

University of Wisconsin-Green Bay

Student Government Association

Student Court

Chief Justice Mach, Associate Justices Czypinski, Ruud & Schmidt

NO: SC2008(1)

NO:SC2008(2)

IN THE MATTER OF BIRDSALL & REPKA
RE: ELECTION COMPLAINTS

Filed: March 24, 2008

Opinion Releases: March 27, 2008

CHIEF JUSTICE MACH delivered the opinion of the Court.
ASSOCIATE JUSTICES CZYPINSKI & SCHMIDT concurred.
ASSOCIATE JUSTICE RUUD did not participate in SC2008(1), and concurred in
SC2008(2).

Section I

We, Justices of Student Government Association Student Court, recognize and respect the rights of all university students to be active participants in all aspects of university governance. In upholding and rendering impartial decisions based on Student Government Association's Constitution and Judicial Bylaws, the Court is responsible for the creation of standing rules governing its behavior consistent with such documents and policies. Article III, Section I, Part (V) of the Constitution gives the Court responsibility for Student Government Association elections each year. Additionally, the Court is to take care that all elections are conducted truthfully and fairly, and according to such rules as the Court, subject to the Senate's will, shall make. Moreover, the Court is charged with adopting standing election rules. For the purposes of this opinion, the Court references the elections rules approved by the Student Senate in May 2007.

In regards to an election complaint filed by BIRDSALL & REPKA on March 24, 2008, the Court has considered the validity of overturning a failed motion to approve BIRDSALL & REPKA'S election materials. As it stands, Student Government Association's election rules explicitly state that all "candidates running for SGA Presidential office are required to complete and return all election materials at the time and place designated by the Court. Additionally, no late submissions will be accepted" (Section II, Part B (i)). The election materials were made available to the student body on February 29, 2008. Election materials were to be completed and submitted to the Court on March 14, 2008 at 4:30 p.m. As such, potential candidates had approximately two weeks time to complete their nomination papers, biographical sketch, and candidate

contract. Pursuant to Section I, Part A (iii) of the election rules, “All candidates for SGA elected offices must read, sign, and submit a candidate contract which outlines election rules and expectations.” Moreover, failure to sign the candidate contract bars any candidate from appearing on the ballot.

The Court was in receipt of BIRDSALL & REPKA’S election materials on March 14, 2008. On March 24, 2008, the Court convened to review submitted election materials. In turn, those candidates that successfully obtained the required signatures, submitted a biographical sketch, and signed the candidate contract were approved to appear on the ballot. In reviewing BIRDSALL & REPKA’S election materials, the Court had not received a signed candidate contract—a requirement under Section I, Part A (iii) and Section II, Part B (i) in Student Government Association’s election rules. Without a signed candidate contract, BIRDSALL & REPKA did not attest to the truthfulness of their nomination papers, their understanding of Student Government Association’s election rules or that the Court is the sole venue of remedy for any challenge, problem or discrepancy with the ballot, vote, tally or certification of the Spring 2008 election. Moreover, the candidate contract holds candidates accountable for their actions and solidifies the Court’s authority to penalize election infraction. The fact is, no materials, no candidacy. No candidacy, no penalty. As such, this writer motioned to approve BIRDSALL & REPKA’S election materials, by which JUSTICE SCHMIDT seconded. The motion was called into question. By a vote of 0-4, the motion to approve BIRDSALL & REPKA’S election materials failed. BIRDSALL & REPKA were notified of the Court’s decision on March 24, 2008

Section II

In an attempt to challenge the Court’s decision, BIRDSALL & REPKA filed an election complaint on March 24, 2008. In redressing the failed motion, BIRDSALL & REPKA requested a hearing of the Court regarding their ballot status. This writer, including JUSTICE CZYPINSKI, consulted with BIRDSALL & REKPA at which the Court solicited oral arguments from the candidates. From their argument, it was apparent BIRDSALL & REPKA were unorganized the week election materials were due. In fact, BIRDSALL & REPKA admitted to overlooking the required candidate contract. More importantly, BIRDSALL & REPKA were unable to reference any specific legislation or election rule that would grant an exception to their incomplete election materials. Nonetheless, BIRDSALL & REPKA asked the Court to reconsider approval of their election materials and ballot status.

Section III

As such, the Court reconvened on March 25, 2008 to discuss the validity of balloting a ticket without a signed candidate contract in light of BIRDSALL & REPKA’S oral arguments. It was agreed among the Justices that the election rules are unambiguous in regards to candidates’ duties to complete and return all election materials in a timely manner. As it stands, the Court has no means to redress BIRDSALL & REPKA’S complaint. To ballot BIRDSALL & REPKA would be a violation of Article 3, Section 1, Part 5 in the Constitution which charges the Court to conduct elections fairly and truthfully, and according to such rules as the Court, subject to the Senate’s will. Meaning,

the Court cannot arbitrarily adhere to only those rules to which it pleases. The election rules are Senate approved policies by which the Court unconditionally observes. Moreover, modifications to the elections rules must be made 60 days prior to an election. In retaining credibility as an impartial body of Student Government Association, the Court cannot ballot BIRDSALL & REPKA in light of conducting a fair and truthful election.

As such, the Court *affirms* its decision to deny approval of said election materials and the legitimacy of BIRDSALL & REPKA'S candidacy.