

**IN THE UNIVERSITY OF OKLAHOMA STUDENT ASSOCIATION
STUDENT SUPERIOR COURT**

NICHOLAS HARRISON,)	
<i>Petitioner,</i>)	
)	
v.)	Docket No. SC2008-01
)	
GRADUATE STUDENT SENATE,)	
<i>Respondent.</i>)	

OPINION OF THE SUPERIOR COURT

(EASTWOOD, C.J.) Delivered the Opinion of the Court, joined by MCFADDEN, J., CHUBBUCK, J., and CROWE, J. COBLE, J., CLAYPOLE, J., and KLINGLESMTIH, J. also join in the Opinion and separately concur. This is a case resulting from the internal election process for the office of Vice-Chair in the Graduate Student Senate (“GSS”).

I.

FACTUAL BACKGROUND

Petitioner, Nicholas Harrison, a currently enrolled graduate student in the JD/MBA program at the University of Oklahoma, was elected at the end of the Spring 2008 semester to fill a vacancy as a Senator in GSS representing the College of Business. Petitioner served in the Senate for the remainder of the spring semester, the summer interim, and currently serves as Senator in the Fall 2008 semester.

At the beginning of the Fall 2008 semester a vacancy arose in the office of Vice-Chair of the GSS. Petitioner sought nomination to fill this vacancy. Upon review of the eligibility of all candidates for the office, the Internal Affairs Committee (“IAC”)of the GSS concluded that Petitioner did not meet the eligibility requirements to be an officer

contained in the GSS Bylaws. More specifically, the language contained in the Bylaws stated that to serve as an officer, a Senator “must have served one full semester as a Senator.” § 5(A)(2) GSS Bylaws. Petitioner’s own interpretation of “full semester” seeks to include the summer interim period where he served on the Summer 2008 Executive Council by appointment pursuant to GS08-34. The IAC, however, interpreted the Bylaw provision in question to exclude the summer interim period and only include the fall and spring semesters. Based on that interpretation, Petitioner would not be eligible to serve as an officer. Petitioner then sought recourse by appealing the IAC decision to the full Senate where a majority determined that Petitioner was not eligible under the By-Laws. Upon denial of his opportunity to run for Vice Chair of the GSS, Petitioner filed suit with the Superior Court.

II.

JURISDICTION

The Superior Court has jurisdiction to decide this matter pursuant to U.O.S.A. Const. art. V, § 2 because this matter has arisen under “this Constitution”; specifically U.O.S.A. Const. art. III, § 3, cl. 3 and 4.

III.

QUESTIONS PRESENTED

The questions presented in this case are: (1) whether additional eligibility requirements for Senate officers violate the UOSA Constitution’s guarantee of participation “in all levels of government . . .”; and (2) whether the Senate has the authority to interpret its own bylaws as to the eligibility of its members to seek high office within the Senate.

IV.

ANALYSIS

Petitioner attempts to bend Art. II, § 1, cl. 2 of the UOSA Constitution to fit his claim in this case. However, if this Court were to accept Petitioner's argument, we would eliminate the Legislature's ability to determine its own internal rules for electing its officers and tread where no court should venture: into the depths of the political branch. Lest we lose our independence and warp the delicate balance of powers established under the UOSA Constitution, this Court should only venture into those areas of UOSA (political or not) where constitutional violations linger. No violation lurks here.

Art. III, § 3, cl. 3 states, "Senate vacancies shall be filled in accordance with the Senate By-Laws." Moreover, Art. III, § 3, cl. 4 states, "The Senate shall elect its officers." In the case at bar, the Senate attempted to fill the vacancy in the Vice Chair position "in accordance with the Senate By-Laws." U.O.S.A. Const. art. III, § 3, cl. 3. Because the Senate shall fill vacancies "in accordance with the Senate By-Laws" and since the Senate "shall elect its officers," it is reasonable and reflective of the intent of the Framers of the UOSA Constitution that the Senate shall elect its officers in accordance with the Senate By-Laws.

The question then becomes whether the Senate shall be the interpreter of its By-Laws or whether this Court shall be deemed the arbiter of disputes arising from the meaning of clauses in the By-Laws of the Legislature.

Pursuant to this Court's judicial power¹ under Article V of the UOSA Constitution, it is this Court's opinion that such interpretation of vague or ambiguous clauses of the By-Laws, as occurred in this case, shall be the sole duty of the appropriate House of the Legislature to determine. It only becomes within this Court's purview to review the meaning of a By-Law when said clause or section is interpreted or applied contrary to its plain and unambiguous meaning in an arbitrary and capricious manner. *See* U.O.S.A. Const. art. III, § 10.

Because the phrase "full semester" has no obvious meaning on its face and because it is ambiguous in fact, this Court is not inclined to interpret the meaning of the phrase.² Rather, it is incumbent upon the Senate to interpret the meaning of its own By-Laws in cases such as this one where a phrase is open to more than one reasonable interpretation. Therefore, this Court does not reach the question of whether the term "full semester" includes the summer interim period but leaves that question to the Senate as an independent governing body under the UOSA Constitution. The Senate, having interpreted the phrase as excluding the summer interim period has not acted contrary to the UOSA Constitution nor the standard articulated in this case. Exclusion of the summer interim period from the phrase "full semester" is not arbitrary and capricious and this Court defers to the Senate's judgment of its own internal rules.

¹ "The judicial power of a court extends beyond simply hearing cases. It includes interpreting statutes, constitutions, and previous decisions, both mandatory and persuasive. . . . Doctrines such as *stare decisis* and rules like those regarding statutory construction apply with equal weight in this court. Included in the judicial power of a court, however, is the right to make common law." *In re 2008 Fall General Election*, SC2008-01 at 9 (McFadden, J. concurring).

² Based on testimony from former and current members of the Senate (including the author of the most recent version of the Senate By-Laws), it was not the intent of the By-Laws to include the semester in the "full semester" requirement because "Senators don't do anything during the summer" and the entire reason for the "full semester" of service is to "ensure that an officer has the appropriate knowledge and experience" necessary to serve in that position.

Regarding the question of whether the Senate may add eligibility requirements to its officer positions through majority-adopted by-laws, this Court finds no constitutional violation in additional eligibility requirements. Art. II, § 2 of the UOSA Constitution is no guarantee of eligibility to run for an officer position in the Legislature. It is merely a guarantee that all members of UOSA have the ability to participate “in all levels of government.” “All levels of government” does not mean what the Petitioner wishes it meant. It is more narrowly construed to mean all branches of government where a student is eligible under the Constitution to participate in at a basic level. Art. II, § 2 by no means guarantees all students the ability to participate in the leadership of “all levels of government” but only participation in each branch.

If the Senate were to attempt to add qualifications to become a Senator, this attempt would presumably violate the UOSA Constitution under Art. II, § 2. However, adding eligibility requirements for leadership positions within the Senate does not add qualifications to become a Senator; it merely adds qualifications to become a Senator in a leadership position in the Senate. Therefore, the Senate By-Laws as challenged here do not violate the UOSA Constitution.

V.

CONCLUSION

Because the Senate By-Laws setting eligibility requirements to serve as an officer of the Senate do not restrict any constitutionally eligible member of UOSA from serving in the Senate, and because the term “full semester” is sufficiently ambiguous so as not to have been applied to Petitioner in an arbitrary or capricious manner, this Court finds that

the Senate By-Laws do not conflict with the UOSA Constitution and, therefore, defers to the Senate's judgment as to the interpretation of its internal rules.

IT IS SO ORDERED.

COBLE, J., with whom CLAYPOLE, J., and KLINGLESMTIH, J. join concurring:

I completely join and agree with the Opinion rendered by the Court. I write separately only to address an issue that, though pervasive throughout this entire case, has not been directly addressed on the grander scale. That issue revolves around students' accessibility to the UOSA branches, including the Legislature and this Court, and their ability to participate in the UOSA as a whole. This issue, inadvertently, also gives substantial justification to the Court's determination that individual legislative houses (i.e., the Undergraduate Student Congress ("Congress") and the Graduate Student Senate ("GSS")) reserve the power to interpret their own Bylaws, so long as that interpretation is not arbitrary and capricious.

The UOSA Constitution provides that "[e]very regularly enrolled student at the University of Oklahoma, Norman campus, shall be a member of the UOSA." U.O.S.A. Const., art. II, § 1. It then continues to say that students classified as undergraduates, graduate students, and law students may each participate in all levels of government, "except where explicitly stated otherwise in [the] Constitution." *Id.* at cl. 1-3. The core meaning of these provisions – which sets the stage for any type of participation in student government – means that the UOSA is essentially open to *everyone*, regardless of year in school, graduate status, field of study, etc. Integral to keeping the UOSA open is keeping

its access “user friendly” to those who are *not* familiar with formalistic code provisions, extensive judicial procedures, canons and principles of legislative interpretation, and the like. It is foolish to assume that the average, reasonable, and well-informed student at the University of Oklahoma understands, e.g., what the legal import is to a phrase such as “judicial due process,” what a “textualist” interpretation of the UOSA Code would be, or what canon of construction should be applied, if even applicable, to vague or ambiguous laws. Accordingly, we, as the Court, must keep ourselves and those who seek redress before us reminded of the fact that the laws made under the UOSA Constitution were made *not* for the use and benefit of people who work in law (who have a natural advantage when it comes to legal knowledge by virtue of their education), but for the use and benefit of the average student at the University of Oklahoma, with no expectation of having a legal background or an understanding of formalistic legal rules, procedures, and philosophies.

As it happens, the present case before this Court is a fantastic example of what happens when too much “real world” legal formalism is introduced into a student government. The first of two examples in this case begins even before the case’s hearing. The UOSA Code Annotated provides that the Court shall establish its own rules of procedure for hearings as long as they are in line with the UOSA Constitution and the OU Student Code. 4 U.O.S.A.C.A. § 6(d). Under this direction, the Court has established the Rules & Procedures of the Superior Court to give a “user friendly” outline as to how a person seeking a hearing before the Court may file a complaint and be heard. The *vast* majority of cases can be heard and resolved with these limited procedures, which are kept limited to insure excessive formalism does not deter the average student from seeking

redress in the Court. In his effort to prove his case, Petitioner sought additional procedures from this Court to, among other things, conduct discovery (including the submitting of interrogatories and requests for production of documents) and hold depositions before a reporter of some kind. Fortunately, for the sake of efficiency, these requests did not have to be filled – the Petitioner was able to obtain the facts he needed to state his case from witnesses at the hearing itself, as provided in the Court’s Rules. *See* Rules & Procedures of the Superior Court § 5(c). However, Petitioner’s requests illustrate a gross deviation from what the Court’s Rules, like the UOSA as a whole, seek to accomplish – to create a simple, only slightly-formal, avenue for the average student to seek redress for wrongs he or she feels were suffered. If, hypothetically, the Court were to amend its Rules to include permanent provisions consistent with what Petitioner requested (which would be more in line with the structured, formal rules used in the “real world” by attorneys, judges, and other legal professionals), the average student would likely be deterred from participating in such a system. Such a system cannot co-exist with the openness of the UOSA preserved in the UOSA Constitution and the students’ right of access to the UOSA.

Bringing this foundation to the case at bar, the second, and admittedly most pertinent, example this case provides of how formalism can intrude on student government’s functioning is the Petitioner’s statutory construction argument. Petitioner argues, through various exhibits, that the Graduate Student Senate (“GSS”) considers the summer interim period a “full semester” under the By-Laws. The crux of this argument circles around the fact that some exhibits, including a GSS enactment creating the summer council, a nomination form, and even some wording in the GSS By-Laws

themselves, show how the GSS refers to the summer period as a “semester.”

Accordingly, Petitioner asks us to follow a traditional legal canon of statutory construction: we apply the meaning of the term “full semester” consistent with how that is used throughout all of the GSS’s workings.³ GSS counters by eliciting testimony from all three witnesses that indicates the intent of GSS By-Law § 5(A)(2) was not to include the summer as a “full semester”.

In a traditional court of law, I cannot in good conscience state that I would have joined the majority – Petitioner’s construction argument would be very powerful in that forum. However, *this* forum is very different. Though this Court, and the UOSA as a whole, is modeled after real government, comprised of three separate branches and complete with rules and governing code, the *actors* in such a government are very different, and that difference is key. In real government, professional law makers and legal-minded individuals (most of which with actual legal education) draft statutes, regulations, laws, etc., and do so with a legal presumption that they know the common-law rules followed by the court. The existence of this presumption rests on the fact that, as legal-minded law makers, they, of course, know the law (including canons of construction). In the UOSA, though, the law makers are *not* necessarily legal-minded individuals. In fact, under the UOSA Constitution, some of them presumptively cannot be. *See, e.g.*, U.O.S.A. Const., art. III, § 2, cl. 1 (showing that Congress members are chosen by academic district, which indicates law makers will come from non-legal fields); *see also id.* at § 3, cl. 1 (showing GSS members are chosen by graduate

³ Specifically, Petitioner asks us to look at GSS By-Laws § 5(A)(1), which refers to the existence of a “Summer Semester”, then look to GSS By-Laws § 5(A)(2) immediately following, which states the requirement at issue here (“To serve as an officer, a Senator must be in Good Standing and must have served one full semester as a Senator.”).

department, same argument). Accordingly, to hold these individuals, coming from multiple fields of study, some geared toward legal experience and some not, to the same standard as professional law makers would be a gross injustice and, as previously stated, deter students from participating in the UOSA political process. Again, if the same formal, rigid rules found in the “real world” of law are applied here, we cannot properly ensure every student’s participation in UOSA as guaranteed under the UOSA Constitution.

Accordingly, we cannot apply the strict, textualist argument Petitioner asks us to apply – professional law makers did not make the GSS By-Laws, so we cannot import the GSS with a duty to artfully draft their rules as a professional law maker would. Instead, we must defer to the GSS’s interpretation of their own laws to ensure that the true voice of the GSS – its student members, only a few of which may have legal experience – is heard; and, only in instances where the GSS (or the Congress, if such a case arises) is acting in an arbitrary and capricious manner (e.g., with bad faith) may this Court review the GSS’s or Congress’s interpretation of its own By-Laws.

The UOSA was created by students for the benefit of students. If we are to hold those students to a standard equal to that of modern law makers and legal-minded people, and thus require strict formalism and rigid rules of interpretation, we alienate the very people the UOSA was created to protect – the students. For that reason, I join and concur with the Court’s Opinion.