

The Student Body Supreme Court of Indiana University

Request for Appellate Hearing Concerning the 2005 Indiana University
Student Association Elections

The Kirkwood Election Ticket v. The Vote for Pedro Election Ticket
Docket Number: SBSC-05-02 (2005)

*DENIAL OF REQUEST FOR WRIT OF CERTIORARI
TO THE IUSA ELECTIONS COMMISSION*

I.

The Kirkwood Election Ticket (“Kirkwood”) filed a complaint regarding the 2005 Indiana University Student Association Elections requesting a “run-off” election because Vote for Pedro, while obtaining the most votes in the student government elections, failed to marshal at least forty percent (40%) of the total number of valid votes received. The continued existence of such a “Plausible Student Mandate for Executive Candidates” section in the Indiana University Student Association Elections Code (“Elections Code”)(*Indiana University Student Association Elections Code*, Title IV, Section 403, if in existence) is a factual dispute between the parties. Kirkwood filed the aforementioned complaint to the Indiana University Student Association Elections Commission (“Elections Commission”) on Monday, February 28, 2005, after the Thursday, February 24, 2005 filing deadline set by *Indiana University Student Association Elections Code*, Title VIII, Section 801, subsection 3 and after the election results were certified by The Student Body Supreme Court of Indiana University (“the Court”). The complaint requested that the Elections Commission accept the improperly filed complaint pursuant to the discretion granted to them by *Indiana University Student Association Elections Code*, Title VIII, Section 801. The Elections Commission declined to hear the matter and dismissed the complaint. *See* Complaint of the Kirkwood Ticket, EC-05-01 (2005). Kirkwood now petitions this Court for appellate review of this dismissal. Comes now the Student Body Supreme Court of Indiana University and denies this petition for a *writ of certiorari*.

Per Curiam.

II.

The Student Body Supreme Court of Indiana University has the authority to reject any appeal of decisions by the Elections Commission pursuant to *Indiana University Student Association Elections Code*, Title IX, Section 902. The Court has set forth clear precedent over the past three years regarding its role in appellate review of election decisions. For this Court “to overturn an Elections Commission decision, [the] petitioner must show ‘clear error, blatant abuse of discretion, or personal bias’ in the resolution of their complaint or defense.” *The Crimson Elections Ticket and The Fusion Elections Ticket v. The Big Red Elections Ticket*, SBSC-04-02 (2004), citing *Action v. Crimson, et al.*, SBSC-03-01 (2003). As Petitioner has not set forth any improper basis in the exercise of discretion by the Elections Commission in the resolution of Petitioner’s complaint, the Court now exercises its authority under *Indiana University Student Association Elections Code*, Title IX, Section 902, and denies the petition for judicial review.

Kirkwood, while submitting a well-drafted pleading to this Court, has mischaracterized the true issue at bar. The Questions Presented in Petitioner's request for judicial review concentrate on the applicability of *Indiana University Student Association Elections Code*, Title IV, Section 403 (if in existence) to the 2005 student government elections. The Elections Commission did not address, however, the merits of Petitioner's claim, but instead declined to accept the improperly filed petition in its entirety because the complaint was filed after the deadline imposed by *Indiana University Student Association Election Code*, Title VIII, Section 801, subsection 3.

The *Indiana University Student Association Elections Code*, Title VIII, Section 801 explicitly grants the Elections Commission such discretion to reject improperly filed complaints. The *only* issue before this Court in *appellate* review is the validity of the Elections Commission's exercise of this discretion. The Court issues no opinion on the merits of Petitioner's underlying claim, a claim not properly before this body in this petition for review of the Elections Commission's discretionary action.

III.

"The Indiana University Student Association Elections Commission, under authority vested in it by the student body's elected representatives, has been entrusted with the authority and charged with the duty to... 'hear all *properly* filed [Election] complaints'. Through this properly enacted statute of the student body Congress, the IUSA Elections Commission is recognized as the body of general electoral jurisdiction, whose decisions will only be reversed by this Court with the greatest of caution. It is always the presumption of this tribunal that the determination of the Elections Commission, in regards to all matters under its authority, is correct." *The Crimson Elections Ticket and The Fusion Elections Ticket v. The Big Red Elections Ticket*, SBSC-04-02 (2004) (emphasis added, internal citations omitted). Petitioner, in its request to this Court, has failed to set forth any reason showing that the Elections Commission improperly exercised its discretion to reject an improperly filed complaint.

As Petitioner has not alleged any abuse of this valid discretion, any clear error, or any legitimate personal bias on the part of the Elections Commission, Petitioner has failed to meet the burden required for this Court to accept jurisdiction over this complaint.

The dismissal of the complaint entered by the Indiana University Student Association Elections Commission is hereby AFFIRMED, and the Petition for a *Writ of Certiorari* is DENIED.

It is so ordered.

Further, Petitioner's Motion for Discovery is DENIED, the subject of discovery being moot to the action at bar. The Court, however, concurs with Petitioner that Indiana University Student Association Congress records are, in general, public documents. **The Indiana University Student Association Congressional Secretary and/or Congressional Speaker is hereby ORDERED to provide any requested documents (not subject to a special exclusion for release) to any Indiana University student so requesting.**

It is so ordered.
