

The Student Body Supreme Court of Indiana University

Request for Appellate Hearing Concerning the 2004 Indiana University Student Association Elections

Docket Number SBSC-04-01 (2004)

Writ of Certiorari to the Indiana University Student Association Elections Commission

Complaints were filed in the 2004 Indiana University Student Association Elections by The Crimson Election Ticket and The Fusion Election Ticket claiming a variety of violations of the *Indiana University Student Association Elections Code* by The Big Red Election Ticket. The Big Red Election Ticket now petitions this Court for appellate review, seeking redress from the Indiana University Student Association Elections Commission's decision to impose eight (8) sanction points against their executive candidates for violations of both Indiana University Student Association Elections Code, Title VI, Section 602 and Section 604 (see EC-04-07 and EC-04-08), thereby disqualifying these members of the ticket. The Student Body Supreme Court now issues a *writ of certiorari*.

The Chief Justice Brian Clifford and Associate Justice Nicholas Capezza delivered the order of the Court.

“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 protect the rights and address the concerns of the student body.” [*Action v. Crimson*, SBSC-03-01 (2003)] Article IV, Section 2 of the *Indiana University Student Association Constitution* grants the Student Body Supreme Court judicial authority over election disputes. This authority has been refined by the most recently-adopted *Elections Code* to give the Supreme Court discretion to reject an appeal from an Elections Commission decision. [*Indiana University Student Association Elections Code*, Title IX Section 902]. While this Court reserves all reasonable deference to the Elections Commission for resolution of factual issues, in these vital disputes now before us concerning the *Elections Code* itself and the proper interpretation thereof, we are compelled to accept the request and issue a *writ of certiorari*.

The controversy at bar strikes at the very heart of the student body and their ability to elect a properly mandated leadership. Over nine thousand students took the time and energy to participate in the campus democratic process. This Court owes the student body the greatest amount of respect and fortitude in matters of student government elections. The seriousness of this situation demands this Court grant the *writ of certiorari*. To disqualify any person or party from the Indiana University Student Association elections is a grave decision, one which must be taken with the utmost concern for the rights and expectations of the student body. It is for this reason – no less of a reason than

the ultimate legitimacy of the entire system of student self-governance - that the Court feels compelled to examine the issues now presented before us. The Court's role in student government must always include a stalwart defense against elections "marred in controversy, delayed in dispute, and questioned in fairness" [*Action*, supra].

We do not wish to cast any dispersion upon the Elections Commission and their judgment as it now stands in this matter. We grant *certiorari* in order to learn, examine, and fully explore the very important issues raised by the circumstances of the 2004 Indiana University Student Association elections. This Court does not sit hungrily waiting to pounce on the Elections Commission's decisions. We act only when prompted by the best interest of the student body at large; the Elections Commission, the Petitioner, and all other parties to this controversy should not equate the acceptance of this appeal with a favorable final judgment by this Court.

The Indiana University Student Association Elections Commission is hereby ordered to send all records concerning this matter to the Clerk of the Supreme Court by 5:00 p.m. on Monday, March 8, 2004.

The Crimson Election Ticket and The Fusion Election Ticket may each file a reply brief under the guidelines of the Supreme Court's "Procedures for All Supreme Court Filings and Hearings" and *Indiana University Student Association Elections Code*, Title VII, Section 802 prior to 5:00 p.m. Monday, March 8, 2004.

Also, any person may submit an *amicus curiae* brief to the Court under the same technical requirements prior to 5:00 p.m. Monday, March 8, 2004. Members of the aforementioned election tickets may not submit *amicus curiae* briefs.

A public hearing on this matter will be held on Tuesday, March 9, 2004 at 7:30 p.m. in the Moot Court Room of the Indiana University – Bloomington School of Law (LAW Room 123). The procedures controlling this hearing are detailed in the Supreme Court's "Procedures for all Supreme Court Filings and Hearings", available on the Court's website at <http://www.indiana.edu/~court>. By stipulation of the Court, petitioners shall have ten minutes to present their opening statement and five minutes to present their closing statement; furthermore, each of the two respondents to the matter shall have five minutes each for opening statements and two and one-half minute for closing statements, if statements are made. No other stipulations to the standing rules for the hearing have been authorized. The docket number assigned to this matter is *The Crimson Elections Ticket and The Fusion Elections Ticket v. The Big Red Elections Ticket*, SBSC-04-02 (2004).

It is so ordered.

Associate Justices Bennett, Brown, Dumas, Dwyer, McVicker, and Waddell joined in the decision.

Associate Justice Buckley, with whom Associate Justice Jafar joins, dissenting in the decision.

The most recently-adopted *Elections Code* gives the Supreme Court discretion to reject an appeal from an Elections Commission decision. [*Indiana University Student Association Elections Code*, Title IX, Section 902]. In this case, the Court should exercise this discretion and reject the appeal. The Elections Commission acted properly, and to grant a *writ of certiorari* in a case when the Elections Commission acted within its bounds only unnecessarily postpones the releasing of the official election results to the student body. The high number of students who voted should be even more encouragement to reject this appeal, because the annual complaints and appeals are viewed as an example of the loss of the credibility of the Indiana University Student Association student government. When complaints and appeals last longer than necessary, student faith in student government suffers.

I therefore respectfully dissent.

Justice Shackelford, currently on leave of absence, took no part in the decision.