

PER CURIAM

**THE ALL-CAMPUS JUDICIAL COUNCIL OF THE  
UNIVERSITY OF ROCHESTER STUDENTS'  
ASSOCIATION**

ATUL GULATI and Lonny Mallach v. SA SENATE

[March 2, 2003]

PER CURIAM

Atul Gulati, a junior, appeals judgments of the Senate Election Committee affecting his candidacy for the Student Association Senate. Lonny Mallach, President of the Students' Association, appears on behalf of the student body for injunctive relief regarding the election.

**I**

On February 26, 2003, the Senate Election Committee disqualified Atul Gulati from the At-Large Senate race after discovering several of his campaign posters hanging in Wilson Commons during the voting period. Campaigning within Wilson Commons during the voting period is prohibited by Title 1, Chapter 2, Section 3 of the Bylaws. Three of the four Committee members were contacted and voted for removal; one could not be contacted. The Committee then emailed the entire Senate to inform them of the decision. No objections were registered.

The petitioners argued that the Election Committee's decision was unnecessarily harsh and inconsistent with precedent. The Council finds, however, that the decision of the Election Committee, was within their discretion and made pursuant to the Bylaws. It was Mr. Gulati's responsibility to read and abide by the bylaws set forth by the Election Committee and his failure to do so justifies his removal from the ballot. The decision to disqualify the Petitioner from the At-Large Senate race is therefore upheld.

**II**

Also on February 26, the Senate Election Committee declared the following winners of the spring Class of 2004 Senate election:

Peter Ordal, 60 votes  
Brett Abercrombie, 11 votes

Additionally, Atul Gulati received 10 write-in votes via the online voting system. In question is whether or not the Election Committee should also have counted a single "paper ballot" vote for Gulati submitted by Abhishek Shah. Shah had attempted to vote

online using the terminals in Wilson Commons approximately fifteen minutes before the end of the election, but the system failed to recognize him as a full-time student and denied him access. The Election Committee therefore wrote down his name, email, class year, and voting intentions. This however, was not counted as a real vote in the election.

As the Committee argues, Title I, Chapter 6, Section 2 of the Bylaws plainly require all voting to take place via the web voting system. Given the plain language of the statute, we hold that the decision of the Committee to exclude the paper ballot was justified.

### III

Finally, the Petitioner argues that the entire election was conducted in an unconstitutional manner because the voting system did not allow all students to vote. The online voting program, having been used once before during the fall election, prevented many students from voting in the spring election. The Committee did not fix the system, but notified students halfway through the election of the difficulties that may be encountered when voting. If difficulties continued to occur, students were given the option of emailing an administrator to have their access restored, but turnaround before the end of the election was not guaranteed. Indeed, in the case of Mr. Shah, when it was discovered late Wednesday that he was unable to vote online no administrator was available to mend his account. No paper backup ballots were defined or allowed.

We agree with the petitioner's argument and therefore find the election to be in violation of the Student's Association Constitution. Article II, Section 1 of the Students' Association Constitution declares, "All full-time undergraduates enrolled in the Colleges of Arts and Sciences, Engineering and Applied Science, and Nursing shall be full voting members of the Students' Association." The All-Campus Judicial Council finds that the current statutory scheme of online voting violates the spirit of this provision by denying many students the ability to vote when the online program fails.

Clearly there are alternatives to the online-only system prescribed by the Bylaws and the errors in this election were largely preventable. For example, one alternative would be to conduct the election as follows: Anyone denied the opportunity to vote online as a result of any failure in the web voting system should be offered the opportunity to email the Senate Election Committee with his or her name, student ID number, email address, and voting intentions. This email should be sent by the designated closing time of the elections. The Election Committee could filter double votes by checking the email votes against the online records; in the case of double votes, the email vote would be discarded. After the elimination of double votes, the Committee would announce the preliminary results of the election and contact any students whose votes were still in question. These students would then have 5 days to prove their eligibility and have their votes counted before the final results of the election were announced by the Election Committee. Any student who intentionally casts more than one ballot will be subject to judicial review by the All-Campus Judicial Council.

As this Council affirmed. in *Czapla v. Senate Elections Committee* (2002), the right to select one's representatives is of fundamental importance to the Students' Association. While some errors are bound to occur in any electoral scheme, this election was so grossly flawed that a severe remedy is necessary to right these wrongs and restore this most essential right of the student body. The Council therefore holds that the entire spring 2003 Senate election, in all races and all contests, is invalid and void. Senate seats won in the election are rescinded. The Election Committee is hereby ordered to conduct a new vote for this election, pursuant to all applicable bylaws, and with all deliberate haste.

*It is so ordered*