

Fall Term, 2020

## **STUDENT COURT OF YESHIVA UNIVERSITY WILF CAMPUS**

### Syllabus

Jacob Goldsmith v Yeshiva University Canvassing Committee

Submitted September 18, 2020- Decided September 25, 2020

*Syllabus:* On the 18th of September, 2020, Jacob Goldsmith, hereafter “Petitioner” submitted a brief to the Student Court of the Wilf Campus against Yeshiva University Canvassing Committee, hereafter “Respondents.” Petitioner asked this Court to decide whether he is eligible to be seated as the Sophomore Representative even though he only achieved the requisite number of credits after the election had taken place. The Court agreed to hear the case and all Justices partook in deliberations about the Petitioner’s claim.

*Held:* Having achieved the requisite number of credits after the election had taken place, Petitioner failed to meet the requirements set forth by the Constitution. As such, he is ineligible to be seated as the Sophomore Representative. Furthermore, the runner up to the election, Mr. Yeshaya Fishman, also failed to meet the requirements of the position set forth by the Constitution. As such, the court directs the Yeshiva University Canvassing Committee to hold a new election as outlined in Article X Section 5 (4) of the Wilf Constitution.

*Per Curiam.*

Fall Term, 2020

**STUDENT COURT OF YESHIVA UNIVERSITY WILF CAMPUS**

Opinion Of the Court

Jacob Goldsmith v Yeshiva University Canvassing Committee

Submitted September 18, 2020- Decided September 23, 2020

Per Curiam.

Opening his dissent in *Akiva Poppers v Yeshiva University Canvassing Committee*, Chief Justice Phillip Dolitsky stated how Justice Antonin Scalia named *Bush v Gore* as the most contentious case he dealt with in his time on the bench. Chief Justice Dolitsky further stated that while every case has a winner and a loser, election cases are more personal. As he put it: “there’s something visceral about them.” The words of the former Chief Justice are as true today as they were when he stated them. This case may have been the first this Court has heard this year, but it was by no means an easy decision.

On September 18, 2020, Petitioner sent a writ of petition asking this Court to overrule the Canvassing Committee, and declare him the winner of the Fall 2020 race for Sophomore Representative. Respondent refused to seat petitioner, despite his receiving the majority of the votes, due to his lack of requisite credits to be the Sophomore Representative. Instead, the runner up, Mr. Shay Fishman, was declared the winner.

After the election, Petitioner received 32 credits from his Yeshiva in Israel, elevating him to a lower sophomore, thus eligible to be seated as Sophomore Representative. Petitioner argued that based on the precedent set in *Akiva Poppers v Yeshiva University Canvassing Committee*, he

should be declared the winner. In *Poppers*, this Court recognized that “credits in progress” with the university can be counted as credits when determining a candidate's class standing. However, that precedent does not apply here. *Poppers* recognized that credits coming from classes in progress from this institution can be counted when determining a candidate’s class standing. The case never recognized credits being transferred from another institution as “in progress.” Thus, this Court does not recognize *Poppers* as binding on the present case.

The question the Court dealt with, after determining that *Poppers* was not binding to the case at hand, was at what time the Petitioner had to be eligible to assume his desired position. The Constitution states in Article X Section 3 (6): “All candidates must be eligible according to the rules set forth by the Constitution and Canvassing Committee By-Laws, full time students in good standing, and must be able to serve for a full academic year.” This clause requires that all candidates must satisfy every qualification for their desired position, thus, giving this court the ability to determine the constitutionality of the Petitioner’s candidacy. Furthermore, the Constitution states in Article X Section 1(1): “The Canvassing Committee shall be responsible for all elections and shall be responsible for ensuring that all candidates meet all qualifications for their respective positions as defined in this constitution.” This Court recognizes “candidates” as referring to Petitioner’s status before the election took place. Petitioner never held the requisite constitutional qualifications while being a candidate, and the constitution does not allow for such a candidate to be eligible in the first place, even if the Canvassing Committee officially recognizes their candidacy. Furthermore the Constitution mandates in Article XIII Section 3 (3) “For any positions with qualifications based on class standing, the class standing of candidates or officers shall be determined by the Office of the Registrar and verified by the Canvassing Committee, through the Office of the Student Life”. The Canvassing Committee was

notified by the OSL prior to the election that the Petitioner was not eligible to be a candidate as he was a Freshman, and was not a Sophomore nor did he have the requisite credits in progress to make him a Sophomore.

While the Respondent was derelict in their duty to ensure that Petitioner met all qualifications for his respective position, that does not mean Petitioner was an eligible candidate. The Canvassing Committee is charged with the responsibility to ensure that all candidates are eligible, and does not have the power to consider the candidacy of an ineligible student who does not meet all the qualifications for his respective position. As such, if a candidate is placed on the ballot by the Canvassing Committee despite not meeting all their requisite constitutional qualification, votes for that candidate cannot be recognized and shall be considered null.

After determining when Petitioner was required to meet the qualifications set forth by the Constitution, the Court inquired as to what qualifications are required of the Sophomore Representative. While the qualifications for Sophomore Representative are not stated explicitly in the Constitution, there is mention of qualifications for all Class Representatives in Article III Section 8 (1): “All Class Representatives must be members in good standing of their respective classes up to and including the upcoming academic year.” From this clause it is evident that anyone who wishes to be a Class Representative must be a member of that respective class, and must be in good standing. Taken in conjunction with Article X Section 1 (1), that means anyone who wishes to be a Class Representative must be a member of that class in good standing as a candidate. Petitioner admits in his brief that he received his credits two days after the election had taken place, and not while he was a candidate. Thus, as a candidate he did not meet all qualifications for his respective position as defined in the Constitution. Article XI Section 2 (1) states “The Student Court shall have jurisdiction over disputes with regard to the interpretation of

the Student Government Constitution, the determination of the legitimate holder of Student Government positions.” As such, all votes cast for Petitioner shall be considered null, he shall not be seated as Sophomore Representative.

The runner up, Mr. Shay Fishman, received the second most votes in the election, and appeared to be the winner due to Petitioner’s failure to meet the proper requirements as a candidate. However, upon additional briefs being submitted to the Court, it came to this Court’s attention that Mr. Fishman may have the status of a Junior in the upcoming Spring Semester. This information was later confirmed to the Court by the Office of Student Life, through the Office of the Registrar. In Article X Section 3 (6), the Constitution states that candidates “must be able to serve for a full academic year.” A full academic year includes the Fall and Spring Semesters. Since the Constitution makes clear that Class Representatives must be members in good standing of their respective class and must be able to serve for a full academic year, Mr. Fishman is also ineligible to be seated as the Sophomore Representative. Per the results of the election released by the Canvassing Committee, there was no write-in candidate that received at least 20 votes as is required by Article X Section 5 (2). Consequently there was no winner in the election for Sophomore Representative, and the position remains vacant. A new election for Sophomore Representative shall be held in the second month of classes for the Fall Semester consistent with Article X Section 5 (4).

*It is so ordered.*