ADVISORY OPINION 2019-10

REVIEW OF PROPOSED CONSTITUTIONAL AMENDMENTS

Sills, J. for the Court

Pursuant to Student Body Statutes, the Supreme Court is required to review any proposed constitutional amendments for its adequacy and fairness to "ensure that the language of the statement adequately and fairly reflects the intent of the ballot proposal." SGA Stat. 506(B)2. The purpose of the Court's review is to, "ensure all that provisions voted on by students are fair and not deceptive in terms of the provision's language, and do not violate the Student Body Statutes, the Student Body Constitution, the Board of Governors Regulations, University Policy or Regulation, or any local, state, or federal law." SGA Stat. 506(A)2.

On November 19, 2019, a petition to certify proposed amendments to the Student Body Constitution were properly submitted to the Court for review. The amendment called for four major changes: (1) eliminate the distinction between upper-division undergraduate Congressional seats and graduate studies seats pursuant to Student Body Statutes (SBS), section 705.5; (2) allow upper-division undergraduates who have graduated, but continue their education for graduate school in the same Florida State University designated college to retain their seat subject to a few rules; (3) specify that upper-division special studies students and graduate studies students who are both, by definition, not enrolled in a traditional course of study are apportioned seats as a one special division; (4) specify that the Panama City campus senator shall not count towards the eighty senator maximum as set forth in SBS section 705.5. The Court advises that the changes (1), (2), and (4) would cause a great pause for concern. Change (3) is seemingly allowed under SBS 701.1(L).

REASONING

In reaching this decision, the Court looked to the language of the SGA Statute 506 ("Court Review Act") and the language of Article VI Section 1 of the Student Body Constitution. The Court Review Act requires that all proposed constitutional amendments and referenda ("provisions") be submitted to the Supreme Court for review. The Court's review is limited to an advisory opinion.

There is a distinct difference in language throughout the Court Review Act. The Title and Purpose Section emphasizes the importance of ensuring the provision's language is "fair and not deceptive language" for it to be placed on the ballot. While chapter 506(B)(2) requires that all Statements of Intent be reviewed by the Court to ensure that they adequately and fairly represent the accompanying proposed provision.

Proposed Section 705.5 Changes

Legislative appointment schemes are properly analyzed under the Equal Protection Clause of the United States Constitution. *Reynolds v. Sims*, 377 U.S. 533, 557 (1964). A system that results in a dilution of the weight of votes of certain voters because of where they reside is unconstitutional. *Gray v. Sanders*, 372 U.S. 368, 381 (1963). Moreover, apportionment of congressional seats which contracts the value of some votes and expands that of others is unconstitutional because the Constitution intends that votes be weighed equally. *Reynolds*, 377 U.S. at 559. Typically, seats should be apportioned according to population. *Id.* at 569.

First, the proposed legislative amendment seemingly seeks to eliminate the distinction between undergraduate divisions and graduate level division votes. According to SBS, section 701.1(L), the "electorate shall be the entire registered student body at FSU. The electorate shall be divided into divisions and special seats. Only those enrolled in a specific division may vote for Senate or COGS candidates seeking to represent that division." SBS, § 701.1(L). The distinction sought is not to empower different divisions to weigh votes more equally, rather, it seeks to eliminate the division between the graduate and undergraduate students in each division. This does not make sense. Graduate students are not always students that went to Florida State for their undergraduate studies. By eliminating the distinction, graduate students from other universities would be at an inherent disadvantage if they chose to run for Congress.

Second, the proposed legislative amendment would allow graduate students who were continuing their graduate studies at Florida State to retain their undergraduate congressional seat. This, again, is inherently unfair and disadvantages graduate students who did not attend Florida State for their undergraduate studies. Moreover, it seemingly

keeps those in office for longer periods of time without consideration for new graduate students who may want the opportunity to run for a congressional seat.

Third, apportioning seats as a special division for students that are not enrolled in traditional course studies to be apportioned a seat. At first blush, the SBS allows this. This Court sees no reason why the legislature should not be able to follow the SBS.

Fourth, specifying whether or not the Panama City campus senator counts towards the eighty senator maximum. This would be unconstitutional, as this would dilute the student's vote for the Panama City senator—by not including them in the eighty count maximum the senator would effectively look excluded from the SBS.

CONCLUSION

Advisory opinions are difficult here because this Court, like the Florida Supreme Court, "must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people." *In re Advisory Op. to the Att'y Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 639 (Fla. 2004). Moreover, "[the] Court has no authority to interject itself in the process, unless the laws governing the process have been 'clearly and conclusively' violated." *Id.*

Nothing in this Advisory Opinion should be read or construed to favor a position either for or against the proposed amendments. The Court only advises that there is nothing which facially violates nor conflicts with any known federal, state, or local law such that this Proposed Constitutional Amendment should be withheld from the ballot, and that the Statement of Intent accompanying the proposed amendment is fair and adequate.