

ASSOCIATED STUDENTS JUDICIARY
California State College at Long Beach

SUMMARY REPORT

Case Of: Skotnes vs A. S. Elections Commissioner

Date: 6, January 1967

Charges:

Decision: This court holds that all those ballots invalidated because the name of the candidate was written in but not stamped now be counted as valid, for the reason that the voting instructions failed to meet the minimum standards of adequacy. We hold that for the instructions to be adequate they must be communicative to the degree that the voter should not be forced to guess on what procedure to follow. Thus, to meet this test explicit instructions must be stated on the ballot or on a sign placed in each voting booth in full view of the voter, explaining each operation to be performed (i.e., that the candidates name must be written in as well as stamped with an official marker). Furthermore, the consequences of failure to perform each operation (i.e., invalidation of the ballot) must also be explicitly stated on the ballot or on a sign in each voting booth. This decision remedies the dispute brought before this court, thus no new election shall be ordered.

Rolle Vote: Unanimous

Miche
Michael Hanna
John Butkiss
Don Elsenberg

Michael Hanna

Presiding Justice
Michael Hanna, ~~Chief Justice~~
Chief Justice

ANDOR SKOTNES vs A. S. ELECTIONS COMMISSION

Andor Skotnes appearing as plaintiff and Council in his own behalf charges A. S. Elections Commission with the violation of Section VII of the Elections Code of the Associated Students in connection with the A. S. Student Senate Election of December 14-15, 1966.

Andor Skotnes charges the Elections Commissioner with failure to provide adequate voting instructions specifically dealing with failure to explicitly state that votes for write-in candidates require both the acts of writing in said name of individual for whom the vote is cast, as well as marking the ballot with proper rubber stamp in appropriate position.

The request for decision entails that "all invalidated votes for write-in candidates be counted as valid."

Robert B. Smith-Associated Student President-acted as defense council on behalf of the Elections Commission (ex)

Mr. Justice Donald S. Eisenberg delivered the Opinion of the Court.

The questions pending before this court remain to be:

1. Were the instructions provided and/or available on the ballot and including supplementation through verbal clarification by poll worker adequate in providing the voter with information concerning the correct voting procedure.
2. Does the O.A.S. Elections Code or any other A. S. document require the Commissioner's instructions be adequate:

Ample testimony has been provided to convince this Judiciary that the voting instructions were not perfectly clear regarding procedure for write-in candidates.

The factual account of the number of ballots invalidated by voters who wrote in a candidates name but failed to stamp in the proper procedure (under which the ballots were invalidated) may well seem to be an important factor in this case. The Court refuses to deny this point, however, it does assert that the said number of ballots invalidated, is important in regards to the outcome of the election but does not in any manner have significance in terms of whether the invalidation resulted from unclear voting instructions.

The matter which is significant and concerns the Court is the very nature of the instructions themselves. Thus the Court asks if there was adequate communication between the Elections Commission and the voter, regarding the intended procedures?

The Court finds that there was not. It further decides that there was a major communication gap between the concerned parties and that this gap effectively frustrated the effort to secure a fair election.

The second question and perhaps the most basic to this issue queries as to the legal responsibility of the Elections Commission to provide adequate voting instructions.

This Court points out that Chapter III, Section 1 A of the Associated Students Bylaws asserts a function of the Elections Commissioner to be:

1. Formulate the regulations and supervise balloting procedures. After a careful and intensive study by this Court it is established that the term "balloting procedures" is inclusive of the responsibilities of the instructor, regarding procedure in filling out the ballot. However, several other points can be established which reinforce this position. The Elections Commissioner in exhibiting evidence in their own behalf presented 'ballots of previous elections' to the Court. In doing so, it is the firm opinion of this Court that they were openly asserting the need for instructions to voters. Further, this admission verifies the belief of the Court that a precedent of common law practice throughout the country and basic legal precedent in this institution dictate the judicial basis upon which the Court absolutely judges the responsibility to provide voting instructions to the electorate.

One further issue remains for the examination of the Court, that dealing with the adequacy of the instructions themselves. It must be recognized that the only instructions which are truly valid are these that are communicative. The elections commissioner offered their position to be one of providing some instructions for the voter. The Court refuses to allow such lax procedure to be the "minima" for adequacy. This Court contends and shall not bend from the contention that only those instructions which provide a communicative link between the voter and the administrator must be present. If not what standard instruction need be present to be valid. Obviously none, and the Court doubts that their consensus among the voters that a ballot with would-be instructions written in Chinese would be adequately communicative.

This Judiciary does not claim to impose a requirement for adequacy without defining minimum criteria that should be used for providing any type of voting instructions.

Therefore, this Court maintains that there must contain in every set of instructions a precise of what is to be done and that it must be beyond a reasonable doubt.

Further, certain standards are requisites for any election instructions and these standards must at minimum include:

1. The exact number of candidates which can be voted for.
2. The exact procedure to be used in writing -in a candidate including number of operations to be performed.
3. The consequences of failure to comply with any regulation and instructions must be stated. i.e., Failure to mark this ballot as per instructions will result in the entire ballot being voided.

The Court would ask that these criteria, in essence, if not verbatim be apparent at each succeeding election, and that they appear either posted in plain view inside each balloting booth or written upon the ballot itself or some other Supplementary Sheet that each voter would receive as well as a request for writing materials to be provided at the polling booth. In summation, this Court finds that a reliance on verbal instructions is not precise enough since there is no proven method of absolute communication to each individual voter by the end of March 8th.

Also, the Court finds that the written instructions were not adequate by the standards presented in the preceding paragraphs. Therefore, the Associated Students Judiciary rules in favor of the plaintiff Andor Skotnes and unanimously moves to adjudicate the problem by validation all ballots of election of December 14, 15, 1966, previously voided because the name of a candidate was written in but not stamped.