

Justin Ravelo

v.

Student Body President

Decided: 5/30/16

Published: 6/02/16

### **Issue**

1. Does the Student Body President have the authority to nominate a director of the Hispanic/Latino Student Union (HLSU) for Senate confirmation, when the executive board of HLSU erred in its nomination process?

### **Holding**

1. Yes, the Student Body President may nominate a director from a list of candidates provided by the executive board of the student organization, regardless of if the executive board forwarded an excess number of candidates.

### **Procedural Posture**

On April 20, 2016, Justin Ravelo submitted an original jurisdiction complaint alleging Student Government Statute violations against the Student Body President arising from the forwarding of Mr. Alfredo Cortez for senate confirmation as HLSU director.

On the same day, Chief Justice Emeritus Cox issued a writ of prohibition, halting the consideration of the HLSU director position by Senate, until the Court had time to decide the case. The parties were notified of the complaint and the writ of prohibition. No supplemental information was filed with the Court.

Upon reviewing the pleadings, the Court determined that no hearing was necessary and all correspondence with the Court was restricted to email communication.

### **Facts**

Three candidates applied for the position of HLSU director. Four of the five members of the HLSU board heard and voted on which candidate to nominate, but were unable to reach a majority vote pursuant to Section 1005.4(C)(1) of the Student Body Statutes. The board instead nominated all three candidates to the Executive Branch, where each was interviewed. As a result of this, the Student Body President forwarded Mr. Alfredo Cortez, one of the three candidates forwarded by the HLSU board, to be heard by Senate.

### **Opinion**

C.J. Meyer and J. Thompson writing for a unanimous court.

## **Jurisdiction**

The Supreme Court shall have jurisdiction over all cases and controversies involving questions of the constitutionality of actions by student governing groups. SGA Const. Art. IV § 3(C)(1).

## **Holding**

Selection of the HLSU Director is governed by SGA Stat.1005.4(C). This section indicates, in relevant part, that “[t]he Director and Assistant Director shall be nominated with a majority (50 plus 1) vote by the previous Executive Board and appointed by the Student Body President.” SGA Stat.1005.4(C)(1). It is uncontested that this is the statute that controls the selection of new HLSU Directors.

The violation alleged is that The Student Body President did not follow the statute because he did not demand that a single candidate be forwarded for consideration.

This Court agrees that there was an error in the procedure, because more than one candidate was forwarded to the Executive Branch for selection. However, the Court holds that the error was the fault of the HLSU executive board and not of the Executive Branch or Student Body President.

The forwarding of three candidates can be viewed in two ways. First is from the view of an inability to obtain a majority vote. The HLSU executive board was specifically tasked with nominating only one candidate. There was no evidence of why the board failed to accomplish this, but the result was that an improper number of candidates were forwarded to the Executive Branch. In light of this, the Court finds fault, not with the Student Body President, but with the HLSU board.

The board’s job was to reach a majority vote, and the statutes do not indicate how this majority is to be reached. Some possibilities include run-off elections, or only allowing a vote on two of the applicants. Regardless of the method, it was up to the board, and the board alone to choose one candidate by majority vote. The fact that improper procedure was followed by the executive board does not lead to the conclusion that the Student Body President violated statutes.

Instead, we view the forwarding of the candidates as a compromise amongst the board. Absent evidence to the contrary, we view the inability of the board to decide on one candidate as an indication that they supported all three candidates.

This is evidenced by the fact that there were no complaints of the actions of the board until one of the candidates was selected and was to be forwarded to Senate. This indicates that the complaint more rests on the person selected than the manner by which he was selected. It would be improper to circumvent the political process by filing suit after one's desired candidate was not selected.

The Executive Branch and Student Body President dutifully interviewed all three candidates and selected the candidate believed to be in the best interest of HLSU and the SGA. Because of this, the instant case is distinguishable from *FLI Leadership Team v. Student Body President*. In *FLI*, the Student Body President improperly approved a candidate because he did not choose from the candidates forwarded by the organization. Here, the Student Body President clearly selected from the candidates presented to him by the organization.

### **Recommendation**

The Court does not wish to "legislate from the bench" when deciding cases. For that reason, the writ of prohibition will be lifted and Mr. Cortez will be allowed to go before Senate for confirmation. HLSU is one of FSU's largest student organizations

and leaving them without a leader while the board tries to reach a majority decision would be improper. Due to the board's initial inability to come up with a majority, it is unlikely that a different result would occur if the Court sent the matter back to be followed in accordance with statutes.

However we would like to make some strong recommendations. First, we feel that the HLSU board should have ensured that they only forward one candidate to the Executive Branch. The statutes call for a majority vote, but do not specify the method of this. Perhaps only two candidates should be sent before the board for the vote, perhaps there can be runoff votes until a majority is reached, perhaps the board can find another method to reach a majority vote. Regardless of the method this is the job of the board, and it is their duty to choose one candidate.

Further, the Court recommend that the Legislature take up the issue of how to proceed in a situation where no majority is reached by the executive board. It could be a simple fix, such as requiring the President to demand that the organization only recommend one candidate. Another option may be to rewrite the statutes to avoid a future dilemma.

## **Conclusion**

In conclusion, while the process of selecting a new director for HLSU was flawed, neither the Executive Branch nor the Student Body President, violated statutes. The HLSU board may have violated statutes, but that is not the focus of this opinion. The intent of the statutes is for the board to forward worthy candidates to the Student Body President. Forwarding multiple candidates due to political compromise is consistent with the intent of the statutes. To prevent future problems, similar to this one, the Court recommends that the Legislature reevaluate the statutes.