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Union Referendum Students

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Petitioners

REQUEST FOR WRIT OF CERTIORARI

This Request for Appeal of Student Senate Rules and Regulations (hereinafter “SSRR”) Art. V. § 16.4.4 in relation to Comolli v. Union Referendum. Petitioner asks that the Court reconsider said ruling requiring the Union Referendum initiative “Redo Your U” (hereinafter “RDYU”) to “cease all campaigning” based on a determination that RDYU conducted an educational campaign in favor of the referendum initiative prior to the campaign period(s) that are applied to and associated with student government candidates and coalitions during Student Senate Elections. It is the position of the petitioner that the Elections Commission (hereinafter “EC”); applied a ruling with no previous precedent, basis, or jurisdiction within the SSRR; that as a result of this determination, rendered the EC itself derelict in their own charge of informing the student electorate about issues facing the students of the university and the institution; and overreached their domain and authority through their interpretation of SSRR: there is no indication within SSRR that the SSRR limits imposed on student candidates and coalitions campaigning apply to any referenda, institution, individual, or group who are not seeking elected position(s) within Student Senate. Applying Student Senate election rules and regulations to a referendum item, an institution, and/or a registered student organization is not in the spirit of the elections code, and sets a dangerous precedent, as the EC cannot and should not regulate any referendum-related education, outreach, or related referendum activities conducted by a university institution, individual, or group, nor is that clearly defined in their charge.

To be clear, the Union Referendum and the Redo Your U outreach campaign are not coalitions as defined by SSRR. The original case brought forth by Comolli refers to Union Referendum as a coalition – it is not. As specifically indicated by 7.2.16 of the SSRR, a coalition “shall be defined as any group of students who unite to campaign for Student Senate positions.” The EC itself did agree that the Union Referendum and its student outreach organization does not qualify as such. In their findings, the EC stated that they agreed the Union Referendum “campaign materials do not apply to referenda” and that “we must discount the evidence presented as materials.” An author of the most recent updates to the SSRR indicate that the spirit of the law is strictly to regulate coalition and candidate campaigning and to place restrictions only on such. For the EC to admit in its findings that campaign materials do not apply to referenda, yet still decide that it was in the EC’s jurisdiction to order the Union Referendum to cease all outreach and campaign efforts is incongruous at best. However, the most dangerous aspect of the present ruling (as it currently stands) is that it would establish a potentially damaging precedent whereby the Student Senate EC claims authority and jurisdiction over the content, timing, and control of information, education and outreach activities of referenda, no matter what institution, group, or individual is attempting said education and outreach.

Referendums at the University of Kansas have historically served as mechanisms designed to place legislative control directly into the hands of the entire student population of the university, traditionally in instances where Student Senate would prefer to let the electorate itself decide on an important issue/initiative. By approving a referendum vote on an initiative or issue, the Student Senate is temporarily transferring the sum of its legislative power directly to the student body, effectively relinquishing Student Senate’s responsibility in making a particular

legislative decision on behalf of the student body. By the very act of instating a referendum, Student Senate is inherently divesting itself of any aspect of the legislative processes for that issue/initiative, and is thereby divesting itself of any authority governing the education and outreach efforts concerning the initiative itself. Student Senate cannot transfer its legislative power over to the student body while claiming that Student Senate still retains some other regulatory power or jurisdiction to govern the activities, information and discourse surrounding the initiative.

If the present ruling stands - that referenda and those parties both in favor and against said referenda are subject to the same campaign constraints as student coalitions - it will create potential mayhem for all future referenda at the University of Kansas. While referenda are generally considered as progressive actions, the potential for negative referenda are possible under SSRR. Hypothetically under this new and dangerous EC precedent, a referendum could be introduced in the fall semester to eliminate funding for a service or institution – including Student Senate itself – without the benefit of free and available information, public discourse and polarities could emerge and become complicated over the course of months, yet the targeted service or institution would be prohibited from mobilizing adequate information or education to defend itself outside of the few weeks in the spring allotted for campaigns. The EC ruling and this new precedent would introduce censorship and chaos to an electoral mechanism that is, by nature, supposed to be both directly democratic, education-oriented, and dialog-driven.

It is the belief of the petitioner that the EC levied a sanction with no precedent, little clarification, and no foresight into the possible outcomes. Further, because a referendum could be done outside of the general election, and not considered in the purview of the EC, it stands to reason the campaigning rules and regulations only apply to general election coalitions and

candidates, thus having no bearing on when the Union Referendum began outreach activities. The Election Commission's ruling sets a dangerous precedent of censorship and regulation of any individual, group, or institution. As part of the EC's ruling affirmed, the Union Referendum is not a coalition. By halting the Union Referendum initiative's ability to table, flier, and post to web and social media accounts, Student Senate and EC are asserting that they can regulate the communication of any student, group, or institution. Halting the actions of one referendum entity while allowing another entity (KU ART) to continue advocating in the negative sets a precedent that the EC can silence one side of an issue while allowing an opposing side to continue its activities. Such action also calls into question compliance with the First Amendment.

In closing, referenda are, by nature, designed to allow for the maximum number of voices to be heard. If the intent of the EC is to assure a fair election, including all rigorous public education and discourse efforts as part of that electoral process, suspending the outreach efforts associated with a referendum is not consistent with that intent. Through its ruling, a volatile jurisdictional precedent would be set for future referenda and the countless entities and individuals that they effect. Should you require further documentation, we are glad to provide. Thank you for your time in considering this matter.

Signed 7 April 2017,



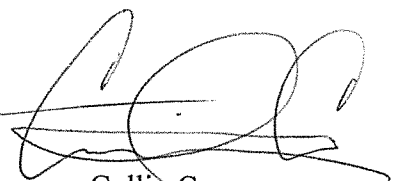
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