



ASUCI Judicial Board

“The Judicial Board has 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, and any matters delegated to the Judicial Board by the Senate or Student Advocate General.”

Judicial Dissent on R56-63: “Winter 2021 Impeachment of the Elections Commissioner and Deputy Elections Commission”

Note: This is a dissenting opinion to the Board's recent majority opinion to not impeach the Deputy Elections Commissioners (Gabriel ZANIPATIN, Derek LITTLEJOHN, Daniel PALAFOX and Max SIDDIQI) and has nothing to do with the impeachment of Ryan PAVEY, the Elections Commissioner.

VINE, K.; MALIK, A.; LAU, V.; and HERNANDEZ, S.; upheld the resolution in part.

LONGINO, G. filed a dissenting opinion, joined by FERAGALLO-HAWKINS, K.; and SERRANO, J.

Justice Longino, dissenting

I

A majority of the Board has recently found Deputy Elections Commissioners, Gabriel ZANIPATIN, Max SIDDIQI, Derek LITTLEJOHN and Daniel PALAFOX, to not be complicit in the actions, or lack thereof, of their superior Mr. Ryan PAVEY. Specifically, for not conducting a special election after a student's Direct Democracy petition was validated. I disagree with such a ruling as I believe that the Deputies had a responsibility to conduct a special election even if their "leader" PAVEY failed to do so. This dissenting opinion focuses on the role of any subordinate positions within an ASUCI deliberative body or commission and how they should conduct their business and fulfill their duties. In particular, I dissent that subordinate positions have an additional responsibility to hold their superiors accountable and, if called for, perform the ignored duties of a superior.

II

As it pertains to the details of this situation, the ASUCI Senate (Petitioner) argues in their legislation R56-63 that all Deputies were complicit in the actions of Mr. PAVEY to ignore the Direct Democracy petitions recalling the former Judicial Board and the Elections Commission themselves. Petitioners claim that PAVEY did not call the special election in a timely manner (3 days) as outlined in the Constitution (Art. 12, § 1, Part. c). However this constitutional duty calls for the immediate action of the "Commission" and not solely the action of the Commissioner. Therefore I believe that any and all members of the Commission have this responsibility and, unless noted otherwise, should act in accordance with their constitutional duties aside from any other members possible neglect of duty. I would like to note that this opinion is not arguing that the *actions* of a commission's leader makes all subordinate positions complicit, or casualty of such actions, rather I am solely speaking to the *inactions* of leadership. I argue it is the responsibility of any* subordinate position, unless otherwise restricted to do so, to report or fulfill any duties of a superior if said superior:

- 1) ignores their duty
- 2) fails to *properly* conduct their duty
- 3) inappropriately or ignorantly dismisses the requests or opinions of any subordinates

*Some positions within ASUCI have no subordinate positions and/or these subordinate positions have limited responsibilities that do not authorize them powers to fulfill their superiors duties. However I believe this is not the case for the Elections Commissioner and the Deputy Elections Commissioners.

III

I believe it is especially important to note that during the Formal Hearing, all Deputies proclaimed how they were an equal to Mr. PAVEY and not necessarily his subordinates. I feel as though this means we can now hold the deputies to a higher standard to fulfill any Commission duties. If they were truly participating as an “equal” to Mr. PAVEY, they now take it upon themselves to act on any and all duties of not just the Commission but the Commissioner. The Formal Hearing also presented evidence that the Commission would actively meet when there were “important” matters to be discussed. Considering a special election is a significant matter, one can assume a Commission meeting would be called. Mr. PAVEY and some Deputies claim they did call the special election in response to a Direct Democracy petition in September of 2020, therefore we presume a planning meeting was, in fact called. However, evidence of meeting minutes showed that there was no meeting called to plan out a special election and when questioned about such, most Deputies responded that they did not “recall”. With no physical evidence of a meeting or testimony about one, it is hard to believe that a special election was discussed and subsequently called. Additionally, as “equals” to Mr. PAVEY the Deputies claim they were completely comfortable with addressing any misconduct or neglect of duty on PAVEY’s part. However when we see an instance of PAVEY’s alleged neglect of duty, no Deputy took on the responsibility to approach PAVEY and/or fulfill the neglected duty. This is where I find the Deputies to be complicit or, to be more transparent, this is where I find the Deputies to be irresponsible, thus neglecting *their* constitutional duty.

IV

In conclusion, I find the previously mentioned irresponsibilities of the Deputy Elections Commissioners as

“equals” to the Commissioner to be an impeachable offense.
Thus the ASUCI Senate can, and did, charge them as
authorized by the Constitution (Art. 6, § 2, Part o).

In dissent, Giovanni LONGINO

Associate Justice

Joined by Kai FERRAGALLO-HAWKINS

Associate Justice

and

Jose Andrés SERRANO

Chief Justice