

Spring Term, 2020

STUDENT COURT OF YESHIVA UNIVERISTY WILF CAMPUS

Syllabus

YCSA and SOY *vs* YSU

Submitted January 26, 2020 – Decided January 29, 2020

Syllabus: On January 26th, 2020 the Student Court of the Yeshiva University Wilf Campus received a Writ of Petition on behalf of YCSA and SOY, hereafter “Petitioners.” Petitioners asked this Court to remove Mr. Zachary Greenberg, hereafter “Respondent,” as YSU President because of his alleged inability to serve in that role as a result of his status as Resident Advisor, hereafter “RA,” and order “immediate emergency elections.” On January 26th, 2020, this Court granted certiorari of the case. Associate Justice Aryeh Burg recused himself from this case after expressing interest in running for office should special elections be held. As such, Justice Pro Tempore Jacob Friedman took his place on the bench. On January 28th, 2020, Respondent’s legal counsel submitted a Suggestion for Mootness to the Chief Justice. The motion claimed that on January 28th, 2020, Mr. Greenberg submitted a letter of resignation to the Director of University Housing & Residence Life at the Wilf Campus, which this Court verified. As such, Respondents legal counsel argued that Petitioners claim was moot and the case be dismissed with Respondent assuming the position of YSU President. Petitioners were given the chance to respond, which they ultimately declined.

Held: Respondent’s Suggestion for Mootness is accepted. Petitioner’s claim is dismissed. As such, Mr. Zachary Greenberg assumes the Presidency of YSU.

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Opinion of the Court

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Chief Justice Phillip Dolitsky delivered the opinion of the Court.

Shortly before the close of the Fall 2019 semester, The Commentator, the student newspaper of Yeshiva University, ran an article titled “Sacknovitz to Step Down as YSU President.” The article revealed that Mr. Ariel Sacknovitz, who served as YSU President for the Fall semester, would not be a full-time student at the start of the Spring 2020 semester and as such, would be stepping down from his position as President. In the event that the YSU President cannot fulfill his duties, the Wilf Constitution Article II, Section 2(5), as amended by Amendment 7, taps the VP of Clubs to succeed him. When Mr. Sacknovitz stepped down as President, Mr. Zachary Greenberg was serving as VP of Clubs as well as a Resident Advisor. A simple reading of the Constitution, therefore, establishes Mr. Greenberg as YSU President. Petitioners, who are composed of the Presidents of YCSA and SOY, petitioned this Court that Mr. Greenberg does not succeed Mr. Sacknovitz. Petitioners claimed that since the YSU President serves on the General Assembly, and the Constitution prohibits a member of the General Assembly from being a Resident Advisor as per Article II, Section 10(1), Mr. Greenberg cannot Constitutionally serve as YSU President. Petitioners therefore called for “immediate special elections” to resolve the matter. This Court began its deliberation about the merits of

Petitioners claim but *did not reach a conclusion* before a Suggestion for Mootness was sent to the Court. Although we accepted the Suggestion for Mootness, we write here to raise awareness to what we saw as the bigger issue than a contested presidency; a poorly designed and outdated Constitution.

Petitioners and members of the Student Body who submitted “briefs”¹ to the Court believed that the clause mandating that no member of the General Assembly be an RA was a clear indicator that Mr. Greenberg could not become President. But if that were as obvious as Petitioner’s made it seem, this decision would have been written in no-time and this University would once again be in campaign season.

Before exploring some of the difficulties with Petitioner’s claim, we pause here to mention the first set of difficulties this Court faced with this case; there is no updated version of the Constitution anywhere to be found. A quick internet search of “Wilf Constitution” yields a document titled “CONSTITUTION with 2014 AMENDMENTS.” This is the same document that was sent to the Student Body by the Canvassing Committee in the most recent elections. Unless our eyes deceive us, this Court, as well as the Student Body, is forced to rely on a Constitution that hasn’t been updated in six years. Several amendments have been passed since 2014 and yet this University doesn’t have a Constitution that reflects that reality. Dealing with an outdated Constitution, as well as having no information as to who wrote it, has proved to be incredibly difficult in determining its meaning.

¹ This Court received only one detailed and thorough brief on behalf of Respondents. The rest of the emails sent to this Court were a collection of one-liners in support of Respondent without even an attempt at creating an argument against Petitioner’s claim. This Court was not impressed.

One example of the Constitution's ambiguity concerns Amendments 2, 5 and 6. The latest amendments replaced the line of succession in the YSU government by replacing the VP of Class affairs as the successor to the President with the VP of Clubs. However, the amendment that would have abolished the role of VP of Class affairs failed to be ratified. The YSU Government and the Canvassing Committee seem to have assumed that this amendment, Amendment 6, passed, as there currently is no VP of Class affairs. As such, there is currently an unfilled role in the student government. This poses a problem with Amendment 2. Amendment 2's main purpose is to ensure that no governmental position remains unfilled. However, Amendment 5, which lists the members of the YSU government, does not mention the VP of Class affairs. Thus, the constitution contradicts itself, as it first does not include the VP of Class affairs as a role in the government and then later devotes an entire section to enumerating the responsibilities of that position.

This leads us to the present case. The Constitution mandates that the Presidents of all the Student Organizations be a Senior. It makes no such requirement, however, about the Vice President; he can be a Junior. Some members of this Court were of the opinion that since the Constitution recognizes that the President and Vice President of any Student Organization can be of different ranks, and simultaneously ordered that the Vice President succeed the President, the Constitution must also recognize that the Vice President can succeed the President if he was an RA. In other words, some members of this Court argued that the requirements imposed on any position, like members of the General Assembly not being able to also maintain an RA position, are restrictions imposed on candidacy; they are not restrictions on active government members who in unforeseen circumstances assume a different role in government. Other members of this court were not convinced, instead arguing that succession can happen if, and only if, the Vice

President can meet the requirements of the President, in which case, being an RA would inhibit the Vice President to succeed the President. They also argued that the language of Article II, Section 10(1) would *always* prohibit a member of the General Assembly from also being an RA. We left our first conference digesting each other's opinions and decided, responsibly, to delay a vote until we would meet to discuss again. Before we could, the Suggestion for Mootness was filed and we accepted its findings. This does not, however, mean that we agree with Petitioner's arguments. Instead, we mention our legal thoughts to show that the Constitution's contradictory language and provisions have helped contribute to this mess.

Which leaves us to our final point. Members of this Court have been approached to "fix the Constitution." We wholeheartedly agree to the message; it needs updating and revision. But it is not the job of the Judiciary to create law or decide what the law ought to be. It is the role, nay, the responsibility of the Student Body and its elected leaders to update and revise the Constitution through the amendment process.

These vital issues notwithstanding, this Court accepts Respondent's Suggestion for Mootness after independently confirming that Mr. Greenberg's letter of resignation from his RA capacity was accepted. As such, Petitioner's claim is dismissed and Mr. Greenberg assumes the role of YSU President, effective immediately. This Court also rules that Mr. Greenberg did not hold the position of President until now. We believe this to be in line with this Court's decision in *YSU v. Canvassing Committee*. Therefore, any appointments which the Constitution grants the YSU President make are only valid after the time of this decision's dissemination to the Student Body.

It is so ordered.

Dolitsky, C.J., delivered the opinion for a unanimous Court on behalf of Sosnowik, J., Lavi, J., Stern, J., Freidman, J.P.T.