

ASSOCIATED STUDENTS JUDICIARY
California State College
Long Beach

Anthony N. Tringale vs. Associated Students Elections Commission
Formal Hearing

Anthony N. Tringale, Member, Associated Students, Plaintiff

Steven E. Edgell, A.S. Public Defender, Counsel for Plaintiff
Paul Bruce, A.S. Deputy Public Defender, Co-counsel

Marty Flinn, A.S. Deputy Attorney General, Counsel for Associated Students
Barry Schenbaum, A.S. Deputy Attorney General, Co-counsel

CONFLICT SUMMATION

Anthony N. Tringale, plaintiff, charged the A.S. Elections Commission with denying him the right to vote for members of the corporate board of directors in the Fall, 1969 Regular Elections. Witness for the prosecution, Russell Bunge, testified that he was with the plaintiff at the time a member of the elections commission denied Tringale the right to vote and that he too was similarly denied said right.

In testimony before the Judiciary, Rod Sciberski, President of the Student English Association (SEA), acknowledged that an SEA election was held prior to the Fall, 1969 Regular Election. As a means of ascertaining identification and to prevent individuals from voting twice, the "X" space on the Fall, 1969 Student Body Card (Receipt) was checked off in ink for each SEA member voting in the election. Sciberski further testified that: (1) he was not aware prior permission from an appropriate authority (Ken North, Business Manager or Dean Swanson, Student Affairs) was required before a space on the student body card could be legally used in a student organization election; (2) sixty-nine (69) English majors (including Anthony Tringale and Russell Bunge) had voted in the election and (3) the records of the other individuals voting in the election were no longer available and were not available at the time of the student body elections.

Counsel for the Associated Students established that A.S. Elections Commissioner Bill Latham requested and was granted permission to use the "X" space on the student

body card for the Fall, 1969 Regular Elections (the same space which had been previously used without permission in the SEA election). The Associated Students contended that the elections commission was only following its own rules by refusing Tringale and Bunge the right to vote when they presented student body cards on which the "X" had already been checked off as they had no immediate way of determining whether said individuals had indeed voted in the SEA election or were attempting to vote twice in the Regular Fall Election. The Associated Students further contended that the disenfranchisement of the individuals voting in the SEA election was not the fault of the A.S. but of the Student English Association which had used the "X" portion of the student body card without authorization.

The Prosecution, in rebutting testimony, maintained that the Elections Commission could have checked the voter list to determine if Tringale had indeed voted before in the Regular Fall Election and, in this way, have allowed him to vote if it was discovered he had not voted before.

The Plaintiff requested that the Regular Fall Elections of 1969 be invalidated and new elections held in a manner that will insure the right to vote to every member of the corporation.

JUDGMENT

It is a well established fact in American Jurisprudence that a judicial body is charged with upholding the validity of an election unless it can be proven illegal beyond a reasonable doubt. To wit:

"In election contests, it is the duty of the court to validate the election, if possible, and it must be held valid unless plainly illegal." Rideout v. City of Los Angeles 197 P. 74

"The courts will go to extreme lengths to preserve the validity of all elections and are slow and very reluctant to override the clear intent and purpose of the electorate when expressed at the polls so that an election should not be declared a nullity if on any reasonable basis such a result can be avoided." Davis v. L.A. County 84 P 2nd 1034

The A.S. Judiciary is compelled therefore to take judicial notice of the fact that the vote spread between the lowest winning candidate who received 776 votes and the highest losing candidate with 706 votes was a difference of 70 votes. (See Exhibit #2 - Results of Fall, 1969 Regular Elections).

Even if the prosecution could have proven to the satisfaction of the court that all 69 individuals who had voted in the SEA election and were alleged to have been denied the right to vote in the Fall Regular Elections would have all voted for the highest losing candidate, the final results of the election would have remained unchanged.

The prosecution could produce only two individuals out of a total of 69 voting in the SEA election who, it appears, actually attempted to vote in the Fall Regular Election. The precedence in such a case is clear:

"The expressed will of electors will not be vitiated by any court because of any error committed in course of election, so long as error complained of is not one which was likely to change result of election or one actually affecting result of election."
People ex rel. McGroarty v. City of Los Angeles 50 P.2d 101 (Emphasis added)

"Mere irregularities which do not affect the final result, do not vitiate an election." Sprague v. Norway 31 C 173 (Emphasis added)

Therefore, it is clear the Judiciary cannot order the Fall, 1969 Regular Election invalidated on the ground that two individuals were actually disenfranchised from voting. Indeed, the Judiciary could not order invalidation even if all 69 SEA members had attempted to vote and were denied this right as the total number of their combined votes would have been insufficient to change the result of the election with regard to electing members to the corporate board of directors.

Addressing itself to other questions brought out in this case, the Judiciary feels that both the Student English Association and the Associated Students must share the blame for actions which resulted in the voting disenfranchisement of certain


members of the corporation. The officers of the Student English Association should have inquired as to the necessity of receiving permission to use any portion of the student body card prior to their election. The Associated Students must likewise share a portion of the blame as it appears organizations on this campus have never received notification as to regulations regarding the use of student body cards for elections and other such events. Additionally, it is felt that some means could have been devised by the Associated Students which would have allowed those SEA members who wished to vote in the Fall Regular Election to do so.

It is felt, however, that the indiscretions on the part of these two associations is, at worst, culpable negligence of a degree insufficient to warrant election invalidation.

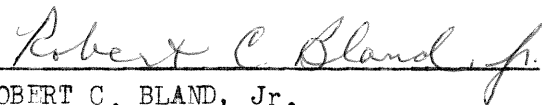
The Attorney General's office will be required in a separate Order of the Court to prepare a mimeographed paper to be distributed to all campus organizations discussing the use of the student body card and the necessity for receiving permission from appropriate authority prior to using it for a club function.

Therefore, the Associated Students Judiciary, as the final authority in all contested elections (A.S. Bylaws, Chapter I, Article III, Section 6-c & Chapter II, Article V, Section 2-b) and for the reasons stipulated in this decision, unanimously finds the defendant not guilty of the charges filed against it in this case.

Adjudicated this 7th day of January, 1970.



WARREN J. WOLFE
Chief Justice



ROBERT C. BLAND, Jr.
Associate Justice

LARRY WILHELMS
Associate Justice

Justice Wolfe prepared the opinion of the court.