*In re Grant Daily*

Student Senate Court of Appeals

Student Body President:

The following serves as the Court’s **preliminary findings** as to the Court’s jurisdiction to hear Petitioner, Grant Daily’s, claim for relief. This is not an Opinion of this Court for the reasons discussed below. This opinion does not reach Petitioner’s claims on the merits.

**Jurisdiction:** This Court is of the opinion that it possesses original jurisdiction to hear Petitioner’s Claim for Relief. Article III clearly states that

“The Student Senate Court of Appeals will be the primary arbiter of all disputes arising under the application of Student Senate Rules and Regulations. This includes but is not limited to substantive and procedural appeals of decisions coming out of committees, fee boards, student executive committee, and general session.  The court will have the following authorities within its role as the final arbiter of disputes.”

Art. III. Sec. 1.1. Clearly the removal of an executive officer is within this Court review powers. Both Petitioner and Respondent have suggested this Court pass the issue to the University Judicial Board prior to resolving the substantive issues in the Claim for Relief. However, this Court has the jurisdiction to,

adjudicate cases and controversies brought before it that arise under Student Senate Rules and Regulations. This shall include, but not be limited to, reviewing and striking sections of the Rules inconsistent with student rights, reviewing and reversing actions inconsistent with SSRR taken by members of Student Senate, its executive staff, or its affiliates, and all other cases requiring immediate, as opposed to appellate, action.

Art. III, Sec. 1.2. This Court has been asked to evaluate a claim that sounds in kind to require an evaluation of both the removal of an executive officer, which requires a factual finding by this Court, and to evaluate its proper procedure for resolving vacancies. This Court must exhaust its original jurisdiction and issue a preliminary opinion prior to allowing an appeal from its decision.

**Vacancies:** This Court only consists of one (1) member who is otherwise qualified under Art. III, Sec. 2. But, Art. III, Sec. 2.1 requires the Court consist of five (5) members. The Court has had such vacancy for more than thirty (30) days but the Student Body President has taken no evidencable action to fill these vacancies. Art. III, Sec. 4.1, *et seq.* outlines the procedure for resolving vacancies on the Court. Art. III, Sec. 4 clearly vests the responsibility of filling vacancies with a special committee:

In the event a vacancy occurs during the term a selection committee will be called **immediately after a vacancy has occurred** and present its nominations to senate for two-thirds (2/3) approval within two (2) weeks of the vacancy.

Art. III, Sec. 4.3. Section 4.1 details the required membership of the Special Committee. This Court interprets Section 4 as requiring the President to appoint a special committee. Though not stated in the text of Section 4, elsewhere in SSRR, the President is granted the responsibility of assembling Special Committees. It follows that Section 4’s requirement would “carry the soil” of similar requirements.

However, under a textual interpretation of Section I, this court could not issue an interpretation of SSRR membership violations without issuing an opinion. Thus, if the President did not proactively fulfill these vacancies, the Court would have no power to evaluate potential code violations and Article III would be moot. This cannot be the case. It is long standing judicial precedent that the balance of powers in a bureaucracy may not be abused for the advantage of one singular branch. This Court’s powers vest in the interpretation of Student Senate Rights and Regulations. This Court has the power of Judicial Review and the authority to define both procedural and substantive terms in “ways consistent with legal terminology.” Art. III. Sec. 1.1.1. Thus, this Court is of the opinion that it is procedurally proper for this Court to issue a Writ of Mandamus to the President to fill the current vacancy on this Court.

This Court is of the opinion that the Student Senate Court of Appeals must meet the membership qualifications prior to issuing an opinion on this matter. Until an opinion is certified, because this Court has original jurisdiction, no appeal from this body can take place. The Student Body President must immediately appoint a special committee to fill these vacancies or the Court will appoint its own members in order to fulfill its requirements under Article III.

Finally, Petitioner suggested that this Court lacks the additional requirements under Section 7.1. I believe Petitioner is referencing the following: “Justices shall be required to attend one (1) Student Senate general session meeting per academic semester.” Though this Justice has not yet fulfilled this requirement, the academic semester for Spring 2020 is not complete and the rule does not specify that any justice must fulfill Section 7.1.1 prior to exercising its powers under Article III. Thus, the Court meets this requirement.

/s/ *Zachary A. Kelsay*

Chief Justice, Student Senate Court of Appeals

CC//Senate Communications Director, Grant Daily, Senate Chief of Staff