

## IR 15-02

### *In Re Michael Hall, Petitioner for Presidential Candidacy*

#### Opinion of the Court

STOKEY, J—Joined by LEISHMAN, SCHMIT, TREFILOVA, JJ

#### **Facts:**

Senator Michael Hall began as a student at CSC in the fall of 2014. He quickly made inquiries about serving on Student Senate. He was told that elections would be held within 3-4 weeks. Elections were held over a month after the beginning of the semester and Senator Hall was elected as a representative of High Rise to the Student Association Senate on September 29, 2014 at the same time as each of the other hall representatives. At the next regular Senate meeting, on October 6, 2014, the former chief justice was unable to swear in Senator Hall, because he did not have the required forms present. The former chief justice announced that new senators would be sworn in during the next regular senate meeting on October 20, 2014. Senator Hall was unable to attend the Senate meeting on October 20, 2014, due to a family emergency. Senator Hall was also not present at the next Senate meeting on October 27, 2014 due to the aforementioned reason. Hall was able to attend the following meeting on November 3, 2014, however the former chief justice was not present and therefore the installation could not be take place. Senator Hall was officially sworn into Senate during the next regular meeting on November 10, 2014.

There was also testimony that Senator Hall attended and was actively engaged in Student Senate meetings before both his swearing in and becoming elected.

In the spring of 2015, Hall filed a petition with Chief Justice Coy Clark to be included on the presidential ballot. It came to Chief Justice Clark's attention that Senator Hall had not been a Senator since the beginning of the 2014 fall semester. An *In re* petition was filed with the Court to review the election petition. Senator Hall timely responded. The senator argued that; 1) Hall Representatives to Student Senate will never have the same opportunity to run for the executive board as other senators if their "term" begins at semester or before, 2) at the time senatorial candidates had no option for recourse when elections were unreasonably delayed, and 3) his installation was unduly delayed by the court and emergency circumstances.

#### **Opinion of the Court:**

The Student Association Bylaws states that a senator must first serve one full term in senate before running for the office Student Association President within the bylaw on "Executives" § D. Elections for senators representing residence halls are held during the fall semester of the academic year according to CSC Const. art. II § 2. This court finds that Residence Hall Senators are eligible for appointment to the position of Student Association President resulting from election that following spring semester, so long as they are duly and timely elected and appointed during the fall semester.

While Senator Hall was not “duly and timely elected and installed”, in this case, the Court finds that Senator Hall was not at fault in his late installation. Elections of Resident Hall senators were completed on September 29, 2014 rather than occurring within the three week constitutional time limit. The CSC Const. art. II § 2 ¶ 2 explicitly states, “Senators elected from the residence halls shall be sworn into office...at the third meeting of the Senate following the commencement of the academic year...” This was an error on the part of the Installation Court and outside of Senator Hall’s control. Appointments of new senators were to be handled at the next regular Senate meeting on October 6<sup>th</sup>, however the Installation Court was unable to do so because the Court’s required paperwork was not present. This delay was again outside of Senator Hall’s control. Senator Hall attended this meeting, and if it were not for mistakes on behalf of the Installation Court, would have been installed on that date. Senator Hall was unable to attend the next two consecutive regular Senate meetings due to a family emergency, which is regarded as an excusable absence within Senate under the Student Senate’s bylaw regarding “Attendance” § A(1). Upon his return, Senator Hall was expected to be installed on November 3, 2014; however the former chief justice was not in attendance. This lack of attendance resulted in yet another delay of the Senator’s installation. Senator Hall was appointed during the following meeting on November 10, 2014.

This court finds that Senator Hall followed the appropriate guidelines and met the deadlines he was given in his pursuit of installation and even went above and beyond by attending Senate meetings as a student prior to his election and appointment. Had the events outside of Senator Hall’s control not interfered the Senator would have served a full term as a Residence Hall Senator as defined by this court. Senator Hall will not continue to be unduly penalized for mistakes made on behalf of the Installation Court. This court, therefore, finds that Michael Hall’s petition for candidacy for the office of Student Senate President is accepted. It is so ordered.

CLARK, CJ—Concur in part and dissent in part

The Court's ruling that a dorm senator, duly and timely elected in accordance with the CSC Student Association Constitution is accepted by this Chief Justice. The exception is where I dissent.

I concur with all finding of fact of this Court. There were clearly exigent circumstances that contributed to the tardiness of Senator Hall's installation. These absences would have been excused absences should a Senator be gone for the same reason pursuant to the Student Senate bylaw regarding "Attendance" § A (1)(2) and therefore extend to senator elects.

I agree with this Court finding that a Hall senator, timely and duly elected to that position has fulfilled a "term" in regards to running for President in the subsequent spring election.

The installation court in this matter was clearly erroneous in regards to their timeline. There elections were not held until after the *sixth* regular meeting of Student Senate for that semester. The installation court erred and unduly delayed Senator Hall's installation. On the above points I concur with the Court.

At this junction, the majority and I go our separate ways. The majority contend that this Court is penalizing Senator Hall in this matter by not allowing him to be placed on the ballot for the office of Student Association President. I disagree. I find no evidence that the court is "penalizing" or "sanctioning" or doing anything else to Senator Hall at this point if we choose to uphold the black and white letter of the law, established by the duly elected senators, whose job it is to impose the will of their constituents. I agree that the installation Court clearly erred and exigent circumstances existed, however, the idea of this Court correcting the issues this Court created by overriding directly stated legislation, implemented for a reason, is a door to bypassing our legislator that we should not be willing to open. Therefore, I concur in part and respectfully dissent in part to the Opinion of this Court.