

The Student Body Supreme Court of Indiana University

In Re Petitions Challenging the Indiana University Student Association Elections Code

Docket Number: SBSC-2008-04

The Student Body Supreme Court of Indiana University received two separate petitions challenging the *Indiana University Student Association Elections Code* (“Elections Code”) from individuals Megan Robb and Alexander Shortle. Specifically, Petitioners each challenged and requested a clarification of Title VIII, Section 802 of the Elections Code. Petitioner Shortle also challenged the constitutionality of Elections Code Title IX, Section 907, and Title XI, Section 1104. Pursuant to *Indiana University Student Association Constitution* (“IUSA Constitution”), Article IV, Section 5, subsection (c), the petitions are accepted and the Court grants a *writ of certiorari*.

Chief Justice FitzGerald and Justice Dammu delivered the opinion of the Court.

Title VIII, Section 802 of the Elections Code (2007 version – for which, incidentally, no written record of ratification exists in Congressional minutes) outlines the procedures for disqualification of a candidate or ticket if found in violation of any section or sections of Title VI. According to Section 802, any disqualification by the Elections Commission must then also be confirmed by a two-thirds (2/3) vote of the Indiana University Student Association Congress. A narrow reading of this section indicates that the Elections Commission, not the Student Body Supreme Court, is the highest entity in the judicial process.

Title IX, Section 907 of said Elections Code states that in cases of disqualification by the Elections Commission that are upheld by the Supreme Court, such disqualification must then be submitted to Congress for approval, which cannot be appealed further.

Finally, Title XI, Section 1104 of said Elections Code states, “Congress shall have the authority to confirm a ticket or candidates’ [sic] disqualification by the Elections Commission not reversed under proper appeal by the Student Body Supreme Court. Disqualification confirmations by Congress cannot be appealed.”

The Court finds that an internal conflict may exist between Elections Code Sections 802, 907 and 1104 and Elections Code Section 1001, which states that the “Supreme Court shall have the final authority over all properly appealed IUSA Election and referendum disputes.” Furthermore, it appears that the conditions ordered by Sections 802, 907 and 1104 could stand in clear violation of Article IV, Section 2 of the IUSA Constitution, which grants the Court the right to adjudicate election disputes.

Finally, it also appears that these sections of the Elections Code could be in violation of Article V, Section 4 of the IUSA Constitution which establishes the supremacy of the IUSA Constitution and

specifies that no bylaw or resolution may be in conflict with it. According to Article VI, Section 4 of the IUSA Constitution, the Elections Code is a set of bylaws adopted by Congress.

Thus, the Court accepts the petitions filed by Petitioners Shortle and Robb which challenge and request interpretation of Sections 802, 907, and 1104 of the Elections Code. The Court grants a *writ of certiorari* and will hold a public hearing after allowing seven days for submission of *amicus curiae* briefs pursuant to Article IV, Section 5, subsection (e) of the IUSA Constitution.

Justices Albin, Bowers, Fishburn, Howard, Isaacs, Maloney, Martin, Udoff and Whited joined in the Court's opinion.