ASSOCIATED STUDENTS OF UCI

Judicial Board

INJUNCTION 02: Pavey et al. v. Robb et al.

BY ORDER OF THE ASUCI JUDICIAL BOARD

Dated: July 19th, 2020

By Order of the ASUCI Judicial Board

In a procedurally unusual, but constitutionally necessary action, this Board hereby initiates our Art. 8 powers to strike down the unconstitutional action of the Senate.

Rule.

Per the ASUCI Judicial Code §7.1.4.1, the ASUCI Judicial Board has the power to issue preliminary injunctions. The ASUCI Constitution grants the ASUCI Judicial Board the "final judicial authority for ASUCI, which extends to all cases arising under the governing documents of ASUCI, all official actions of ASUCI officials and staff." ASUCI Constitution, Art 8. §2. For these reasons, under our authority to strike down unconstitutional behavior, we hereby, provide the following reasoning to our order.

Functionally, the Judicial Authority includes the enumerated power, "To nullify any measure that is considered unconstitutional and ordering the immediate halt of those actions." ASUCI Constitution, Art. 8 §2(f). Moreover, Art. 8 §2(g) of the ASUCI Constitution provides clear identification of the role of the Judicial Board, explicitly stating that the Board has the power "to judge the constitutionality of actions by the Executive Cabinet, Senate, Student Advocate General, and Elections Commission and ordering the halt of actions that are judged to be unconstitutional." As such, our Board holds the power to declare unconstitutional pieces of legislation - or those actions emerging out of them - unlawful.

Today we find the actions of the ASUCI Senate to be unconstitutional and order the halt of those actions immediately on the grounds of contempt of judicial authority. In short, by ignoring an explicitly issued order, the defendants ran afoul with the Judicial Board's enumerated powers. *See again:* Art. 8 §2(f), and Art. 8 §2(g).

More specifically, on July 18th, 2020, the ASUCI Judicial Board issued an injunction against legislation R56-09. The exact text of the injunction is as follows:

"On July 17th, the Elections Commissioner petitioned the Judicial Board for injunction against the ASUCI Senate allegedly improperly considering legislation dealing with a referendum. See: Pavey et al. v. Robb et al. The defendant, while notified and confirmed notification, did not formally respond.

Therefore, the Judicial Board, by a unanimous consensus, in order to properly examine the issue, and pursuant to our authority under §7.1.4.1 of the Judicial Code, hereby enjoin the Senate to rescind or postpone the proposal of R56-09, subject to the findings of our board.

Subsequent legislations, dependent on the results of R56-09, are therefore voided until the preliminary injunction is either terminated by the Judicial Board, or the case is adjudicated."

During the ASUCI Senate Meeting on July 19th, 2020, the ASUCI Senate, and the corresponding defendants violated the Judicial Board injunction to rescind or postpone the proposal of R56-09 by considering and voting on the legislation. We find this action unconstitutional and thus order the immediate invalidation of the Senate's actions on R56-09.

In connection to this injunction, Senator's usurped the due process standards outlined in the ASUCI Bylaws. In doing so, in the discussion on R56-15, many Senate members also failed to understand the voting power of the Senate President as outlined by the ASUCI Constitution in Art. 6 §3(a), §2(b): "To vote only when it would affect the outcome, as permitted by the ASUCI parliamentary authority." Furthermore, the parliamentary authority, in contrast to misrepresentation by certain senators, does allow the Chair to vote: "the presiding officer, if a member of the assembly, can (but is not obliged to) vote whenever his vote will affect the result…" RONR (11th ed.), p. 405, ll. 19 - 20. In the context here today, the legislation in question seeks to impeach this Judicial Board, which the ASUCI Constitution states the Senate can do when the following conditions are met: "To impeach all Justices at the same time for neglect of duty, malfeasance, or misconduct by a unanimous vote." ASUCI Constitution Art. 6 §2(q). The Senate President, being able to effectively decide the vote, therefore meets the sufficient conditions to vote, if he so chooses so. And because he did so, and in conjunction with our order which would have made any such legislation without due notice unlawful, we strike down R56-15. *See also:* "§5.2. *Notice.* Resolutions and Bills require a three (3) academic day public notice prior to introduction. Notice provisions may not be suspended."

Indeed, in normal circumstances, this Court would not involve itself in the decorum of the deliberative assembly; of course, in times of great unrest, the Board involved itself in matters in which a Senator's fundamental, natural rights were violated. *See, e.g. JUDICIAL RULING ON R54-03: By-Laws Amendment: Censure of a Senator:* "[it is an injustice for] a majority of Senate members [to] silence a fellow representative and that representative's constituents, an action that is both unconstitutional and grossly undemocratic. Insofar as a Senator maintains his or her position, he or she maintains the right and responsibility to vote, and it is therefore decidedly against the powers of the Senate to abridge said right and responsibility." As such, we act here today, in connection solely to our injunction in *Pavey et al. v. Robb et al.* (2020), to protect ASUCI from a grave perversion of representation.

Finally, the Senate's behavior runs afoul with our basic, codified ideas of decency and respectful debate. This court, in adherence to the RONR requirement that "Debate must be confined to the merits of the pending question," RONR (11th ed.), p. 43, ll. 15 - 16, would remind Senators that personal attacks are unlawful. In doing so, we would remind our fellow peers that, "Speakers must… maintain a courteous tone, and - especially in the divergence of opinion - should avoid

injecting a personal note into debate... To this end, they must never attack or make any allusion to the motives of members." RONR (11th ed.), p. 43, ll. 15 - 20. To engage in personal attacks, to leverage coercive and unprofessional behavior, is unbecoming of our representative republic.

Order.

Pursuant to our reasoning, the following is hereby ordered:

1. R56-09 is hereby struck and declared unlawful, with the defendant's held in contempt. Case opinion, *Pavey et al. v. Robb et al.* is hereby dismissed, as no legislation exists to provide standing.
2. All subsequent, relevant pieces of legislation connected to R56-09, as reflected directly by the ASUCI docket and lawfully posted are hereby declared null and void:
    a. R56-10;
    b. R56-11;
3. R56-15, and all other legislations improperly brought forward, are hereby declared null and void.
4. Pursuant to requests by the Elections Commission, "verification" notices on the ASUCI referendum website can only be projected to the public only if the Elections Commissioner approves so.

BY ORDER OF THE JUDICIAL BOARD,

Kimo Gandall
Chief Justice

Logan Knight
Associate Justice

Joshua Wolfe
Associate Justice

Heriberto Mendez
Associate Justice

Nick Ortiz
Associate Justice