ASUCI JUDICIAL BOARD

ASUCI Senate.

v.

Ryan Pavey,
Gabriel Zanipatin,
Derek Littlejohn,
Daniel Palafox,
Max Siddiqi

Petitioner represented by Senate President, Mr. Ivan Fonseca
Defendants represented by Mr. Kimo Gandall

Ruling

Dated: March 12th 2021

This board delivers the following opinion with *Chief Justice* SERRANO, J.; *Vice Chief Justice* VINE, K.; *Associate Justices* FERRAGALLO-HAWKINS, K.; HERNANDEZ, S.; LAU, V.; LONGINO, G. and MALIK, A. joining.

Synopsis

On January 14th, 2021, R56-63 (Winter 2021 Impeachment of the Elections Commissioner & Deputy Elections Commissioners) was passed by the senate calling for the impeachment of Ryan PAVEY, the Elections Commissioner, and the Deputy Elections Commissioners Gabriel ZANIPATIN, Derek LITTLEJOHN, Daniel PALAFOX and Max SIDDIQI. The Petitioner calls for Ryan PAVEY's impeachment on the grounds of neglect of duty for not calling a special election, failing to attend Executive Meetings, an unconstitutional donation to a campaign, and perjury. As it pertains to the Deputy Elections Commissioners, the Petitioners argue that they all are complicit in the alleged failure to call a special election by Ryan PAVEY.

Counsel for the Defense contests the individual claims against Ryan PAVEY and challenges the complicity claims against all Deputies. THUS, the Board decided to call for a Formal Hearing to hear vital testimony and review evidence. As authorized by the ASUCI constitution, we have compiled this opinion to reflect our thoughts on all matters presented to us.

Ruling

Is Ryan PAVEY in violation of Art. 5, § 1(b) of the ASUCI Constitution -- no member of the Elections Commission "must not have made a financial donation to an ASUCI candidate for elected office within the preceding year"?

Vote Tally: Yea: 7, Nay: 0, Abstain: 0

Is Ryan PAVEY in violation of Art. 7, §1(c) of the ASUCI Constitution -- the Elections Commissioner "shall serve as an advisory, non-voting member of the Executive Cabinet" -- by failing to attend Executive Cabinet meetings?

Vote Tally: Yea: 1, Nay: 4, Abstain: 2

Is Ryan PAVEY in violation of Art. 10, §2(d) of the ASUCI

Constitution -- the Elections Commission has the authority "to receive and validate all direct democracy petitions outlined" -- by failing to conduct a special election in response to a Direct Democracy petition?

Vote Tally: Yea: 0, Nay: 5, Abstain: 2

Are Deputy Election Commissioners Gabriel ZANIPATIN, Derek LITTLEJOHN, Daniel PALAFOX and Max SIDDIQI complicit in ignoring the students' direct democracy petitions?

Vote Tally: Yea: 3, Nay: 4, Abstain: 0

Discussion

ON DONATIONS, this board unanimously voted to find Ryan PAVEY in violation of the ASUCI Constitution. Arguments were made by the Defense that the evidence provided by the Prosecution was a forged and coordinated attack against Ryan PAVEY. Due to confirmation from UCI's administration that the evidence was original and untampered, the Board recognizes the evidence provided as legitimate. This Board also disagrees with previous boards on the idea that images and technology cannot be used for evidence when presented at a hearing. We as a society have moved into an age where it is inevitable to have evidence that is tied to technology.

As stated in the Articles of Impeachment, Article. 5, § 1(b) of the ASUCI Constitution says that, to hold a position on the Elections Commission, an individual "Must not have made a financial donation to an ASUCI candidate for elected office within the preceding year". The Board considers this provision to apply to donations made to slates and, as a result, for Ryan PAVEY to be in violation of the ASUCI Constitution. This is due to the following reasons. First, slates are an addition to the elections code, rather than an ingrained aspect of the constitution. As they are a platform for students with shared objectives to coordinate and pool together resources, being able to decide where their funds go and allowed to have only two members, it would be an easily abusable loophole if a donation to a slate allowed one to avoid such provisions in the

Constitution. Second, an Elections Commissioner must, as stated in Article, 10, § 3(a), "Conduct all ASUCI elections fairly, impartially, and with integrity, in ways that ensure students rights are protected;" and, in Article, 10, § 3(i), must adhere to independence and impartiality. A donation to a slate goes against these responsibilities of the Elections Commissioner just the same as a donation to an ASUCI candidate, and therefore supports the decision to apply a donation to a slate alongside that of an ASUCI candidate.

ON PERJURY, the Board chose to strike this claim after the preliminary hearing. While the assertions of perjury were taken seriously, the given information appeared to be difficult to prove and based purely on hearsay, something which the board did not wish to base its decision on nor take up the formal hearing with.

This board also wishes to address the issue of perjury during a formal hearing. To assure that the board's decision can be as fair as possible, it is vital that witnesses and those representing them adhere to telling the truth at all times. The Board takes perjury very seriously, and if it is found that an individual is being untruthful, the board will take this into consideration when deciding the ruling.

ON EXECUTIVE MEETINGS, this Board does not find Ryan PAVEY's actions impeachable. Ryan PAVEY's decision to not attend executive board meetings was within his rights as defined by the Constitution. The Constitution does not state that the Elections Commissioner must attend any meeting as they have an advisory role. While the Board personally disagrees with Ryan PAVEY's actions of not attending these meetings, it does not consider it to be an impeachable offense. However, this Board does wish to address this issue within the current constitution. The Board believes that although an advisor is not required to attend, it is a duty of their job and they must, at the minimum, send an acknowledgement that they shall not be attending meetings. There cannot be a functioning government if there is no accountability for a person's actions.

We, the Board, also wish to call upon the ASUCI Senate to debrief

people of their role and responsibilities when taking office. It is not recommended to impeach individuals on a "failure" of their powers if these individuals were not fully knowledgeable of what their constitutional rights and responsibilities are.

ON FAILURE TO CALL A SPECIAL ELECTION, we the Board do not believe that Ryan PAVEY and the Commision were at fault for calling the Special Election in the specified timeframe as stated in the ASUCI Constitution, article 12 § 4 (e) "Within three days from receiving the signatures, the Elections Commission must validate them and call a special election if the requirements are met". We the Board acknowledge that there are circumstances outside of a student's control that they cannot be held liable for. In this specific case, Ryan PAVEY did in fact call the Special Election at an appropriate time due to needing to wait upon the UCI administrator responsible for assisting the elections commision to respond to communications. When there is an act that is out of a student's hands such as the example above, the student cannot be found at fault unless it was due to their own actions that the UCI administrator is delayed.

The Board would also recommend that the sections of the constitution the Senate is referring to for any impeachment legislation are made clearly and explicitly. When ruling on this matter, this Board ran into the issue of not knowing which section the petitioner was asking the Board to find the defendants in violation of, as the articles of impeachment claimed one thing, but the petitioner was arguing for other things during both the preliminary hearing and the formal hearing. This created a situation where we the Board were starting to create arguments of our own on behalf of the petitioner, and immediately had to stop, for we cannot be making arguments and connections on behalf of the petitioner retroactively. If there was a failure of an argument made, that is on either party and is not up to the Board to make on their behalf. The Judicial Board does not create arguments for individual parties, but rather listens to arguments and comes to decisions based on what is presented during hearings.

ON COMPLICITY OF DEPUTY ELECTION COMMISSIONERS, this Board does not find the Deputy Elections Commissioners

(Gabriel ZANIPATIN, Derek LITTLEJOHN, Daniel PALAFOX and Max SIDDIQI), to be complicit in ignoring the recall petition for the previous Judicial Board due to a lack of compelling evidence provided by the petitioner. The only evidence provided by the petitioner was the claim that the Deputy Elections Commissioners "could have done more," to ensure that the timeline of a special election for the recall of the previous Judicial Board was carried out in a timely manner, with little explanation of said evidence, and no examples to support their argument. Asthis was the only evidence presented by the petitioner, and the Board has found Ryan PAVEY did attempt to call a special election, it is the Board's opinion that no complicity could have ever existed.

Conclusion

The Board hereby finds Ryan PAVEY in violation of making a financial donation within the preceding year. As a result, Ryan PAVEY is hereby barred from holding any ASUCI position until the end of the 2020-2021 academic school year. The Deputy Elections Commissioners Gabriel ZANIPATIN, Derek LITTLEJOHN, Daniel PALAFOX and Max SIDDIQI, are <u>not</u> found to have committed an impeachable offense, and shall continue to hold their positions in ASUCI.

It is so ordered.

Jose Andrés Serrano

Chief Justice Serrano

Katharine Vine

Vice Chief Justice Vine

Samuel Hernandez

Associate Justice Hernandez

Vanessa Lau

Associate Justice Lau

Giovanni Longino

Associate Justice Longino

Aleena Malik

Associate Justice Malik

Kai Ferragallo-Hawkins

Associate Justice Ferragallo-Hawkins