

**THE UNIVERSITY OF KANSAS STUDENT COURT OF APPEALS**

Chance Maginness	)	19 January 2017
Junior/Senior CLAS Senator	)	
	)	
Petitioner	)	
	)	
VS	)	
	)	
Danny Summers	)	
Student Senate Chief of Staff	)	Case No. 2017-01-09
	)	
Respondent	)	

**ORDER AND MEMORANDUM OF DECISION**

**Overview of Proceedings:**

A petition was received by the Court of Appeals on the 9<sup>th</sup> of January 2017, from Chance Maginness, Junior/Senior CLAS Senator (henceforth referenced as the “Petitioner”). An appeal was filed before the Court regarding the Petitioner’s questions and concerns regarding how to move forward with the 2017 General Spring Elections without a concrete, working Elections Commission. The Petition called upon Danny Summers, Student Senate Chief of Staff, as the Respondent (henceforth referenced as the “Respondent”) as his position is charged with slating the Elections Commission. The Petitioner states within the petition that this is a matter of procedural problems and should be granted a Writ of Certiorari by the Court. The case was accepted by the Court on the grounds of statute SSRR Article IV: Section I on the 12<sup>th</sup> of January. Prior to the Preliminary Hearing, scheduled for the 15<sup>th</sup> of January, the Petitioner sent a request for Expedited Proceedings on the 14<sup>th</sup> of January. The Chief Justice granted this request after

deliberation due to the belief that this occurrence does fall within “extraordinary circumstance” for numerous reasons. First, this situation is of an unusual matter and has no previous precedent set within our time at the University. Second, the time restrictions set within SSRR regarding a trial before the Court do hinder the probability of the General Spring Election beginning on time. On Sunday, January 15, 2017, the Chief Justice of the Court of Appeals met with the Petitioner and the Respondent to detail and explain their rights, the filing processes, the court procedures, etc., as outlined in SSRR Appendix P, Rule 10. The Court received the Brief of Arguments (SSRR Appendix P, Rule 11) from the Petitioner on the 16<sup>th</sup> of January, as mandated and set by the Chief Justice. The Respondents Brief of Arguments was set to be due by the 17<sup>th</sup> of January. Due to unforeseen conflicts, the Respondent asked for a time extension. The Court granted the extension, but did not receive the Brief of Oral Arguments until right before the hearing. Each party was forwarded the documents stated above prior to the hearing. The Petitioner and Respondent appeared before the Court on the 18<sup>th</sup> of January 2017, at 8:10 p.m. in Alcove E located in the University of Kansas Memorial Union. After the Oral Arguments were presented, the Court asked both the Petitioner and Respondent to leave so the deliberation may take place prior to ruling on the case.

**Overview of the Case:**

The Election Commission, as stated within SSRR Article VII, Section 3.1, is formed “in order to ensure a fair elections process, the operation of Student Senate Elections and related activities shall rest with the Elections Commission, as defined and empowered in Article VII.” The Elections Commission is slated by the Elections

Commission Nomination Committee (henceforth referred to as the Nomination Committee), which is made up of the Student Senate Chief of Staff and four Student Senators chosen at random. The Nomination Committee then presents the nominated individuals before Full Senate for at least a two-thirds (2/3) Senate body approval. As presented and stated within the Writ of Cert by the Petitioner, the Respondent as well as the Nomination Committee failed to complete their assigned tasks of slating the five member Elections Commission. The Court of Appeals was asked to rule on how to proceed within this unprecedented matter. As stated above, the Court did accept the case and did accept the request for Expedited Proceedings.

Within the Petitioner's Brief of Arguments, he states two possible options he believes are fitting in order to address this unforeseen situation regarding the impending 2017 Spring General Election. The remedy backed and pushed for by the Petitioner within the Brief of Arguments and within Oral Arguments, as stated within the Petitioner's Brief, states the following: "move[s] beyond the scope of what is prescribed within SSRR and exercise the full scope of their judicial authority." The Petitioner's options suggested either 1) the Court of Appeals invest full oversight and administration of the 2017 Spring Student Senate General Election or 2) the Court invest full oversight and administrative powers of the 2017 Spring Student Senate General Election to the third-party entity, specifically the Associate Vice Provost for Student Affairs, Dr. Jane Tuttle.

Within the Respondent's Brief of Arguments and presented within Oral Arguments, the Respondent suggests the Court of Appeals take on the responsibility of

oversight until an Elections Commission can be confirmed on Wednesday, February 1, 2017.

After the hearing ended, the Court decided that any consideration involving Dr. Jane Tuttle within the Elections Commission would require confirmation she felt comfortable taking on such position. The Chief Justice called Dr. Jane Tuttle on Thursday, January 19, 2017, regarding the administrator's possible position within the 2017 Election Commission. Dr. Tuttle clearly expressed that she fully believes in the students and believes administrators should help, but not be directly involved within Senate positions. She decided to receive council from Vice Provost for Student Affairs Dr. Tammara Durham regarding this inquiry by the Chief Justice. Dr. Tuttle called the Chief Justice back minutes later and confirmed that taking this position would be a conflict of interest, but she would be there for feedback and advice.

**The Court's Decision and Order:**

The Court unanimously agrees that this situation is unfortunate and does present many troublesome scenarios in which have transpired thus far. The Court, with the feedback and concern of Dr. Tuttle, believe that the Student Senate Elections Commission should be ultimately and solely ran by students and not faculty. Furthermore, the Court believes that a conflict of interest is present and can be dangerous if the Court itself takes over the duties of the Elections Commission, as appeals to decisions made by groups such as the Elections Commission ultimately come to this entity. We further want to remind all that Student Senate as a whole exists on a foundation of checks and balances. With this in mind and with the Courts undeniable

desire to better the entirety of the University for all, we, the Court, are placing the following tasks and restrictions before Senate:

1. The Court places an injunction on the date to when students may begin to officially register coalitions with the Elections Commission. The previous date stated within SSRR was Monday, January 23, 2017. The new date will be Thursday, February 2, 2017, after the Elections Commission is confirmed within Full Senate on Wednesday, February 1, 2017.
  - a. Appendix P, Rule 15.1 allows the Chief Justice and the Court to separately or jointly issue an injunction to prohibit the actions of an individual and/or group. We argue this injunction is needed due to the belief that the integrity of Student Government may be compromised due to numerous reasons: there is no Elections Commission that currently exists, students need to the Commission and Senate Government has the right to confirm these individuals.
  - b. The Court wants to remind the Elections Commission that according to SSRR 7.3.3.1.2, they are mandated to hold at least three informational meetings during January and February. Considering the Elections Commission will not be confirmed until February 1, the Commission is charged with holding at least three in February.
2. The Court places injunctions on the Student Senate Elections Commission Nomination Committee chaired by the Respondent, Danny Summers:
  - a. The Nomination Committee will leave open the application for the Election Commission until Wednesday, January 25, 2017, at midnight.



- a. Appendix P, Rule 15.1 allows the Chief Justice and the Court to separately or jointly issue an injunction to prohibit the actions of an individual and/or group. We argue this injunction does qualify within SSRR as the integrity of Student Government may be compromised. The Court defends this injunction with the belief and understanding that there must be a concrete Commission prior to campaigning begins.

It is hereby decided unanimously by the Court to move forward with the above route of implementation in regards, and only in regards, to the 2017 Spring Student Senate General Election. Though this is not ideal for any parties and/or for the future coalitions, we believe this route is the only one that promotes student voices, embodies the meaning of Student Senate, promotes equitability and allows for Student Senate Rules and Regulations to be followed within such an inimitable situation.

It is so Ordered,

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Chief Justice Michaeli Hennessy

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Pro Tempore Sara Prendergast

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Justice Jake Vance

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Justice Annie Calvert

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Justice Joseph Uhlman