

THE STUDENT BODY SUPREME COURT OF INDIANA UNIVERSITY

iUnity v. IUSA Elections Commission and Kirkwood

Docket Number: SBSC-2010-01

A petition filed by the iUnity ticket alleged that the Election Commission violated Section 303.1 of the Indiana University Student Association (IUSA) Election Code regarding Congress's responsibility to approve the number and placement of polling locations at least four weeks prior to the start of the IUSA election. The Student Body Supreme Court granted a hearing to determine if injunctive relief should be granted. It is hereby ordered that permanent injunction and declaratory judgment be granted.

Chief Justice Maloney with Justices Bhargava and Hall delivered the opinion of the Court.

I.

On Tuesday, March 2, 2010, the Student Body Supreme Court received a petition filed by the iUnity ticket. The petition alleged that the Elections Commission violated Section 303.1 of the IUSA Election Code regarding Congress's responsibility to approve the number and placement of polling locations at least four weeks prior to the start of the IUSA election.

On February 4, the iUnity ticket attempted to reserve the following locations for election-day campaigning: the IMU literature desk, Business School kiosk, and the entrance to the arboretum at 10th Street and Fee Lane. On Tuesday, February 16, 2010 Congress voted down a resolution to approve the following campus polling locations: the SRSC lobby, Ballantine Hall kiosk, Indiana Memorial Union literature desk, Undergraduate Business School lobby, and the entrance to the arboretum at 10th Street and Fee Lane. On Monday, March 1, 2010 the Elections Commission reserved these same locations for election-day polling stations. The Petitioners assert that Congress neither approved nor voted on these polling locations prior to the four-week deadline, and, therefore, they asserted that the Elections Commission violated Section 303.1 of the Elections Code by reserving these locations unilaterally.

II.

Article IV, Section 2 of the *Indiana University Student Association Constitution* grants the Court the following authority: "the power of judicial review, adjudicating elections disputes, certifying elections results, and fulfilling the requirements of the University judicial process." Additionally, "the Student Body Supreme Court of Indiana University recognizes its responsibility, as the highest judicial body within the Indiana University – Bloomington student government system, to preserve the integrity of the student government elections and to prove the rights and address the concerns of the student body." *Action v. Crimson*, SBSC-03-01 (2003).

The court also has "inherent power to grant injunctive relief in proper cases through

the Indiana University Student Association Constitution, Article IV, Section 3 (complying with commonly accepted legal precedents in order to protect the due process rights of members of the campus community).” *In re Petition of Merrinweather*, SBSC-05-01 (2005). Court precedent has established that the following three conditions must be met for the Court to grant injunctive relief:

- 1.) That the facts detailed in the complaint are more likely than not to be true,
- 2.) that these facts would indicate a serious violation of the Indiana University Student Association Constitution, Bylaws, or Elections Code, and,
- 3.) that the absence of injunctive relief would cause immediate, irrevocable, and egregious harm to the Petitioner(s), other interested parties, and/or the student body of Indiana University.

In re Petition of Merrinweather, SBSC-05-01.

III.

The Court holds that a permanent injunction should be upheld against the Elections Commission preventing them from striking Section 303.1 of the Election Code. The IUSA Election Code states, “IUSA Elections shall be planned and administered by an Election Commission in *accordance with the rules and procedures outlined* in this code.” (emphasis added). While the Election Commission does have the authority to interpret the Election Code, the Election Commission does not have the authority to strike complete provisions; the Commission’s decisions must be made in accordance with the rules and procedures outlined in the Election Code. This issue involved a serious violation of the Bylaws, specifically the Elections Code, and the absence of injunctive relief would cause “immediate, irrevocable, and egregious harm” to the student body of Indiana University. The student body has an interest in having its representatives select polling locations. Furthermore, to allow provisions of an Election Code, approved by Congress to be arbitrarily struck down would be against the essence of the Elections Code. Thus, the Court holds that Section 303.1 of the Election Code remains in effect.

The Court, however, does note that the Election Commission was making a good faith effort to follow the Election Code. When the 2009-2010 Congress did not vote on new polling locations prior to the four-week deadline, the Speaker of the House or the Vice-President of Congress should have provided the Election Commission with the last-passed resolution naming congressionally-approved polling locations.

Section 303.1 of the Election Code requires that “polling locations shall be approved by the Congress at least four (4) weeks before the IUSA Election.” As such, if Congress would like to change the polling locations for the current year’s election, it is required that they vote on these location changes four weeks prior to the election date. During the 2009-2010 Congressional year, Congress voted down a resolution regarding certain polling locations; however this vote did not take place prior to the four-week deadline. The Court thus declares that Congressional Resolution No. 09-1-3, the most recently approved resolution establishing polling locations that meets the four-week deadline, stands as the governing authority for the 2010 election. Resolution No. 09-1-3 established the following seven places for polling locations: IMU Literature Desk, Wright Residence Center, Foster Residence Center, Business School Lobby, Corner in front of Ballantine Hall, Near the Arboretum at 10th and Fee, and the SRSC. Because Resolution No. 09-1-3 states that “tickets running in the IUSA Elections may not reserve these spaces on the dates during which voting in the IUSA Elections will be taking place,” tickets that reserved these locations for the elections must relinquish them.

The iUnity ticket argued that the possibility of losing their polling locations would cause egregious harm to its campaign. However, a ticket should not reserve locations until the four-week deadline has passed in order to ensure that a ticket does not select locations in conflict with the resolution that will govern the polling locations for that election year. If a ticket decides not to wait until the four-week deadline has passed, then the ticket bears the risk of losing any locations it has reserved. Furthermore, section 512 of the Election Code states that tickets must follow university policy. In accordance with guidelines set forth by the Student Activities Office and past precedent, tickets running in the election are considered proxies of IUSA. As such, one ticket cannot exclude another ticket from reserved spaces. Thus, there is no egregious harm caused to iUnity since all spaces must be shared between the tickets; both Kirkwood and iUnity will have equal access to all locations reserved under IUSA.

The Court holds that a permanent injunction against the Election Commission should be granted, and the Court declares that Congressional Resolution No. 09-1-3 should remain in effect for the 2010 election. The Court further asserts that all campaigning areas should be shared equally amongst the tickets.

It is so ordered.

Joining in the opinion are Justices Chernesky, Kelley, Macklem, and Martin.

Justices Carpenter, Chapman, Hines, and Pittman recused themselves from this case.