

University of Wisconsin – Green Bay

Student Government Association

Student Court

No. SC04172007(1)

MAYLANDER v. FOURTH ESTATE

RE: Editor in Chief Elections

Argued: 17 April 2007

Opinion Released: 19 April 2007

PETITIONER:

Maylander,
represented by
Timothy L. Maylander

RESPONDENT:

Fourth Estate,
represented by Dan L.
Whelan & Curt H. Haag

The petitioner seeks judgment on the propriety of the Fourth Estate Advisory Board's decision to invalidate and re-conduct the spring 2007 election of Fourth Estate Editor in Chief.

In this matter, six issues stand before the Court and are outlined below:

1. Does the Fourth Estate Constitution allow multiple candidates to run on the same ticket for the position of Editor in Chief?
2. Assuming multiple candidates are allowed; since the term requirement for Editor in Chief is one year, is a multiple candidate ticket eligible if one or more of the candidates cannot fulfill this obligation?
3. Does the Advisory Board have the authority to invalidate and re-conduct an election?
4. Assuming multiple candidates are allowed; does the ineligibility of one candidate on a multi-candidate ticket render the entire ticket ineligible?
5. What authority does the Advisory Board have to appoint members to its body at their own discretion?
6. In the event that an election is invalidated, should additional candidates be allowed to run for the position of Editor in Chief?

A primary issue that must be resolved before responding to the aforementioned disputes is whether an election actually took place for the position of Editor in Chief during the spring of 2007. According to the Fourth Estate Constitution, Article VIII, Section C, "A simple majority vote of the Advisory Board, providing quorum is reached, is required to...[Item 3] Appoint the Editor in Chief and/or Business Manager". This never took place. Only one vote was cast (by the Fourth Estate Staff). Therefore, the requirement of a simple majority vote of the Advisory

Board was never met, and no election actually took place. Thus, it is necessary that an election take place for the Editor in Chief position to be filled.

As for the remaining disputes, the Court determines that the position of Editor in Chief is to be filled with a single candidate. The Constitution not only clearly states the position singularly, but also provides no direction for conflict resolution if two Editors in Chief should exist. For instance, the Constitution does not provide a procedure for handling two conflicting decisions made by the co-Editors, or for sharing honorariums. It is the Court's opinion that the letter and spirit of the Fourth Estate Constitution intends a single Editor in Chief.

Since the Editor in Chief position can only be filled with one candidate, the issue of whether all candidates on a multi-party ticket must fulfill the one-year term requirement is moot. A multi-candidate ticket is ineligible.

The Constitution does not allow the Advisory Board to invalidate any election of the Editor in Chief, but only to recall and remove the Editor in Chief in particular situations outlined in Article VI, Section D. Since the Court determines that no election took place, the Advisory Board made no recall election. It is the Advisory Board's responsibility to conduct the initial election through conclusion.

It is the Court's opinion that multi-candidate tickets are deemed ineligible in the Constitution; therefore, an entire ticket is ineligible if it contains multiple candidates. Furthermore, as in any candidacy or group/team effort, if one participant is ruled ineligible, then the entire group, team, or ticket is ineligible.

According to the Constitution, Article V, Section C, the SUFAC Chair is one of the members of the Advisory Board, and, in his/her absence, can designate his/her replacement. It is the Court's opinion that this was done properly. Similarly, when the Fourth Estate Org Liaison is unavailable, the Faculty/Staff Adviser may designate his/her replacement. This, too, was done properly. However, as per Article V, Section F, neither the incumbent Editor in Chief nor the incumbent Business Manager may vote. Therefore, it is the Court's opinion that Matt Coopman is ineligible to vote in the Editor in Chief election.

Since the election on 19 April 2007 proposed by the Advisory Board is not a recall election, but a standard election, standard election rules apply. Per Article IX, Section A, "applications will be due at least a full day prior to the Fourth Estate staff meeting."

The Court's judgment in this matter could have been more helpful earlier in the election process. The Court recommends that the Fourth Estate Constitution be clarified as to what party shall interpret the Fourth Estate Constitution. The Student Court is willing to accept this responsibility if the Fourth Estate so designates it within their Constitution. The Fourth Estate should also consider revising and clarifying their Constitution to reflect whether co-Editor's in Chief should be allowed and, if so, what the procedures are for resolving conflicts between the two (or more) Editors and how the honorarium should be divided between them.

Justices Voting in Favor of this Opinion: Schmidt, Lund, Ruud, Krambs

The minority viewpoint in the matter of Maylander V. The Fourth Estate holds that since one of the parties running for the Fourth Estate Editor In Chief ran as a multiple candidate ticket, which is clearly not allowed under the Constitution, no further course of action in this election by the Advisory Board is required. After voting had already started (the 4E staff vote had been cast) one member of the multiple candidate ticket was deemed ineligible. Thus, the whole ticket should be deemed ineligible as well, and the election should conclude with a decision for the single remaining eligible candidate.

This viewpoint maintains that whether by direct constitutional violation (no multiple candidate tickets allowed) or by candidate ineligibility (a candidate subsequently deemed unable to meet the length of term conditions of the office), one ticket for the 4E office was determined to be ineligible to run for the office of Editor in Chief. Furthermore, there is no persuasive reason, either in the Constitution or in the Advisory Board's authority, that the ticket which was deemed ineligible should be allowed to run again as a single candidate ticket after being deemed ineligible for the original ballot. Therefore, it is the dissenting opinion that Mr. Maylander, in fact, be declared the Editor in Chief as the only eligible candidate in the initial election.

The Advisory Board is encouraged to advise candidates in advance of the election on such fundamental matters as eligibility for candidacy, and a review/revision of the Fourth Estate Constitution is recommended. The Student Court stands willing to assist in these matters if called upon.

Justices Voting In Favor of this Opinion: Rieckmann,