

ASSOCIATED STUDENTS JUDICIARY
California State College
Long Beach

Robert C. Bland, Jr. vs Patrick A. Zega
Formal Hearing

Robert C. Bland, Jr., Plaintiff
Patrick A. Zega, Defendant

CONFLICT SUMMATION

Plaintiff charges Mr. Patrick A. Zega, Associated Students Senator representing the School of Education, with violation of the following sections of our corporate bylaws:

Chapter I, Article I, Section 2b and Chapter I, Article V, Section 2b -

"...School Senators shall be selected from those majoring in one of the various departments of the particular School."

Chapter II, Article VI, Section 9b -

"In order to hold an elective office, a student must meet the same requirement as to run for the office."

Plaintiff contends that:

"Mr. Zega was not at the time of his election, nor is he now, qualified to hold the A.S. Senate Seat representing the School of Education. As clearly stated in the A.S. Bylaws, the candidate must be 'selected from those majoring in one of the various departments of the particular School.' And stated in Chapter II, '...in order to hold an elective office, a student must meet the same requirement as to run for the office.' According to both the Dean and Faculty of the School of Education and to the Registrar of the College, a major in Education is defined as active enrollment in and the seeking of a degree from one of the departments of the School. The School of Education grants degrees only on the graduate level, therefore, one must be enrolled and seeking a Masters Degree in order to be considered a major in the field of Education. The credential sequence of classes does not constitute a major since no granting of a degree is a result of its completion. Mr. Pat Zega was not at the time of his ... election, nor is he now, enrolled in a Masters Degree Program with the School of Education. He is enrolled in a credential sequence seeking a California State Credential in Pupil Personnel. However, this is not considered a major as above described." (This material quoted from Complaint filed with Judiciary on November 19, 1970).

Plaintiff, basing his request on the foregoing rationale, petitions the Court to declare Mr. Zega ineligible to continue as Associated Students Senator from the School of Education.

In response to the petition of Complaint, the defendant rebutted that individuals who were credential candidates have previously served as Senators

from the School of Education. Additionally, Mr. Zega contends that the definition of an education major which is accepted by college authorities for degree purposes need not be the same one used for determining the qualifications of an individual to represent the School of Education as a student body Senator.

Testimony before the Judiciary established the following facts:

- (1) College authorities are in agreement that an education major is defined for degree purposes as an individual pursuing a Master of Arts in Education or a Master of Science in Special Education. (Refer to exhibits 1, 2 & 3).
- (2) That college authorities do not consider the credential sequence as a major in Education for degree purposes.
- (3) That Mr. Zega was not at the time of his election pursuing a Masters in Education. He was, however, a declared credential candidate.
- (4) That the number of students pursuing the various degrees and credentials in the School of Education are as follows:
(Fall, 1970)

(a) Total number of full-time students pursuing a Masters Degree in Education	76
(b) Total number of part-time students pursuing a Masters Degree in Education	77½
(c) Total number of graduate students who are pursuing a credential sequence in Education only	1069

(Data from item 4 from the "Three-Weeks Report, Fall, 1970, Students Seeking a Masters Degree" published by the OSCLB Office of Institutional Research and Administrative Systems. Refer to exhibit 4).

JUDGMENT

The arbitration of the present case is dependent upon a judicial interpretation or construction of the term "majoring" as the word is used in Associated Students Bylaws, Chapter I, Article I, Section 2b and Article V, Section 2b. Judicial interpretation of this term will determine whether a credential sequence shall satisfy the Bylaw section which stipulates that "School Senators shall be selected from those majoring in one of the various departments of the particular School."

It is within the jurisdiction of the Associated Students Judiciary to render such an interpretation. To wit:

A. S. Bylaws, Chapter I, Article III:

Section 6 Duties and powers of the Judiciary. The Judiciary shall:

- a. Interpret the provisions of the A.S. Bylaws or any other A.S. Document when a dispute arises.

Section 7 Decisions of the Judiciary shall constitute the final authority of the Associated Students.

Judicial interpretation of legislative statutes has polarized into two divergent schools of philosophy in American jurisprudence -- i.e., strict vs liberal construction. This discussion is germane to the case at hand as the interpretative philosophy utilized by this court will determine, to a large degree, the outcome of the present case.

Strict (or literal) construction is construction of a statute or other instrument according to its letter, which recognizes nothing that is not expressed, takes the language used in its exact and technical meaning, and admits no equitable considerations or implications. Warner v King, 267 Illinois 82.

The case of Lawrence v McCalmont (2 How. 126) aptly described the opposing judicial principle.

"Liberal (or equitable) construction, on the other hand, expands the meaning of the statute to meet cases which are clearly within the spirit or reason of the law ... It means...that (the statute) should receive a fair and reasonable interpretation with respect to the objects and purposes of the instrument."

If the court were inclined to gravitate toward strict constructionalism, the interpretation of the term "major" as used in our corporate Bylaws would be made according to the words' literal, exact and technical meaning. However, the Judiciary feels that such a course of action would leave an important issue unresolved.

Mr. Zega's contention that the definition of an education major which is accepted by college authorities for degree purposes need not necessarily be the one accepted when defining the qualifications necessary to represent the School of Education in our student senate remains a valid point.

Indeed, the Rules of Procedure of the Associated Students Judiciary stipulate that "the Judiciary shall not be held to California State laws or laws of the United States (except those that specifically apply to the Associated Students of California State College, Long Beach, Incorporated). Such a stipulation is in

keeping with the philosophy that the Judiciary is not a strict court of law which should be required to accept without question oftentimes technical and inapplicable statutes and administrative edicts when resolving disputes which arise within the framework of student government.

Utilizing the philosophy that the Judiciary is "not a strict court of law," it seems incumbent upon this body to adopt a liberal stance when interpreting the provisions of our corporate Bylaws. Liberal construction, it should be remembered, demands a "fair and reasonable interpretation with respect to the objects and purposes of the instrument."

Among the specific and primary purposes for which this corporation was formed was to "provide governmental administration and leadership development within a framework of student self-government" and "to insure the full and equal representation in the affairs and government of this Association and all its members."

It is the opinion of the Judiciary that to limit the right to represent the School of Education to Masters' candidates only is to deny a large and identifiable segment of our corporate body (graduate credential candidates) full and equal representation in the affairs and government of this Association.

Graduate students pursuing a credential as a primary objective are required to pursue a mandatorially prescribed course of study within a particular school and thereby constitute a clearly definable constituency. To deny these members of the School of Education the right to vote and run for office is, in effect, to place them into a form of representational limbo inconsistent with our corporate philosophy.

It is the decision of the Judiciary that the term "majoring" as used in A.S. Bylaws Chapter I, Article I, Section 2b and Article V, Section 2b be interpreted as including those graduate students who are pursuing as a primary educational objective a credential within the School of Education.

It must be emphasized that this interpretation extends only to those students who have received a terminal degree (Bachelors and/or Masters) and are declared credential candidates. Undergraduates who are pursuing a credential sequence are not to be considered as "majoring" in Education. The court feels that a distinction can be made between graduate credential candidates and undergraduate credential candidates as:

- (1) The primary educational objective of an undergraduate is a bachelors degree, not a credential.
- (2) Undergraduates retain representation in the Senate by virtue of electing senators from the school in which their undergraduate major is situated.

The Judiciary's main concern with graduates pursuing a credential is to insure to these over 1,000 individuals the right to full and equal representation in the affairs and government of this Association.

Therefore, in order to vote and hold office for the School of Education a person must (in addition to meeting the other requirements as set forth in the Bylaws):

- (1) Have obtained a Bachelors and/or a Masters degree and be pursuing as a primary objective a credential within the School of Education, or
- (2) Have obtained a Bachelors and be pursuing as a primary objective a Masters degree in one of the departments of the School of Education.

Graduate students (level 5 or 6) who are listed on the print-outs of declared credential candidates as maintained by the School of Education and Records Office shall be deemed as satisfying the phrase "pursuing as a primary objective a credential within the School of Education."

As it has been established that Mr. Patrick A. Zega meets the abovementioned requirements, he is deemed qualified to continue his tenure as Senator from the School of Education until the lawful expiration date of his office.

It is so ordered.


Gayle Alaimo, Associate Justice


Brian Arthur, Associate Justice


Gordon Park, Associate Justice


David Schmidt, Associate Justice


Warren J. Wolfe, Chief Justice

Vote: 5 - 0 - 0 Unanimous decision

Adjudicated this 22nd day of December, 1970.

Exhibits mentioned in this judgment are available for inspection at the A.S. Judiciary Office upon request.