but rather what was questionably left out: "The resignation is irrevocable." The Court notes that the language in the Student Body Statutes mirrors the language in the Florida Statutes but for the key language dealing with whether a resignation is revocable. And that is just what Petitioner brings before this Court.

Petitioner begins her argument by stating that it is "well-established that an elected official may ordinarily withdraw a resignation at any point before it takes effect." Petition 3, *In re Resign to Run*. Petitioner supports this allegation with an outdated and wholly irrelevant 1988 Advisory Legal Opinion of the Florida Attorney General. While the Court appreciates Petitioner's attempt at supporting her argument with legal opinions, Petitioner fails to consider that the 1988 Advisory Legal Opinion came decades before Florida's Resign to Run Act. At oral argument, Petitioner had no response when questioned by Justice Runyan on the applicability of the legal opinion given its almost comically outdated publication date of 1988. Petitioner presented the Court with no other supporting legal opinions or judicial opinions. As such, the Court moves on to Petitioner's two central arguments.

A. Student Body Statutes 739.0's Applicability to Petitioner

First, Petitioner alleges that Student Body Statute 739.0 does not apply to her because Petitioner was not a candidate for two elected student government offices simultaneously. SBS 739.0 provides that "[n]o person may qualify as a candidate for more than one elected student government office, whether legislative or executive, if the terms or any part thereof run concurrently with each other without resigning from the office they presently hold." The Court is perplexed by the wording of this statute. For starters, it appears that the drafters of the Resign to Run questionably combined sections 99.012(2) and 99.012(3) instead of simply taking section 99.012(3) and adapting it to the University of Florida Student Government. Second, the Court is confounded as to how the current iteration of SBS 739.0 could even apply to any students. Further,

when asked during oral argument, Petitioner could not provide a single example in which SBS 739.0 could apply. Breaking down SBS 739.0, the statute could only apply if a student held an elected office and somehow qualified as a candidate for two or more elected student government offices. Under this scenario, that student would be forced to resign from its current elected office, but the statute would not require the candidate to not campaign for both offices the student is currently qualified for election. If this scenario confuses you, it is because the statute does not make sense as drafted. The Court is left in awe at this major error in the Resign to Run Act. It is clear to the Court that what the drafters intended was that if an elected student government officer intends to run for another elected student government office, that student must resign their current seat.

The Court cannot possibly understand how the Senate intended SBS 739.0 to apply. As such, the Court is of the belief that the Student Senate made a fatal error when it failed to draft the Resign to Run Act in a way it could apply to the University of Florida Student Government. Accordingly, the Court holds that SBS 739.0 applies to *officers* seeking election to another elected student government office.

B. Revocation of Resignation

Second, Petitioner argues, in the alternative, that even if the Resign to Run Act does apply to Petitioner, the Act does not prohibit rescinding or revoking a resignation if the student government official does not win the election. For the reasons provided below, this Court finds that SBS 739.0 is ambiguous, and as such, holds that a resignation under the Resign to Run Act is irrevocable.

The Court finds that the Student Body Statutes are undoubtedly ambiguous. Petitioner even goes so far as to admit during oral argument that there is no clear answer to her question in statute. It is well established in Florida law that if the language of a statute is ambiguous, a court must resort to traditional rules of statutory construction to determine legislative intent. *Atwater v. Kortum*, 95 So. 3d 85 (Fla. 2012). Because the Student Body Statutes at hand are unclear, this Court turned to the legislative history of the Resign to Run Act to determine the Student Senate's intent.

On April 3, 2022, Judiciary Committee Vice Chairman Sean Harkins introduced the Resign to Run Act before the Judiciary Committee. Vice Chair Harkins stated that the goal of the legislation was to "align the 700 codes with Florida law." Judiciary Committee Meeting Minutes, April 3, 2022. Harkins further provided that, "if [elected officials] choose to run for another office while currently holding one, they must conditionally resign from their current office." *Id.* Harkins provided that the purpose of the Resign to Run law was that "commitment is important when holding an office, and if an official attempts to run for another they have to formally resign from the original commitment." *Id.* There were no questions by present Senators, there was no debate by present Senators, and the bill was approved without objection.

Next, on April 5, 2022, Judiciary Chairman John Brinkman, during public comment at a meeting of the Student Senate, provided a comprehensive explanation of the Resign to Run Act to the full Senate. Brinkman repeated Harkins' line that the Resign to Run Act would "put the UF Senate more in line with official rules by Florida State government." Student Senate Minutes, April 5, 2022. Brinkman directed Senators to the Florida Statutes, specifically section 99.012(3)(a)–(c). *Id.*

As mentioned above, section 99.012(3)(b), Fla. Stat. provides that "resignation is irrevocable." Brinkman argued that "when someone runs to hold a Senate seat, they make an implicit contract to be the elected representative for the constituent that voted them in for a year." Student Senate Minutes, April 5, 2022. "If they hold another position, they break that implicit contract with the voter that put them into office in the first place." *Id.* "The individual must fully commit themselves to the new position and let their position get filled by another individual." *Id.* The legislation was approved with no questions by Senators, no debate by Senators, and no amendments by Senators. *See id.*

For reasons not relevant to this Petition and Opinion, on May 29, 2022, the Judiciary Committee re-heard the Resign to Run Act. What has become a similar theme, there were no questions by Senators, there was no substantive debate by Senators, and there were no amendments by Senators. *See* Judiciary Committee Meeting Minutes, May, 29, 2022. The legislation was subsequently approved by the Judiciary Committee. On May 31, 2022, the full Senate re-heard the Resign to Run Act and passed the legislation by a voice vote. Student Senate Minutes, May, 31, 2022. And once again, holding true to that all too similar theme, there were no questions by Senators, no debate by Senators, and no amendments by Senators.

Taking into consideration the entire history of the Resign to Run Act, which is much more comprehensive than most legislation given the fact it was heard in committee and approved by the Senate twice, this Court finds that the clear intent of the Senate was to mimic Florida's Resign to Run law in all relevant and material respects. As such, the Court further holds that the Senate was put on notice that the Resign to Run Act was intended to prevent an officer that resigns its seat to run for a new office from revoking such a resignation after losing the election. This finding is clearly evidenced by Chair Brinkman's direction of the Senate to section 99.012(3)(b) of the Florida Statutes. ("The resignation is irrevocable."). The Senate was put on notice that its own Resign to Run Act would force a sitting Student Senator to resign before running for Student Body President.

Finally, the Court would like to take this moment to publicly express its frustration with the Student Senate. The Court is wholly underwhelmed by the work of Student Senators at a Top 5 Public University. If the Senate wishes to pass meaningful legislation that would "put the UF Senate more in line with official rules by Florida State government," *see* commentary by Chairman John Brinkman, Student Senate Minutes, April 5, 2022, this Court recommends the Senate consider making use of the copy and paste feature on their computers.

IV. Conclusion

THEREFORE, this Court finds that (1) the Resign to Run Act applies to officers seeking election to another office, and (2) resignation under the Resign to Run Act is irrevocable.

IT IS SO ORDERED.

WIELE, C.J., NEERANJAN, J., and RUNYAN, J. concur.

VAN DE BOGART, J., with whom WIELE, C.J., NEERANJAN, J., and RUNYAN, J. join, delivers a concurring opinion.

Limiting my analysis to the text, I agree with the Majority's holding that (1) the Resign to Run Act applies to officers seeking election to another office and (2) resignation under the Resign to Run Act is irrevocable.

When a resignation is submitted, the Student Government Officer retires or gives up their position. Based on the plain language of the Resign to Run Act (Student Body Statute 739.0–739.4), just because the legislation does not include language that resignation is "irrevocable" does not mean it is revocable.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided April 10, 2023

In re: Senate Leadership Elections on April 4, 2023

WIELE, C.J. delivers the opinion of the Court.

On the heels of what is surely one of the darkest moments in University of Florida Student Government history, John Brinkman ("Petitioner Brinkman") and Shelby Shultz ("Petitioner Schultz") (collectively, the "Petitioners") submitted this petition requesting that the Court intervene and restore order to the UF Student Senate. Specifically, what is requested is that (i) the Court order the Senate to disregard the Senate leadership election on April 4, (ii) order members of the Replacement and Agenda Committee ("R&A") to meet and hold interviews for vacant seats, (iii) challenge the Legislative Branch to live up to its representative capacity and move past gridlock and (iv) issue a temporary injunction pending the outcome of the case. Senator Oscar Santiago-Perez ("Counter-Petitioner") filed a timely opposition brief that complied with the temporary measures adopted by the Court for the purposes of this case. Counter-Petitioner first requests that the Court dismiss the Petitioner's brief for lack of standing. In the alternative, Counter-Petitioner requests that should the Court find standing that it (i) dismiss the petitioners' first request for relief, and find the Senate President election as being legal and constitutional, (ii) dismiss the petitioners second request for relief, as it is based on a faulty interpretation of *In Re: "Merwitzer - Representation in Validation Results"* 3 S.C. 57, 57 (February 16, 2021) and (iii) dismiss the petitioner's third request for relief, as this Court is unable to fulfill the premise of the relief.

I. Jurisdiction

Article V, Section 3(b)(2) of the University of Florida Student Body Constitution ("Constitution") states that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any [SG] 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." An individual requesting an order under this provision of the constitution must have (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by the Court. *In re: "Ortiz Standing,"* 3 S.C. 52, 52 (September 11, 2020).

In the present case, Petitioner Brinkman failed to allege standing for himself. All of Petitioner Brinkman's alleged injuries, both stated in the petition and articulated during the hearing, were not particularized enough to satisfy this Court's standing requirement. This is because all of Petitioner Brinkman's injuries, whether it be the failure to address grievances or the lack of fund appropriation were no more traceable to Petitioner Brinkman than any other University of Florida student. The requirement that an injury be particularized to a petitioner is necessary because the absence of such a requirement would undercut the Court's own requirement that an injury be traceable to the petitioner. Petitioner Shultz (herein, the "Petitioner"), on the other hand, meets this Court's standing requirement under Article V, Section 3(b)(2). Petitioner has a particularized injury because they have applied for a vacant Senate seat to be filled by R&A. Since the entire

Senate Chamber has failed to elect a Senate President Pro Tempore,[1] it takes but one absence from the committee to lack quorum. As a result of intentional or unintentional efforts to bust quorum, R&A has not allowed the Petitioner an opportunity to interview for a vacant Senate seat.

II. Background

The timeline below summarizes the factual events of the April 4 brouhaha masquerading as a meeting of the Senate.[2]

- 44:44: Change Party Senator moves to open the floor for nominations for Senate President.
- 44:55: Gator Party Senator moves to suggest the absence of a quorum.
- 45:08: Senator Giordano recognizes the motion to suggest the absence of a quorum and begins to call for Senators to begin roll call process.
- 45:09: Change Party Senator(s) object and explain that there was already a motion on the floor that the Senate must consider before.
- 45:35: Senator Giordano asks Senators to begin roll call process.
- 45:56: Motion to open the floor for nominations passes by unanimous consent.
- 46:00: Senator Santiago Perez was nominated for Senate President.
- 46:50: After a series of confusing motions, Senator Giordano moved for a 5-minute recess to sort out the procedural mess, which fails immediately.
- 47:10: Gator Party Senator moves to suggest the absence of a quorum.
- 47:13: Change Party Senator(s) raise a point of order that a motion to suggest the absence of a quorum cannot be considered due to the fact that a previous motion to elect Senator Santiago Perez was made and that the Senate has to dispose of the first motion prior to considering the second motion.
- 48:08: Motion to call previous question (on election of Senator Santiago Perez) by unanimous consent passes.
- 50:58: Change Party Senator moves (pursuant to Robert's Rules) to vacate the Chair.
- 51:21: Senator Giordano fails to recognize the motion as valid.
- 51:55: Change Party Senator asks 3 times if the point of order was received
- 52:10: Change Party Senator declares that because Senator Giordano failed to recognize a point of order 3 times, Robert's Rules allows the Senate to vote to vacate the Chair without recognition or approval by the Chair.
- 52:58: Motion passes (46 yes, 3 no) to vacate Chair.
- 53:00: Senator Giordano raises the issue that there is no quorum.
- 53:03: Change Party Senator moves to appeal decision of Chair that there is no quorum.
- 53:15: Senator Giordano again states that there are 49 present Senators, there is no quorum, and the meeting is adjourned.
- 53:40: Change Party Senator declares that Senator Giordano is no longer the Chair and requests that she step down.

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[1] I include this footnote only to highlight the absurdity that the Senate Chamber as of the writing of this petition continues to lack, or even vote on, a Senate President Pro Tempore. Rule I, 1(a) of the Senate's Rules and Procedures dictates that the position should be elected "at the first meeting of the Senate following the validation of Senate elections." The chamber has failed to accomplish this with three weeks left in the semester.

[2] Timeline is based on the footage from the following link, https://www.facebook.com/UFStudentSenate/videos/1169805710377065. I would also like to credit Justice Allen for his assistance in preparing this timeline.

- 54:35: Senator Faisal declares that he is Chair of the Senate.
- 54:48: Senator Giordano moves to suggest the absence of a quorum.
- 54:50: Senator Faisal declares that Senator Giordano is not recognized and provides that pursuant to Robert's Rules, if there is a vote being conducted, you may not call for a quorum.
- 55:08: Gator Party Senator moves to suggest the absence of a quorum.
- 55:15: Senator Faisal again declares that because the floor is not open (i.e., there is a motion to vote for Senate President on the table), the Senate cannot consider the motion.
- 56:18: Roll call vote begins for Senate President. The official meeting minutes reflect a roll call vote with 48 senators present.

III. Analysis

a. *R&A Request for Relief*

This Court does not have the authority to order R&A to meet. As the Counter-Petitioner correctly asserts, Article III, section 6(b) expressly gives the Senate the power to compel attendance of absent members. The Court's *In re: "Merwitzer-Representation in Validation Results"* 3 S.C. 57, 57 (February 16, 2021) is not analogous to the case at hand because the *Merwitzer* decision did not involve a power expressly delegated to the Senate. While the Court is sympathetic to the Petitioner and their inability to be interviewed, no fundamental right is threated that would justify the Court requiring R&A to meet.

b. *April 4 Senate Leadership Election*

This Court orders the Senate to disregard the April 4 leadership election because of a lack of quorum and further orders the Senate to hold an election for its leadership where quorum can be conclusively established. According to the Rules and Procedures of the Senate, "[a]ny Senator may raise a point of order regarding the presence of a quorum, at which point the Chair of the Senate will instruct the Chair of the Rules and Ethics Committee (or Vice Chair or their designee) to call the roll." SENATE RULES AND PROCEDURES, Rule IV, Section 3(b).The Constitution of the Student Body defines quorum as "a majority of the total membership of the Student Senate . . . ." STUDENT BODY CONSTITUTION, Article III, Section 8(a). Furthermore, the Constitution says that this quorum is "necessary to conduct business." *See id.* According to the Senate's own rules and procedures, at the 44:55 mark of the recording the meeting should have been stopped by then Chair Giordano to assess quorum after the suggestion of its absence was made by a Gator Party senator. Following this—the absence of quorum is mentioned no less than five more times before the vote for Senate President is held. Why a quorum call was not held until after the vote for Senate President was conducted cannot be known. Nonetheless, this disregard of rules, whether intentional or not, cannot excuse the lack of quorum. Counter-Petitioner argues that according to Roberts Rules of Order, a roll call vote cannot be used to assess whether quorum is present in the Senate chamber. Whether this is a correct assessment of Robert's Rules is irrelevant, however, given that the Constitution deems it "necessary" for a quorum, composed of 51 student Senators, to be present to conduct business. At the first indication that the chamber may lack the requisite number of Senators, additional business cannot be

conducted until the presence of quorum can be conclusively demonstrated. On April 4, while a mere eye test would have suggested the absence of quorum, the roll call vote definitively proved its absence. Because the lack of quorum had been definitively proven, Senate should have adjourned as it was no longer able to conduct business. When a quorum call is made and ignored and the absence of quorum can be inferred or determined from external evidence (such as a roll call vote), Senate shall be deemed to lack quorum to prevent circumvention of the Constitutional requirement that the Senate have quorum to conduct business. Such a holding is necessary to ensure that the requirements of the Constitution are upheld.

c. *Challenge to the Legislative Branch*

While this Court is unable to adequately provide redress to the Petitioner's third request for relief, it is the Court's sincerest hope that its actions today cause members on both sides of the aisle to take a long look in the mirror and reflect on what their goals are when they show up to Tuesday night meetings of the Senate in the Reitz Union. As stated during the Court's deliberations, when the legislature chose to act like children for the entirety of a semester, the Senate forced the Court's hand to issue a remedy treating it as such.[3]

d. *Temporary Injunction*[4]

This Court enjoins future meetings of the Senate or its committees until lifted by the Court pursuant to the terms contained on the temporary injunction issued to the leaders of the majority and minority parties.[5] The Constitution vests all judicial power in the Supreme Court and inherent in these powers is the ability to issue injunctions when necessary. STUDENT BODY CONSTITUTION, Article V, section 1. The Constitution also provides for the separation of powers among the branches of the student government. STUDENT BODY CONSTITUTION, Article II, section 4(A). The Constitution grants the Senate the authority to determine the time and place of its meetings. STUDENT BODY CONSTITUTION, Article III, section 6(d). However, the Rules and Procedures of the Senate set the procedure for doing so by authorizing R&A to set the time and place or regular meetings at the beginning of the academic term. SENATE RULES AND PROCEDURES, Rule III, Section 1(b). In the Court's October 10, 2011 decision, *Unnamed decision*, Supreme Court Reporter vol. 1, p. 85., a temporary injunction was issued that temporarily enjoined the Senate from validating the election results—a power solely delegated to the Senate by the Constitution. STUDENT BODY CONSTITUTION, Article III, section 6(e). That Court felt compelled to protect the liberties of the study body and the authority to take this action serving "as arbiter[] of the [Constitution]." *Unnamed decision*, Supreme Court Reporter vol. 1, p. 85. Additionally, the Court did not find that issuing an injunctive order infringed upon the ability of the Senate to validate election results. *See id.* at 86. Under Article I, Section 2 of the

[3] Because the Senate showed a continued inability to conduct its business without outside intervention, this Court felt compelled to place the Legislature in a constructive "time out" to restore order and uphold its own duties as the last line of redress for students unable to get help from their democratically elected representatives.

[4] Prior to the issuance of this opinion, the Court lifted the injunction because the leaders of the Majority and Minority parties complied with the Court's order (contained in Attachment A). The order lifting the injunction can be found in Attachment B.

[5] *See* Attachment A.

Constitution, every student is guaranteed certain basic rights. Inherent in these is every student's right to have a properly functioning Legislature capable of conducting ordinary business (or any business for that matter) and carrying out the will of the student body as elected representatives. While not expressly enumerated, such a right is foundational to the Article I, Section 2 basic rights. After an entire semester of the Senate failing to provide the student body with this fundamental right, the Court finds it has no choice but to enjoin future meetings of the Senate or its committees until a compromise can be reached. The Court's goal is to reset the contentious political environment in the Senate and direct the Legislature's focus to what really matters—the students. Beyond being necessary to uphold the most fundamental of student rights, the ability to enjoin the Senate when there is a risk of great uncertainty is not without precedent. While the October 10, 2011 Court was concerned with the validity of the election results, the Justices nonetheless demonstrated an ability to exercise broad injunctive powers when necessary to prevent uncertainty that could shake the foundation of the entire student government system. Likewise, in the case before the Court, enjoining future meetings of the Senate and its committees is necessary to prevent a situation where two individuals show up to the Senate chamber claiming to be the President of the Senate. The potential collateral of such a situation is simply too great for this Court to ignore.

The Court's ability to enjoin the Senate from future meetings is no doubt a drastic step. In no way should this opinion be taken as an endorsement that the Court may regularly exercise such broad discretion. As an initial matter, it is important to recognize the context in which this exercise of power arises. The University's student government is based on the federal and state governments; however these systems are not exact replicas. Were the Supreme Court of Florida to use such a show of force, this Court would agree that such an act would be impermissible. In contrast, at the University of Florida our primary focus is our education. Thus, the incentives to act and the consequences of inaction are not the same because Senators and students can carry on a majority of their lives in the face of inaction without any sort of real consequences. Secondly, this exercise of power should be limited to the facts of this case—an instance where the Legislature has demonstrated a continued inability to conduct its regular business for the entirety of a semester and the failure of the Court to intervene would threaten to undermine the legitimacy of the entire student government ecosystem. To the extent that the Supreme Court is infringing upon the Legislature, it is important to remember that this is a temporary rather than a permanent measure. In exercising this power, the Court limited its own exercise of power by setting a clear procedure that would lift the injunction without discretion of the Judiciary (and the injunction was lifted when these procedures were met). It is the Court's duty to serve as the final arbiter of the Student Body Constitution. Furthermore—the Court is the last line of redress for students seeking relief from the actions (or the lack thereof) of their elected representatives. As such, it is the responsibility of this Court to hit the reset button on the disaster currently unfolding in the Senate chamber. In the face of total apathy towards the student body by their democratically elected representatives, this Court must serve as the catalyst of change by enjoining future meetings of the Senate and its committees until leadership of both the Change and Gator parties are able to agree on a tenable path forward

to elect leadership, allocate the budget and otherwise conduct their regularly scheduled business.[6]

IV. Conclusion

THEREFORE this Court (i) DISMISSES Petitioner Brinkman from the petition, (ii) DENIES ordering the Replacement and Agenda committee to meet, (iii) FINDS that the election of the Senate President on April 4 lacked quorum and ORDERS the Senate to hold elections for its leadership where the presence of quorum can be conclusively established, (iv) ASKS that the members of the Senate reflect on what their role is as a student representative and (v) ENJOINS all future meetings of the Senate or its committees until further notice.

It is so ordered.

NEERANJAN, J., ALLEN, J., RUNYAN, J., and VAN DE BOGART, J. concurring.

[6] *See* Attachment C for the proposal submitted to the Court.

ALLEN, J. delivers a concurring opinion.

While I wholeheartedly agree with the Majority Opinion, I write separately to underscore a distinct disappointment I feel as a student at the University of Florida. In my eight years at this university, never have I ever seen such a lack of empathy and compassion that I saw on part of the Change Party Senators during the April 4, 2023 meeting of the Senate. From an outsider's perspective, what occurred during that embarrassing April 4 meeting was nothing short of a complete and utter lack of human decency. Change Party Senators hijacked the meeting, used obscure rules from the non-binding Robert's Rules of Order to throw out Interim Senate President Giordano as Chair of the meeting, and, ultimately, forcibly removed Senator Giordano from the Senate dais. That is not how we treat any human being, let alone a fellow Gator. I strongly urge the Senators on both sides of the aisle to take a step back and ask yourselves if what you are doing demonstrates the humility, empathy, and compassion it takes to be a leader.

VAN DE BOGART, J. delivers a concurring opinion.

I agree with the majority's holding and concur to note that my decision rested in the fact that this injunction is tailored to the specific circumstances of a *student* government.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided April 10, 2023

In re: Senate Leadership Elections

WIELE, C.J. delivers the order.

PRELIMINARY INJUNCTIVE ORDER

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

PROHIBITED ACTIVITIES

IT IS HEREBY ORDERED that the University of Florida Student Government Senate shall be enjoined from holding a meeting—regular, special, or virtual—of the UF Student Government Senate, or any of its committees, until further order of the Court.

MEDIATION ORDER

IT IS FURTHER ORDERED that the leadership of the Change Caucus and the Gator Caucus of the UF Student Government Senate shall meet by **Friday, April 14th, 2023 at 5:00 pm** to come to an agreement by which the Senate shall move beyond the present gridlock in a manner that provides appropriate representation of the student body. Once the Agreement is finalized and signed by the leadership of both parties, it shall be sent via electronic mail to the Chief Justice of the University of Florida Supreme Court and the four Associate Justices at which point the Supreme Court will lift this Temporary Injunctive Order.

RETENTION OF JURISDICTION

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

IT IS SO ORDERED.

NEERANJAN, J., ALLEN, J., RUNYAN, J., and VAN DE BOGART, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided April 10, 2023

In re: Senate Leadership Elections on April 4, 2023

Thursday, April 13, 2023, 1:30 PM

This action came before the Court on a request that the Court (i) declare the election results of the April 4, 2023 leadership election as invalid, (ii) order the members of the Replacement and Agenda committee to meet and hold interviews for vacant seats, (iii) challenge the legislature to live up to its representative capacity and (iv) issue a temporary injunction enjoining future meetings of the Senate pending the outcome of the case. This Court issued a temporary injunction enjoining future meetings of the Senate or its committees until the leadership of both parties were able to come together and present the Court with a signed agreement manifesting a path towards the Senate resuming its ordinary duties. On Thursday, April 13, 2023 at 11:00 AM Majority Party Leader Evan Rafanan emailed such a plan to the Court (Attachment A). This Court is very impressed with timeliness of the Parities' resolution and their outline detailing the allocation of Senate leadership positions and committee spots. As such, the Court hereby withdraws its injunctive order. The Court will retain jurisdiction until an opinion can be issued on this matter.

It is so ordered.

WIELE, C.J., NEERANJAN, J., ALLEN, J., RUNYAN, J., VAN DE BOGART, J., concur.

Attachment A

STUDENT SENATE OF THE UNIVERSITY OF FLORIDA
"Injunction Adjournment Terms and Agreements (IATA)"

WHEREAS, The University of Florida Supreme Court Ordered the University of Florida Student Senate to meet before Friday, April 14, 2023.

WHEREAS, The University of Florida Supreme Court placed a temporary injunction on the Student Senate that prohibited the Student Senate from holding committee meetings and meetings—regular, special, or virtual—until further order of the court.

THEREFORE, LET IT BE RESOLVED that the leadership of both parties have come to an agreement in a manner that provides appropriate representation of the student body;

THEREFORE, LET IT FURTHER BE RESOLVED THAT the leadership of both parties agree to the following:

1. Senate leadership elections will occur on April 18, 2023, with no delay; and,
2. Oscar Santiago Perez will be elected with the support of both caucuses to be the Senate President of the University of Florida Student Senate; and,
3. Nathan McGinnis will be elected with the support of both caucuses to be the Senate President Pro-Tempore of the University of Florida Student Senate; and,
4. Two Members-at-Large will be elected from the Gator Caucus with the support of both caucuses.

THEREFORE, LET IT FURTHER BE RESOLVED THAT the following statements with Committees will be agreed to:

1. Judiciary Committee: The Chair will be the most qualified Change Caucus Member; and,
2. Budget & Appropriations Committee: The Chair will be the most qualified Gator Caucus Member; and,
3. Rules & Ethics Committee: The Chair will be the most qualified Gator Caucus Member; and,
4. Information and Communication Committee: The Chair will be the most Gator Caucus Member; and,
5. Three Budget and Appropriations Committee Seats will be approved on April 18, 2023: two seats will be given to the most qualified members of the Gator Caucus, and one seat will be given to the most qualified member of the Change Caucus.
6. The Budget and Appropriations Committee, by the third Replacement & Agenda Committee meeting of Summer 2023, will have four members from the Change Caucus and four members from the Gator Caucus.
7. Rule XVII of the Rules & Procedures will be addressed before the end of Summer B semester.

IN CONCLUSION, LET IT FINALLY BE RESOLVED THAT Change Caucus Leader Evan Rafanan and Gator Caucus Leader Santiago Alvarez will sign to abide by the terms listed above.

Evan Rafanan
Change Party Leader
13 April 2023

Santiago Alvarez
Gator Party Leader
13 April 2023

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided April 23, 2023

In re: "Five Criteria Definition"

NEERANJAN, J. delivers the opinion of the Court.

Petitioner Oscar Santiago Perez ("Petitioner") requests that this Court interpret Rule XI Section 3(c)(ii) of the Rules and Procedures of the Student Senate, which outlines the Five Criteria the Judiciary Committee applies when reviewing proposed legislation, and establish a standard of review for "implication" and "clarity" under the rule.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V Section 3(b)(1) of the University of Florida Student Body Constitution, providing that "[t]he Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body; or request of the Student Body President." Petitioner requests interpretation of one of the provisions pertaining to the Judiciary Committee within the Senate Rules, and presented to the Court a written petition with the required number of signatures from the Student Body. Accordingly, this Court has jurisdiction.

II. Background

Rule XI Section 3(c)(ii) of the Rules and Procedures of the Student Senate reads: "[t]he Judiciary Committee will review legislation as to its constitutionality, implication, legality, format, and clarity, and may submit to the Senate amendments to legislation reviewed by the committee." Petitioner expresses concern that the "implication" and "clarity" criteria lack a clear definition, are subjective in nature, and thus enable the Judiciary Committee to make arbitrary determinations for approving or failing legislation.

III. Analysis

This Court has previously held that "certain political and discretionary zones exist outside this Court's province.[1]" Such a zone is at issue here. Petitioner's request requires that members of the Court supplant our analysis for the decision-making abilities of the legislature's elected officials. Much like the way the "Senate President is entrusted to use their independent reasoning to apply the definition of a dilatory motion when deciding whether or not to rule a motion as such," the Judiciary Committee, as an elected body, is entrusted with using their own critical thinking skills to apply the Five Criteria enumerated in the Rules.[2] Should the Petitioner challenge the Judiciary Committee's application of the Five Criteria to review of particular legislation, the Court can review under the arbitrary and capricious standard.[3] However, Petitioner has proffered no such challenge here.

IV. Conclusion

THEREFORE, the Court DENIES Petitioner's requested relief. IT IS SO ORDERED.

WIELE, C.J., ALLEN, J., RUNYAN, J., and VAN DE BOGART, J. concurring.

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[1] *In re: "Application of the Five Criteria to a Proposed Authorization"* October 26, 2022; *In re: "Petition Regarding Whether the UF Supreme Court Can Interpret Senate Rules and Procedures"* January 11, 2018.
[2] *In re: "Dilatory Motions"* October 19. 2022.
[3] *In re: "Application of the Five Criteria to a Proposed Authorization"* October 19. 2022.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided April 23, 2023

Stephens et al. v. Ghozali

VAN DE BOGART, J. delivers the opinion of the Court.

Before the Court comes an interpretation question of a Rules and Procedures of the Student Senate (the "Senate Rules") that is clear and unambiguous on its face based on plain language. The petitioners requested that this Court "[e]stablish whether or not Committee Chairs have the abilities to execute duties delegated to a committee without the approval of committees." Under the jurisdiction cited by the petitioner, the Court instead interprets the Senate Rule the petitioner relies on in its request for relief: Rule XI, Section 5(b)(ii). This Court finds that Rule XI, Section 5(b)(ii) of the Senate Rules is clear and unambiguous on its face that the Information and Communication Committee will organize the Senate retreat, rather than the Committee Chair in their sole capacity.

I. Jurisdiction

Article V, Section 3(b)(1)(A) of the University of Florida Student Body Constitution ("Constitution") states that "[The Supreme Court shall interpret any provision of the constitution or any law upon written] petition of twenty members of the Student Body." In the present case, the twenty signatures prescribed under the "Signatures of Petitioners" section of the petition meet the requirement for jurisdiction under Article V, Section 3(b)(1)(A) of the Constitution for the Court to interpret Rule XI, Section 5(b)(ii) of the Senate Rules. Notably, "provision" is singular, and this Court will interpret Rule XI, Section 5(b)(ii) as the specific provision of the Senate Rules.

II. Background

Rule XI, Section 5(b)(ii) of the Senate Rules states, "The Information and Communication Committee will organize at least one Senate retreat during the fall, spring, and summer Senate semesters." The Committee Chair scheduled the Spring 2023 Senate retreat for Monday, March 10. The assumed fact exists that the Information and Communication Committee Chair acted within their sole capacity to schedule the retreat since the Information and Communications Committee had not met during the Spring semester yet when the Committee Chair scheduled the retreat. The petitioners asked this Court whether the act of the Committee Chair was proper under Rule XI, Section 5(b)(ii), given the assumed fact.

III. Analysis

The word "Committee" refers to the Committee as a whole. On the other hand, the words "Committee Chair" refer to the sole person who holds the position. Rule XI, Section 5(b)(ii) puts the power and duty to schedule the Senate retreat within that of the Committee, not the Committee Chair alone.

IV. Conclusion

THEREFORE, this Court holds that it is the duty of the Information and Communications Committee, and not the Committee Chair in their sole capacity, to organize the Senate retreat.

It is so ordered.

WIELE, C.J., NEERANJAN, J., ALLEN, J., and RUNYAN, J., concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided on April 23, 2023

Students for Fair Representation v. Halle

RUNYAN, J. delivers the opinion of the Court.

Twenty members of the student body ("Petitioners") request this Court to first interpret Article I, Section 2(a), and Article III, Sections 2(a) and 3 of the UF Constitution in determining the constitutionality of Student Senate Bill 2022-1035 (apportioning Student Senate seats for each off-campus district for the Fall 2023 election). Accordingly, the Court finds Student Senate Bill 2022-1035 unconstitutional. Second, Petitioner requests this Court to order the Student Senate to adopt Petitioner's proposed remedial apportionment of seats for the Fall 2023 Student Senate election. The Court denies this request.

I. Jurisdiction

As to Petitioners' first request, jurisdiction is granted under Article V § 3(b)(1)(a) of the UF Constitution, which states that "[t]he Supreme Court shall interpret any provision of the constitution or law upon written petition of twenty members of the Student Body." As to Petitioners' second request, jurisdiction is granted under Article V Section 3(b)(2) of the UF Constitution ("Constitution"), providing that "[t]he Supreme 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."

II. Discussion

Petitioners argue the unconstitutionality of the apportionment of off-campus seats in Student Senate Bill 2022-1035 because the seats are disproportionate to the student body population in each district, as allegedly demonstrated by "Student Population Data" from the Office of the University Registrar (Exh. A). The current apportionment, Petitioners argue, violates Article III, Section 2(a) of the UF Constitution (" . . . the Student Senate shall apportion seats on the basis of population as nearly equal as practicable . . . .") and the "one person, one vote" principle established under federal law. Petitioners argue that such injury to voters may be remedied by Petitioners' proposed apportionment of seats and requests the Court to order the Senate to adopt the proposed remedy.

Jonathan C. Stevens ("Counterpetitioner") argues Petitioners' request is not yet ripe for judicial review. We disagree as to Petitioners' justiciability argument, given that the Student Senate Bill 2022-1035 passed in Senate and took effect as law, establishing apportionment for the upcoming election and providing a basis for which the Court may exercise its jurisdiction.

In the alternative, Counterpetitioner argues that the matter of reapportionment is better left to the Senate. To some extent, the Court agrees, as discussed below. Counterpetitioner requests this Court to order the Senate "to review apportionment under the 5 Criteria expected of all legislation that is reviewed by the Senate Judiciary Committee." We decline to do so. Further,

Counterpetitioner argues that it is unconstitutional for the Court to order the Student Senate to adopt remedial apportionment of off-campus districts by presenting an unauthenticated Excel spreadsheet allegedly derivative of a public information request for "the data used for the Student Senate Reapportionment Act of 2023." Such Excel spreadsheet serves as Counterpetitioner' grounds for the argument that Petitioners' proposed remedial apportionment does not accurately represent an equal population distribution among off-campus students. The Court need not address this argument given its resolution below.

The Court agrees with Petitioners as to the unconstitutionality of the apportionment of off-campus seats provided by Student Senate Bill 2022-1035. As both Petitioner and Counterpetition agree, it is obvious that the current apportionment of off-campus seats fails to accurately represent the proportion of Students residing in District A, thereby violating Article III, Section 2(a) of the UF Constitution (" . . . the Student Senate shall apportion seats on the basis of population as nearly equal as practicable . . . ."). As such, Student Senate Bill 2022-1035 is deemed unconstitutional and shall not be effectuated for the Fall 2023 Student Senate election.

The Court declines, however, to order the adoption of Petitioners' proposed remedial apportionment of off-campus seats. The unauthenticated data provided by both Petitioner and Counterpetitioner as to the population of students in each off-campus district gives the Court pause in drawing any conclusions as the constitutionality of Petitioners' proposed remedial apportionment. Regardless, the Court is not a legislative body, and as such, need not step into the shoes of the legislator to craft a constitutional, remedial apportionment of off-campus seats. The interest of the Student Body is better protected by its elected Senators, who are obligated under the Article III, Section 3 of the UF Constitution to ". . . determine the number of senators per class within the constitutional limits . . . ." As such, this Court order the Student Senate to "apportion seats on the basis of population as nearly equal as practicable . . . ." for the upcoming Fall 2023 election, in compliance with Article III, Section 2(a) of the UF Constitution.

III. Conclusion

THEREFORE, this Court deems Student Senate Bill 2022-1035 unconstitutional. The Court **DENIES** Petitioners' requested relief and **ORDERS** the Student Senate to apportion seats in compliance with Article III, Section 2(a) of the UF Constitution, as soon as reasonably practicable before the Fall 2023 Election.

It is so ordered.

WIELE, C.J., NEERANJAN, J., ALLEN, J., VAN DE BOGART, J., concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 5, 2023

In Re Fall 2023 Election Map

VAN DE BOGART, C.J. delivers the order.

INJUNCTIVE ORDER

The Court has found cause to enter an injunction.

IT IS HEREBY ORDERED that the University of Florida Student Government Senate shall adopt the following apportionment map for the Fall 2023 Election.

Beaty Towers.....1

Broward-Rawlings Area.....1

Graduate and Family Housing….....1

Graham Area.....1

Honors Village.....1

Hume Area.....1

Infinity Hall.....1

Jennings Area.....1

Keys-Springs Residential Complexes..1

Lakeside Residential Complex.....1

Murphree Area.....1

Tolbert Area.....1

Yulee Area.....1

All Off-campus.....37

IT IS SO ORDERED.

BROWN, J., FREEMAN, J., and DEAS, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 5, 2023

In Re: Fall 2023 Election Map

BROWN, J. delivers the opinion of the Court.

The Court takes no pleasure in deciding the matter before it; however, the matter is of the utmost importance. Before the Court comes a question as to the apportionment of Senate seats for the Fall 2023 Student Election. The Petitioners requested that this Court "order the Supervisor of Elections . . . . in his capacity as a Student Government Official, to adopt Petitioner's proposed remedial apportionment of seats for the Fall 2023 Student Senate election."

First, under the jurisdiction cited by the Petitioners, the Court interprets Article III Section 2(a) and Article III Section 3 in light of other authorities and circumstances listed by the Petitioners. Second, the Court addresses its motivations for stepping into the shoes of the Judiciary Committee to craft an apportionment map, when it has previously declined to do so. Finally, the Court specifies its reasoning for selecting the final Fall 2023 apportionment map. Ultimately, after weighing and measuring the evidentiary record in this case, the Court has found it lacking thus forcing it to agree with the Petitioners' map.

I. Jurisdiction

Article V, Section 3(b)(1)(B) of the University of Florida Student Body Constitution ("Constitution") states that "[The Supreme Court shall interpret any provision of the constitution or any law upon written] request of the Student Body President." In the present case, Student Body President Olivia Green's (the "SG President") signature under the "Signatures of Petitioners" section of the petition meets the requirement for jurisdiction under Article V, Section 3(b)(1)(B) of the Constitution for the Court to interpret Rules XI (3)(b)(iv) and Rule XI (3)(d)(i) of the Senate Rules.

Additionally, Article V, Section 3(b)(2) of the Constitution states that the Supreme 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. Here, Petitioners request that the Court order the "Supervisor of Elections . . . in his capacity as a Student Government Official . . . adopt Petitioner's proposed remedial apportionment of seats for the Fall 2023 Student Senate election."

II. Background

In April 2023, this Court held in *Students for Fair Representation vs. Halle* (Vol. 4, 21) that SSB 2022-1035 Senate Reapportionment Act of 2023 was unconstitutional because District A was not apportioned on the basis of population as nearly equal as practicable. The opinion states, "[t]he Court is not a legislative body, and as such, need not step into the shoes of the legislator to craft a

constitutional, remedial apportionment of off-campus seats." The Court further ordered the Student Senate to reapportion "as soon as reasonably practicable" in its opinion.

Moving into the Summer 2023 semester, the Senate failed to do as the court ordered it to. The Judiciary Committee failed to meet quorum for the entirety of the Summer A Academic Semester and the two first weeks of the Summer B Academic Semester. Concurrently, during the Summer A term, an Ad-Hoc Committee was created to create an alternative forum to draft and pass an apportionment bill. The Ad-Hoc Committee approved SSB 2023-1133: The Fall 2023 Apportionment Realignment Act (the "FARA"). The Senate ultimately failed to approve this apportionment map.

Subsequent to the creation of the Ad-Hoc committee, and the end of attempts to pass an apportionment map through the usual Judiciary Committee channels, the SG President submitted the petition which is the subject of this opinion.

III. Analysis

For the following reasons the Court has assumed the constitutionally assigned role of the Senate and chosen an apportionment map:

Ad-Hoc Committee

One Counter-petitioner asserts that the SG President should have attempted to pass their map through the Ad-Hoc Committee formed by the Judiciary Committee. This argument, however, requires the assumption that the Ad-Hoc committee was a valid method of drafting and submitting an apportionment map for approval by the Senate. Legislation approved by the Ad-Hoc Committee and not the Judiciary Committee, however, subverts the process outlined in Rule XI (3)(b)(iv) and Rule XI (3)(d)(i) of the Rules and Procedures of the Student Senate. Rule XI (3)(b)(iv) explicitly states that the "*Judiciary Committee* will, before every Fall general election, submit to the Senate legislation regarding the apportionment of the Senate" (emphasis added). Furthermore, Rule XI (3)(d)(i) in relevant part clearly states that "[t]he *Judiciary Committee* will draft legislation to set the apportionment of the Senate" (emphasis added). The Court views these provisions as stating in a unified voice that the Judiciary Committee, *and not its designee*, is responsible for the drafting and submission of apportionment legislation to the Senate. To hold otherwise would be procedurally problematic and violate all basic rules of the cannons of construction.

Reasonable Time

Even if legislation passed through the Ad-Hoc Committee were to be valid per the student codes, which it is not, the Student Senate has simply run out of time to pass an apportionment bill given the timeline that exists for doing so. Under Student Body Statute 700.4(1), "election cycle" means the time from the beginning of the informational meeting held by the Supervisor of Elections, which is to be held on Tuesday, September 5, 2023 (the date of the hearing for this petition), until validation of the election by the Student Senate. Then, Article III Section 8(b) of the Constitution, states that the SG President shall have ten days to veto the bill after presentment. Article III Section 8(d) further provides that the University President or their designee shall have the ability to veto

the bill and that the SG President has up to ten days to provide the Senate with the SG President's reasoning for vetoing the legislation. Moving forward with an apportionment bill at this time would have directly subverted the SG President and University President's constitutional right to veto. Therefore, any legislation that could be passed at this time would not be constitutionally valid for implementation for an additional ten days at minimum. This of course is not practicable as the election cycle has already begun. For that reason, the Supreme Court is the only power with the ability to approve an apportionment map in time for the Fall 2023 election cycle.

Separation of Powers

This Court is not in the business of overstepping boundaries of constitution and assuming the duties of the other branches of government that exist at the University of Florida. However, Petitioners and both Counter-petitioners agree, the Court has no other option but to step in to ensure that the "right to vote in Student Government elections," that they all cite in their briefs, is protected. The Court's main considerations under this issue are (1) the Court's previous addressal of the issue of a constitutional apportionment in the Spring of 2023; (2) the ample time with which the Senate had to address this matter; and (3) the United States Supreme Court's recent holding, in *Moore v. Harper*, that apportionment maps are not without review by the judicial branch.

Finally, as the highest level of the judiciary of the flagship university in the state of Florida, this Court abides by the *League of Women Voters of Fla. v. Detzner* precedent in seeking to fulfill its "obligation to provide certainty" to student voters "regarding the legality" of the Student Government Fall 2023 election map as it is "an essential right of our citizens to have a fair opportunity to select those who will represent them," as cited by Petitioners.

With all of these considerations in mind, the Court does not view this circumstance as violating its dedication to the principles of separation of powers. This situation is truly extraordinary and one without comparison in the historical record. Were the Court not to step in, the democratic process of the Student Government of the University of Florida would come to a halt thus subverting the rights of the entirety of the student body. This, of course, is an untenable result. In dissent, Justice Rolle argues that the Court should give deference to the legislative branch and the Judiciary Committee as they are the parties assigned the role of apportioning Senate seats. However, judicial deference is not called for in this situation. Judicial deference is called for in situations where the other branches have carried out their assigned duties and in doing so made novel decisions that require constitutional interpretation. In those cases, the Court provides deference in the borderline cases that have no objectively clear answer. Here, the very issue is inaction and the answer is clear. As such, judicial deference is inapplicable in this situation. Hence, the Court discerns no constitutional concern in intervening in this particular case. Moreover, if such an issue did exist, the rights of the student body would necessitate the Court's intervention to safeguard the democratic process.

For the following reasons the Court chooses the map submitted by the Petitioners:

Unverified Data

All parties agree that the Court was placed in a position where it was the only avenue for approving an apportionment map in time for the Fall 2023 elections. The Court was presented with three maps that could not be more dissimilar. The decision for the Court came down to two maps as choosing the third option would have required the Court to abolish a portion of the Constitution, which was both not called for by the Petitioners and was an argument wholly lacking basis in the law.

The Court was provided with two separate sets of data for use in drafting an apportionment map, one from the Petitioners and another from one of the Counter-petitioners. The Court was unable to verify the validity and accuracy of the set of data submitted by the Counter-petitioners as they failed to submit any documentation for their data. The Court regrets this unfortunate circumstance; however, the Court is unable and unwilling to remedy this issue by considering evidence outside of the four corners of the documents already available to it as doing so would violate every principle of the Rules of Evidence. In her dissent, Justice Rolle recognizes the cold and strict nature of the Rules. The Rules leave no room for exceptions once the proceedings have started. As such, the Court was unable to assess the constitutionality of the apportionment map submitted by the Counter-petitioner and was left only with the map provided by the petitioner, which does not require the use of authenticated data as one seat is allocated to each on campus area and all previous off campus districts became one thus requiring no consideration of data.

IV. Conclusion

THEREFORE, the Court holds in favor of the Petitioners and **ORDERS** that the apportionment map submitted by Petitioners be used for the Fall 2023 election. The Court does not reach the question of the constitutionality of an all at-large apportionment of off campus seats outside of extraordinary constitutional circumstances.

It is so ordered.

VAN DE BOGART, C.J., FREEMAN, J., DEAS, J. concurring.

ROLLE, J., dissenting.

Let the record show that I agree with the Majority that the Court has a duty to provide relief on behalf of the University of Florida student body amidst this unprecedented circumstance. As Justice Brown states, it was the task of the Legislative branch, more specifically the Judiciary Committee, to present a map for reapportionment this Fall 2023 election cycle. Though the reason underlying repeated failure to meet quorum is not the subject matter before us, it is a pertinent detail currently in contention.

The functionality of the current Legislative branch is abysmal, leaving the Court with a tall task. The Majority and Minority party leaders have failed to come together to create a map that is approved by all, missing an opportunity for both sides of the aisle to act in the best interest of their constituents. That being said, the student body deserves nothing short of a fair, just, and well-planned map. Unfortunately, this shortcoming of the Legislative branch has effectively caused a transfer of the powers conferred to the Legislative branch unto the Judicial branch. Though my fellow Justices believe the data Counter-petitioner Santiago Perez provided is unverified and therefore unusable, I heed deference to the powers vested in the Legislative branch.

It is wholly unimaginable to me that the Legislative branch, further the Judiciary Committee Chair himself arguing before us today, would use data that is inaccurate to form the basis of their map. If the Majority and Minority parties would have simply made quorum to vote on the map prior to the deadlines my colleagues laid out, the Counter-petitioner's data would be put to use. No questions would come from the Court, nor the Executive branch, and we would all feel as though due diligence was aptly applied, simply by resting on the knowledge of the powers vested in the Judiciary Committee and the oath they have made to the University of Florida student body.

The Legislative branch of Government is a fact-finding branch. Its main tasks are to investigate and pass legislation based on factual discoveries. While the Judicial branch is too a fact-finding branch, it is from an adjudicative lens. Our concept of facts within the Court is on the basis of the rules of evidence, which are a strict and very formal process. In contrast, the Legislative branch conducts their factual analysis in a much less formulaic way. Thus, this distinction in the means of operation between our two branches would lead to a presentation of data that was insufficient for this Court, but acceptable for the Judiciary Committee.

I acknowledge why my fellow Justices feel that this reasoning is enough to select the Petitioner's map. However, I hold a very strong sense of deference to the Committee that was tasked to create this map. There is a time and a place to make an example of an individual's procedural errors; I believe that doing so in this case alters the purpose of the Judiciary Committee. Though the data is missing a stamp of verification from the source it is derived from, I am still inclined to believe that the Counter-petitioner, as Chair of the Judiciary Committee responsible for crafting this apportionment map, has much greater knowledge than the Court or the other Petitioners regarding the potential effects of apportionment, and therefore took greater care and understanding in creating their map. This is not a factual error, nor did any Justices express they believed the data to be falsified or incorrect (even later giving the data some validity by entertaining the 2nd Murphree seat), but rather a misstep in creating the exhibits. Just as the Supreme Court of the United States recognizes and follows judicial deference when so called to, I believe this Court is compelled to uphold this principle as well. Thus, I simply cannot agree with the Petitioner's map, and entrust my faith in the Counter-petitioner's map. I respectfully dissent.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 14, 2023

In re R&A Committee

FREEMAN, J. delivers the opinion of the Court.

The Court is tasked with determining whether the Senate President and the Student Senate inappropriately managed the nominations put forth by the Replacement and Agenda Committee, specifically those of Mikhail Mikhaylov for the vacant Senate seat, as well as similar nominations on May 23, 2023. The Petitioners make three requests:

> First, they seek to disregard all confirmations made during the May 23, 2023 Student Senate meeting that were not approved by unanimous consent of the Student Senate.
>
> Second, they ask the Court to clarify that recommendations from the Replacement and Agenda Committee should be heard within that committee.
>
> Third, they request that the Court challenge the Legislative Branch to address procedural abuse and misuse of power in handling nominations.

Jurisdiction and Standing

Regarding the first request from the Petitioners, it is crucial to note that they lack the necessary standing to make this claim. According to Article V, Section 3(b)(2), "[t]he Supreme Court shall, upon a written request from any member of the Student Body and for justifiable cause, order any Student Government official to carry out any legal action or refrain from an unlawful one." Established case law stipulates that any individual invoking jurisdiction under Article V, Section 3(b)(2) must demonstrate their eligibility to bring the claim before the Court, encompassing (1) a concrete injury, (2) traceable to the Petitioner, and (3) redressable by the Court, as articulated in *In re: "Ortiz Standing," 3 S.C. 52, 52 (September 11, 2020).* The Petitioners have failed to establish jurisdiction under Article V, Section 3(b)(2) because the petition no longer involves an injury that the Court can rectify. In other words, the Petitioners lack standing due to the doctrine of mootness, which prevents the Court from adjudicating cases without actual controversy. This incident occurred approximately four months ago, and during oral arguments, the Petitioners conceded that there is no ongoing injury arising from Mikhail Mikhaylov's pursuit of the vacant Senate seat and similar nominations. Furthermore, disregarding the confirmations now would have no practical impact.

Concerning the Petitioners' second request for relief, the Court lacks the authority to interpret Rule XI 1(b)(v) of the Rules and Procedures. According to Article V, Section 3(b)(1) of the University of Florida Student Body Constitution, "[t]he Supreme Court shall interpret any provision of the constitution or any law upon a written petition endorsed by twenty members of the Student Body or upon the request of the Student Body President." In this case, the Petitioners have not submitted a written petition signed by twenty members of the Student Body, which means

the Court lacks jurisdiction to determine whether recommendations from the Replacement and Agenda Committee should be considered within that committee.

Considering the aforementioned reasons, the Court has decided not to challenge the Legislative Branch in addressing procedural abuse and the misuse of power in handling nominations. The Court believes that intervening in this matter and granting such relief sought by the Petitioners would be an unwarranted overstep on the Court's part. This is especially true because the Senate had the opportunity to overturn the Senate President's actions but chose not to do so. Given these considerations, the Court hereby denies the Petitioners' third request for relief.

Conclusion

THEREFORE, this Court holds it lacks jurisdiction to proceed further with this matter. Accordingly, the Petitioners' petition is hereby DISMISSED.

It is so ordered.

VAN DE BOGART, C.J., BROWN, J., DEAS, J., and ROLLE, J., concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 14, 2023

Santiago Perez & Stephens v. Pierre

VAN DE BOGART, C.J. delivers the opinion of the Court.

Before the Court comes a question about the validity of the Student Body Treasurer's line-item veto of Student Senate Bill 2023-1115, the 2024-2025 Activity and Service Fee Budget. The Petitioners requested that this Court (1) nullify the Student Body Treasurer's line-item vetoes and order the Student Body Treasurer to either sign the Bill in its entirety, veto the Bill in its entirety, or allow for the ten-day period to pass and (2) hold Student Body Statute 821.7 to be unconstitutional. This Court denies both requests for relief, finding that the Student Body Treasurer's line-item veto was permissible under Student Body Statute 821.7 and Article III, Section 8(e) of the Student Body Constitution.

I. Jurisdiction

The Court has jurisdiction to hear this petition under Article V, Section 3(b)(2) cited by the Petitioners, "[The Supreme 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."

The Petitioners also cite Article V, Section 3(b)(1) to gain jurisdiction, that "[The Supreme Court] shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body; or request of the Student Body President."

II. Background

Per the Counterpetitioner's filing with this Court, on July 18, 2023, Student Senate Bill 2023-1115 underwent its first reading during the Student Senate meeting. After the presentation, question and answer, debate, and final privilege, the Senate President held a vote for Amendment 1. Then, the voter record states that 29 Senators voted in the affirmative, 34 voted in the negative, and there was one incorrect voter record. Despite the lack of a majority vote, the Senate President still passed the Amendment, which was incorporated into the Bill and subsequently passed during second readings on the July 25, 2023, Senate meeting. The Student Body Treasurer then submitted a veto by line item of all lines affected by Amendment 1 on August 17, 2023. The Petitioners declined to respond to questions regarding the Counterpetitioner's statement of facts during oral argument.

Then, on August 23, 2023, the Petitioners filed their petition with the Court, arguing that the federal Line Item Veto Act of 1996, the U.S. Supreme Court's holding in *Clinton v. City of New York* (1998), and Article III, Section 8(a) of the Florida Constitution outlines why giving the Student Body Treasurer the power to line-item veto "would violate the presentment clause within our Student Body Constitution."

III. Analysis

Although the Student Body Constitution does not specifically indicate that the Student Body Treasurer nor the President has the authority to enact line-item vetoes of any legislation presented to them, the Student Body Constitution includes their ability to veto. Then, Student Senate Bill 2023-1115 expands upon this authority to veto by including that "Each budget or line item removed from the Activity and Service Fee Budget by the Student Body President or Student Body Treasurer by line-item veto shall recur on the floor of the Student Senate no later than fifteen (15) calendar days after the last veto message has been submitted to the Senate President." Given that the Student Body Treasurer executed her line-item veto within the required calendar days under the Student Body Statute, and the Student Body Constitution does not explicitly address the issue but rather cites the action of vetoes generally, this Court is not inclined to find that Student Body Treasurer line item vetoes are unconstitutional.

Further, during oral argument, the Student Body Treasurer mentioned how the Student Body Constitution was last amended in 2016, almost twenty years after the U.S. Supreme Court decided *Clinton v. City of New York*, but still did not include a provision about the requirement that vetoes be utilized only as to the entirety of legislation. The Court finds this argument persuasive. Additionally, the Court seeks to clarify that Court decisions about veto power are about the veto power under Student Body Statutes and the Student Body Constitution, not the U.S. Constitution. If the Court interpreted every issue that came before it under federal or state law instead of student government law, there would be no need for the University of Florida to have its own student government laws.

Moreover, in an educational, student-government setting, the assumed facts of this case color the situation and make way for why the Court declines to step in the shoes of the legislative branch. Also, both Petitioners are, notably, members of the legislative branch, as the Senate President and Judiciary Committee Chair, so the Court encourages them to find change through the legislative process if they choose to continue to pursue their claims.

IV. Conclusion

THEREFORE, this Court denies the Petitioners' requests for relief and grants the Counterpetitioner's request for relief, holding that the Student Body Treasurer acted within their authority by line item vetoing Student Senate Bill 2023-1115 under Article III, Section 8(e) of the Student Body Constitution and Student Body Statute 821.7.

It is so ordered.

BROWN, J., DEAS, J., FREEMAN, J., and ROLLE, J., concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided November 29th, 2023

Spring 2024 General Election Date

VAN DE BOGART, C.J. delivers the opinion of the Court.

The Court finds that the Spring 2024 general election must be from February 27th through 28th, 2024.

I. Jurisdiction

Under Section 3(b)(2) of Article V of the University of Florida Student Body Constitution ("Constitution"), the Supreme Court shall have jurisdiction "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." Further, Article V, Section 4 of the Constitution states the Supreme Court "may issue any writ necessary to the complete exercise of its jurisdiction."

II. Background

On April 28th, 2023, the Student Senate passed Student Senate Resolution 2023-1042 ("Resolution"), which authorized "[the] Supervisor of Elections to hold the Spring 2024 general election on February 20th and 21st and, if needed, a runoff on February 27th and 28th, to allow the runoff to be before Spring Break." After this Resolution passed, the University of Florida's 2024 Spring Break dates changed from March 3rd through 9th to March 9th through 17th.

The conflict regarding this change stems from Sections 3 and 4 of Article VI of the Constitution, which specify dates for the spring general election and runoff elections. With the new Spring Break dates, a spring runoff election cannot occur on the dates stated in the Resolution.

III. Analysis

The Spring 2024 general election must be from February 27th through 28th, 2024, to align with the Constitution. Spring Break interferes with the runoff election dates in the Resolution.

IV. Conclusion

THEREFORE, the Court declares Student Senate Resolution 2023-1042 unconstitutional and that the Spring 2024 general election must be from February 27th through 28th, 2024.

It is so ordered.

BROWN, J., FREEMAN, J., ROLLE, J., DEAS, J., concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 6, 2024

Petition on Article III, Section 2 of the University of Florida Student Body Constitution

DEAS, C.J. delivers the order of the Court.

THIS MATTER comes before the Court upon a petition filed under Article V, Section 3(b)(2) of the Student Body Constitution, seeking a directive to address discrepancies in the wording of Article III, Section 2 of the University of Florida Student Body Constitution. Petitioners request that this Court (1) order the update of the Constitution on the University of Florida Student Government website to reflect the appropriate version of Article III, Section 2 and (2) provide guidance to students on how to rectify potential errors within the Constitution. This Court denies both requests for relief, finding that this case be dismissed on the doctrine of primary jurisdiction.

Upon review, the issue pertains to administrative functions, specifically the maintenance and updating of the Student Body Constitution on the Student Government website. Such matters fall within the expertise and specialized knowledge of the designated Student Government Advising and Operations ("SGAO") officials, rather than the judiciary. The doctrine of primary jurisdiction requires courts to defer to administrative bodies that maintain competence to resolve corresponding issues. See *United States v. Western Pacific Railroad Co.*, 352 U.S. 59 (1956). When a case involves technical matters that fall under the purview of an administrative body, the Court may dismiss the case and allow the body to decide the matter first. In this instance, SGAO shall address the issue prior to judicial intervention.

Accordingly, it is hereby ORDERED that:

1. This case is DISMISSED without prejudice, as it pertains to an administrative matter to be resolved by the appropriate administrative authorities within the University of Florida Student Government.

2. Petitioners may seek resolution through the appropriate channels, such as the SGAO, responsible for maintaining the Constitution and website.

It is so ordered.

KENDRICK, J., MCCLAY, J., POTTHAST, J., and MILLER, J., concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided September 6, 2024

In re Fall 2024 Election Map

MCCLAY, J. delivers the opinion of the Court.

The Petitioners ask the Court to find (1) that the principle of "one person, one vote" does not fully apply to Student Government elections and (2) that an "all at-large off campus [sic] district" is unconstitutional "under ordinary constitutional circumstances."

Jurisdiction and Standing

The Petitioners seek jurisdiction under Article V, Section 3(b)(1)(A) of the Student Body Constitution, which provides that the Supreme Court "shall interpret any provision of the constitution or any law" upon receipt of written petition of twenty members of the Student Body.

This path to jurisdiction is out of step with the Petitioners' requested relief. Section 3(b)(1) does not authorize this Court to serve as a sounding board for petitioners to test the constitutionality of policy ideas or legal theories. Rather, section 3(b)(1) permits this Court to interpret specific provisions of a law or the Student Body Constitution. Even then, this Court should not be expected to, upon a proper assertion of section 3(b)(1) jurisdiction, pontificate on every possible meaning or application of a law or constitutional provision.

This case is distinct from *Students for Fair Representation v. Halle*, 4 S.C. 21 (2023). The petitioners in that case sought more from this Court than a pronouncement of a legal rule. *See id.* Rather, those petitioners sought to have a specific electoral map declared unconstitutional in light of a specific interpretation of a specific constitutional provision. *See id.*

If jurisdiction under section 3(b)(1) operated as the Petitioners seem to believe, this Court would experience a cascade of petitions laying out a policy idea or legal theory and broadly asking, "Is this constitutional?" Such an interpretation of section 3(b)(1) would thrust this Court to the forefront of the political process. I find it hard to believe the authors of the Student Body Constitution contemplated such a role for this Court.

Conclusion

THEREFORE, this Court holds it lacks jurisdiction to proceed further with this matter. Accordingly, the petition is DISMISSED.

It is so ordered.

DEAS, C.J., KENDRICK, J., POTTHAST, J., and MILLER, J., concurring.