

AI 15-01

Brown v. Jensen, Senator at Large

Opinion of the Court

TREFILOVA, J- Joined by CLARK, CJ, SCHMIT, SULLIVAN, STRAUB, JJ

Facts:

Senator of Liberal Arts Nathaniel W. Brown and Senators of the Chadron State College Student Senate filed an articles of impeachment against Tate Jensen, Senator at Large. According to the petition, on November 13, 2015, Jensen violated CSC Student Senate Bylaws Attendance policy. Under IR 15-04, the Court found that Senator Jensen's absence on October 26th, 2015 was unexcused. At the Senate meeting on November 16, 2015, Senator Jensen stated the absence was due to Senator Jensen forgetting the meeting. In addition , on November 9, 2015 Senator Jensen was absent at the meeting due to having a mandatory work training that occurred on the same time as Student Senate. The CSC Constitutional Court issued their opinion regarding "ATTENDANCE" to CSC Student Senate on the matter of Jensen's absences stating that Senator Jensen had missed two Senate meetings for reasons not explicitly outlined as excused absences in the Student Senate bylaws. Moreover, the respondent did not dispute the facts set out by the Chief Justice. The following Senate meeting Jensen answered questions from other Senators; and the Senate voted on removal of the Senator with 10 voting for, 8 voting against, 1 absent, and 1 abstaining. Upon the vote, the motion of removal failed. The third absence took place on November 13, 2015 by the Senator not attending the General Assembly. At the time IR 15-04 was filed, the General Assembly had not convened. Senator Jensen did not provide a reason for missing the General Assembly. Under section c AI 15-01, Senator Brown accused Senator Jensen of missing the General Assembly without proper excuse. Senator Brown stipulates this would be a third absence against Senator Jensen's attendance record.

Opinion of the Court:

Under Student Senate Bylaws., ATTENDANCE, § C(4), 2/3 majority is required to remove a senator from office. By allowing Senator Brown to, again, litigate impeachable violations that have been heard by this court and voted upon in the Senate, would open the door to this Court being used as a tool to allow the re-adjudication and revote on the same violation until enough senators vote to remove, or until the respondent resigns "voluntarily". Adopting this policy comes with the inherent power of a Court to make rules which allow it to function efficiently in areas which the legislature has not spoken to. They have not spoken to the re-trial of an impeached official and we, therefore, disallow the refilling of issues already decided by this Court. We therefore decline to address the two unexcused absences addressed in In Re Jensen and voted upon by the Senate.

Senator Jensen also argued that his absence at the General Assembly should not be considered unexcused due to the Assembly not occurring until 6:00 p.m. on Friday, November 13, 2015, 5 weeks after Homecoming. Chadron State College Student Senate Association Const., Art. VIII, § 5 explicitly states that "Senate and its standing committees shall meet once per semester in General Assembly. The fall Assembly shall occur within two weeks of

homecoming activities. The spring Assembly shall occur within two weeks of midterm break. The General Assembly shall meet during the time normally allocated for the Campus Activities Board.” We find that the mandatory meeting is void for the General Assembly held on November 13, 2015 because it was not held at the regular time allotted to Campus Activities Board, which was set to be at 6 p.m. on Tuesdays. The articles of impeachment were decided by the court in favor of the respondent.

IT IS SO ORDERED.