

ASASU Supreme Court

Decker et. al v. Elections Department

Chief Justice Walther, Opinion of the Court

Joined by Justice Haji, Justice Lombard, Justice Murphy

Justice Rios recused himself from this case

Oral Proceedings heard on April 20th, 2020

Decision Filed on April 20th, 2020

A. Fact Summary

On February 13th, 2020, a notification was given to Carla Naranjo, the USG Elections Commissioner, that the Senate seat distributions for the USG elections on the Tempe campus this term were inaccurate. Carla Naranjo conferred with Elizabeth Rosenkrantz, and they decided the seat distribution was accurate. Two months later, on April 14th, the same complaint was filed with Elizabeth, who investigated, and determined based on the 21st day data that the seat distribution was in fact incorrect. She determined that Barrett, The Honors College should have two (2) seats instead of three (3), Ira A. Fulton Schools of Engineering should have four (4) seats instead of five (5), and The College of Liberal Arts and Sciences should have five (5) seats instead of four (4). On the day elections results were to be given to the candidates, Elizabeth called a meeting of the senatorial candidates from these three (3) colleges and informed them of the error. The remedy implemented by the Elections Department was to retroactively apply these seat distributions to the elections, and hold run-off elections for the afflicted colleges. Nine (9) senatorial candidates from Barrett, Fulton, and The College filed a complaint against the election department for this decision, which is now with the Supreme Court.

B. Jurisdiction

According to Chapter 11-1 of the USG Election Code - "A candidate has the right to appeal a decision by the Elections Department to the Supreme Court via the appropriate online form. The candidate has one (1) business day after a decision is issued to appeal." Furthermore, according to Chapter 11-2 of the USG Elections Code - "The final decision regarding the disqualification of a candidate or interpretation of the USG Elections Code is reserved for the Supreme Court." Therefore, the Court has jurisdiction in this case.

C. Holding of the Court

Decker et. al presented three (3) main issues to the Court

1. Robert's Rules of Order was not followed in making this decision.
2. The effects of a run-off election and change in seat distribution causes injury to the senatorial candidates, ASU students, and the democratic election process.
3. Gross negligence on behalf of the Elections Department caused this issue to occur.

The Court sides with Decker in this case. The Court believes that a sudden change in seat distribution and a run-off election post the initial election occurring causes undue harm to all parties involved. In regards to the first issue presented by Decker, Robert's Rules of Order has precedent within the Undergraduate Student Government, and thus its provision (Page 250, lines 19-20 of Robert's Rules of Order) on retroactive decision making must be applied, thereby nullifying the decision of the Election's Department as this issue was brought up in February and not fully investigated.

The Court also believes that undue harm would be sustained to Fulton and Barrett through a run-off election, as voter turnout and campaigning would be significantly lower given the limited time frame and circumstances surrounding such a run-off.

However, due to the order stated in *Robinson v. Elections Department*, The College will have a run-off election, therefore no injury from this case can be applied here other than seat distribution.

The Court holds that the Elections Department should have more thoroughly investigated the claim brought up in the February 13th email, and would have adequate time to do so prior to the beginning of the election season. As no such investigation occurred until the election period

was nearly over, the Court believes a retroactive change of seat distributions would cause excessive undue harm to all parties involved.

However, the Court does not uphold Decker's request for a 5th seat for The College. The Court believes that Robert's Rules are clear, and therefore do not provide a pathway to uphold the decision of the Election's Department on one account and overturn it on the other two. The Court also does not want to set a precedent of being able to retroactively change these distributions, as this is a power enumerated to parties other than the Supreme Court. We believe that the Supreme Court serves in an advisory role in most matters, and wishes to not claim power it believes to be undue to itself. The Supreme Court retroactively applying a seat change to one account would in and of itself constitute a miscarriage of justice as the law has not been fairly applied to all parties. While the Court believes that a strict interpretation of the Bylaws for USG-Tempe would yield two (2) seats to Barrett, four (4) seats to Fulton, and five (5) seats to the College, we believe that through our power of fair and equitable relief (as delineated in Tempe Bylaws Title V Article 3 Section 2) while also fairly applying the law, the most equitable and fair course of action in this case is to return the seat distribution as it was prior to April 14th.

While we recognize the negligence on the behalf of the Election's Department, their transparency and willingness for change in the future show that their efforts are not conducted out of malice. Therefore, the Court appreciates their responsiveness to our hearing. We hope that all future Elections Departments will strive to fix any wrong-doings in a timely, just, and fair manner, so as to prevent large-scale disruptions such as this from occurring in the future.

The Court believes, that according to Robert's Rules of Order (page 445) that there has been a prior viable election, and therefore an order for a run-off would be a violation of these rules and is therefore not a viable outcome.

Therefore, the Court orders:

1. The decision of the Election Department be declared null and void.
2. There shall be three (3) seats for Barrett, the Honors College, five (5) seats for the Ira A. Fulton Schools of Engineering, and four (4) seats for The College of Liberal Arts and Sciences.
3. Senate seats for candidates from Barrett and Fulton shall be won according to the results of the April 14th-15th election.
4. There shall be no run-off for the Barrett and Fulton Senatorial election on the Tempe campus.
5. The order from *Robinson v. Elections Department* shall be upheld, and a run-off for The College be held as scheduled.
6. Senate seats for the 2020-2021 academic school year shall be as ordered, as all decisions of the Supreme Court are final.
7. The documents shared to the candidates from the Court's record shall be entered into the library upon the conclusion of the run-off election.

SIGNED BY THE ASASU SUPREME COURT

APRIL 20th, 2020 at 3:19 PM

Justice Rios recused himself from this case