

IN THE SUPREME COURT

Action No. 09 SSC 007)	
)	
Marc Seelinger, Jr.)	
Candidate, Student Congress District 1)	
)	
Taylor Holgate)	
Candidate, Student Congress District 5)	
PLAINTIFFS)	
)	
Versus)	Plaintiff’s Brief
)	
Peter Gillooly)	
Chairman, Board of Elections)	
DEFENDANT)	

Done this 15th day of February 2010

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I. Index of Legal Citations

A. Student Code

1. Duty of the BOE Regarding Voting Technology -----Title VI, Section 302(H)
“The Board of Elections shall obtain a letter from Information Technology Services (ITS) seven (7) days before an election confirming that necessary computer systems are acceptably secure for conducting the said election.”
2. Call for Re-election ----- Title VI, Section 403
“The Board of Elections may call for a re-election if a violation occurred and it could have affected the outcome or compromised the integrity of the election. If the Board of Elections feels that a re-election is necessary, they must allow all affected parties the opportunity to present information concerning the decision to hold a re-election.”
3. Duty of the Board of Elections ----- Title VI, Section 501(A)
“The Board of Elections shall be responsible for monitoring the online election, verifying the results, and ensuring that the process was not corrupted.”
4. Eligibility to Vote ----- Title VI, Section 504(A)
“All duly registered fee-paying students shall be eligible to vote in Student Government Elections.”

5. Technical Difficulties ----- Title VI, Section 511
“Technical difficulties may be grounds for the Board of Elections to call for a re-election if technical difficulties compromised the integrity of the elections process or affected the outcome of the election.”

II. Facts of the Case Presented

- A. At about noon on February 9, 2010, students in North Campus and other congressional districts began experiencing difficulties using the online voting system through Student Central.
- B. Students were prohibited from voting in their appropriate districts because they were either misclassified as graduate students or because they were mistakenly listed as living in a different congressional district.
- C. From about noon to 11:30pm, a persistent rain covered the UNC campus.
- D. At about 7pm, the Chairman of the Board of Elections told the Daily Tar Heel that paper ballots would be available at the BOE Office.
- E. These paper ballots did not specify which districts covered which areas of campus, unlike the online ballot.
- F. On February 11, 2010, the Chairman of the BOE stated in an email that he had not yet obtained a letter from ITS verifying the integrity of the computer system for the election.
- G. On February 11, 2010, the DTH reported that the computer malfunction prevented “as many as 296 students from successfully casting votes in the election.”

III. Questions of Law Presented

- A. *Do technical difficulties with the online voting system that prevent students from voting rise to a level that compromises the integrity of an election?*
- B. *Does requiring some students to take extraordinary measures to vote violate those students’ right to vote in a free and fair election as duly registered, fee-paying students?*
- C. *In light of the technical difficulties with the online voting system, does a failure on the part of the BOE to obtain certification from ITS that the necessary computer systems were acceptably secure for the election further compromise the integrity of the election?*
- D. *What is the proper remedy when the integrity of an election is compromised?*

IV. Arguments for Plaintiff

- A. *Do technical difficulties with the online voting system that prevent students from voting rise to a level that compromises the integrity of an election?*
 - 1. Yes, the integrity of the election was compromised.
 - 2. The technical difficulties are known to have prevented approximately 300 duly registered, fee-paying students from voting in the election. There are also possibly many more students who were unable to vote but failed to report their difficulties to the BOE.
 - 3. Preventing these students from voting affected the outcome of the election. Competitive Congressional races are often determined by only a handful of votes, and preventing students from voting in these elections will affect who wins a seat

and who does not. According the results released by the BOE on February 14, 2010, the difference between the winner of North Campus' fourth seat and the fifth place loser was a mere two votes. It is very possible that had all willing and eligible students been able to vote in this election, that seat (and potentially the other three seats) would have been won by a different person.

4. Given that both the integrity of the election was compromised and that the outcome of the election was affected, the situation meets the test of a re-election as set forth in the Student Code for elections affected by technical difficulties.
- B. *Does requiring some students to take extraordinary measures to vote violate those students' right to vote in a free and fair election as duly registered, fee-paying students?*
1. According to the Code, "All duly registered fee-paying students shall be eligible to vote in Student Government Elections."
 2. However, when the technical difficulties prevented students from voting online, an additional burden was placed on those students in order for them to cast their votes.
 3. In addition to having to walk across campus and fill out a paper ballot, the persistent rain on election day created an additional barrier to those students who had not yet voted. This placed them at an unfair disadvantage to those students who had voted and created a system which favored those voters who voted before the technical problems. The rain and the paper ballots made voting onerous and burdensome to students who voted after the problems arose.
 4. The BOE also failed to alert the student body to the technical difficulties by a means that was likely to reach most of the student body. While a notice was sent to the DTH, the use of a campus-wide email would likely have reached more students. The result of this action was that only viewers of the DTH's website were aware of the problem. This meant that there was unequal information among voters as to how to actually vote. Once locked out of the system, the only people who could vote were those "in the know."
 5. Because the technical difficulties made voting burdensome and there was unequal information regarding how to vote after the problems arose, the voting process was corrupted. The students who were locked out of the system were prevented from voting and disenfranchised.
- C. *In light of the technical difficulties with the online voting system, does a failure on the part of the BOE to obtain certification from ITS that the necessary computer systems were acceptably secure for the election further compromise the integrity of the election?*
1. According to the Code, "The Board of Elections shall obtain a letter from Information Technology Services (ITS) seven (7) days before an election confirming that necessary computer systems are acceptably secure for conducting the said election."
 2. The failure of the BOE to obtain the letter from ITS is a failure to uphold its constitutional responsibility. This constitutes a violation of campaign law as

defined by Title VI, Section 101, "A violation of any provision of this Act may constitute an offense against the student body."

3. The BOE's violation of campaign law calls into question the integrity of the election that it oversaw.

D. *What is the proper remedy when the integrity of an election is compromised?*

1. When the integrity of an election has been compromised the proper recourse is a revote. Not every violation requires a revote, only those that compromise the integrity of the election or affect its outcome.
2. The Plaintiffs have argued that the violations and problems noted above both compromised the integrity of the election and affected its outcome.

V. Petition for Relief

A. The Plaintiffs ask the Court to invalidate the election results of February 9, 2010 elections in District 1 and District 5 and order that a new vote be taken on a date sufficiently delayed to give the candidates in those districts time to prepare for a second vote.

I do affirm that I have read in full the foregoing brief and that the allegations contained therein are true to the best of my knowledge and belief.

Filed this day of 15th day of February, 2010 at 5:00pm.

Marc Seelinger, Jr.
Candidate, Student Congress District 1

Taylor Holgate
Candidate, Student Congress District 5