

## IR 18-01

### *In Re Powers and Succession of Presidential Duties according to the Chadron State College Student Association Constitution*

#### Majority Opinion of the Court

MERRILL, CJ – joined by BRENNING and MCCALLUM

In the matter at hand the Court finds that, overall, the Vice Presidential Veto is constitutional. The Court notes that several errors had occurred in this process, but finds the errors to be negligible, as they would not have changed the outcome of the meeting on November 5, 2018. The Court's reasoning is as follows.

First, the Court had to determine the constitutionality of the recusal of President Lukas Klueber. The Court finds that this action is consistent with the spirit and intended meaning of the Student Association Constitution. The President has a duty to voice the opinion most favorable to the students who elected them to office, as dictated in CSC. Const. art. III, § 2.1 of the Constitution. The Court finds that the President cannot fulfill this duty to the students unless the President can remain unbiased. In the case at hand, President Lukas Klueber had a substantial and material conflict of interest being a member of the Big Event staff, even creating the budget in question; this constitutes a conflict of interest and inherent bias rendering President Lukas Klueber unable to fulfill his duties as President at that time. Therefore, the Presidential recusal was proper.

The next question the Court had to answer is whether this recusal constituted a Presidential vacancy. The Court finds that the recusal does constitute a vacancy; however, the manner in which it was carried out on November 5, 2018, was in error. The Court believes that in order to entirely remove the bias and conflicts that come from a Presidential recusal, the President must give notice of his impending recusal before the Senate meeting is called to order and remove himself from the meeting entirely. However, seeing as Vice President and then, Acting President, Konery Klueber, acted in accordance with the recommendation of the Activity Fee Board regardless of President Lukas Klueber's presence, we find the issue of the lack of removal to be negligible.

Applying the findings of the Court outlined above, the Court finds CSC. Const. art. VI, § 2.1 of the Constitution applies, which allows the Vice President to become the acting President, with all the powers the President would enjoy, including the power of the veto. However, the Court, again, finds a procedural

error. Upon review, the Court believes that Vice President Konery Klueber should have been sworn into office as the Acting President, in accordance with CSC. Const. art. III, § 2.2. Though this procedure was not followed, the Court again finds this error to be negligible as swearing in Vice President Konery Klueber as Acting President would not have changed the outcome of the meeting, only prolonged the meeting for a mere minute of action.

In conclusion, though procedural errors did occur, the Court finds that those errors were negligible. The Court came to this decision as this was a case of first impression which was thrust upon the Executive Board of the Student Association with little, if any notice, and did not allow time for proper research to be done in order to preempt these procedural errors. Additionally, the Court finds that none of the procedures we now recommend would have changed the decision to veto the Big Event allocation. Furthermore, the Court finds that the spirit of the Constitution was upheld and all parties acted in good faith. Therefore, seeing as all parties acted in good faith, the spirit of the Constitution was upheld, and that none of the procedural recommendations would have changed the outcome of the veto, the procedural errors are negligible and do not affect the overall constitutionality of the Vice Presidential veto.

According to these findings, the Court finds that the veto was constitutional and rules that the Vice Presidential veto of the Big Event allocation shall be upheld.

IT IS SO ORDERED.