

Associated Students of the University of New Mexico
Student Court

University of New Mexico

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Kanika Chawla
Chief Justice

Michael Guerra
Senior Associate Justice

Anna Marie Baca
Associate Justice

Angela Esquibel
Associate Justice

October 4, 2000

DECISION IN THE CASE OF

Senators Steve Aguilar, Jr., Grant Nichols v. Attorney General Simon Goldfine
Case Docket Number 00-03

ASUNM Vice President Chris Mansfield, on August 22, 2000, asked Attorney General Simon Goldfine for an interpretation regarding the filling of vacancies in the senate. VP Mansfield felt that Article VII, Section 4, the section regarding senate vacancies, in the Constitution was ambiguous and sought clarification from AG Goldfine- were the seats to be filled by the highest vote getter from the most recent election, or from the election in which the resigning senators ran in. AG Goldfine determined that the seats should be filled by the next highest vote getter from the election in which the resigning senators ran in, thereby going against previous precedent. The plaintiffs, Senators Steve Aguilar Jr. and Grant Nichols, brought suit claiming that Article VII, Section 4, was not ambiguous and that AG Goldfine was incorrect in his interpretation. The plaintiffs also charged that AG Goldfine neglected precedence in rendering his interpretation. AG Goldfine defended in part by claiming that as Attorney General, his position is to interpret the law and his interpretation was an extension of his prescribed duties. AG Goldfine also stated that Article VII, Section 4, was ambiguous and unclear and that he did take precedence into account when he rendered his interpretation

In the above named case, the ASUNM Court states that:

I. The evidence present to the Court is as follows:

Plaintiff

Interpretation of AG (August 23)
Interpretation of AG (August 30)
ASUNM Constitution, pg. 10-11
"Understanding English Grammar"
pg. 177
Email affidavit of Prof. L. Beene
AG J. Herrera (March 6)
Defn of precedence (M-W Dictionary
of Law)
Defn of stare decisis (M-W Dictionary
Law)
Defn of interpretation
Section 9, Article 4
Fall 1999 election results
Spring 2000 election results
Daily Lobo, August 24
Email from Julie White, English dept. TA

Defendant

Email from VP Mansfield to AG
Goldfine (August 22)
AG Goldfine's interpretation
Email from VP Mansfield to AG
Goldfine (August 30)
AG Goldfine's interpretation,
addendum
AG Goldfine's email to Prof. L.
Beene
Email from Prof. L. Beene to AG
Goldfine
ASUNM Constitution, pg. 10-11
ASUNM Fall Lawbook, pg. 3-4
Definition of hearsay from
allwords.com

II. The Counselor's testimony to the Court is as such:

Sen. Steve Aguilar, Jr., Sen. Grant Nichols, representing ASUNM.
ASUNM Attorney General Simon Goldfine

III. The witnesses testimony to the Court is as such:

Simon Goldfine (Plaintiff)
Jennifer Liu (Plaintiff)
Gerald Pacheco (Plaintiff)
Grace Esquibel (Defendant)
Josh Ewing (Defendant)
Grant Nichols (Defendant)

IV. The only issues the Court is providing an Opinion on are those issues clearly defined in the Plaintiffs' complaint. All other issues have been excluded from this decision.

V. All students at the University of New Mexico of which is a state funded university are equally protected by the Constitution of the United States and the Constitution of the State of New Mexico. All undergraduate students are protected by the Constitution of the Associated Students of the University of New Mexico.

Considering all the evidence presented in the Complaint and Answer Form and at the Hearing this Court finds that:

- I. The Court finds that the Constitutional provision at issue is ambiguous. By reading, it is not clear whether the highest vote getter should come from the most recent election or the election in which the resigning senators ran in.
- II. AG Goldfine was not out of his bounds as Attorney General in rendering his decision. An Attorney General should review past cases and give weight to precedence. The Attorney General is not legally bound to follow past ASUNM practice or the decisions of previous attorneys general when providing an interpretation of a provision in the ASUNM Constitution. How senate vacancies were filled in the past does not set legal precedence that the Attorney General must follow. Therefore, precedence can be overturned. This should not be done lightly however. Careful thought must be given to all decisions. An Attorney General can disagree with a previous AG if he/she feels that the decision was not fair or the law means something different than it did.
- III. Previous AG Jennifer Herrera addressed a similar issue regarding senate vacancies but did not render an official opinion.
- IV. An Attorney General cannot override what is clearly stated in the ASUNM Constitution. In this case, the law in question was ambiguous and the AG can legally make an interpretation of the law.
- V. The procedure for filing senate vacancies is not clear. The Steering and Rules Subcommittee of the ASUNM Senate is strongly encouraged to clarify the Constitutional provision in question.
- VI. AG Goldfine's decision appears to be reasonable to the Court and the Court defers to his interpretation. The Court upholds his decision and agrees that, as the provision is currently written, the Senate vacancies should be filled with the next highest vote getters from the election in which the resigning candidates ran in.

COURT VOTE

4-0

Therefore, the decision of this court is to fill the senate vacancies with the highest vote getters from the election in which the resigning senators ran in. Attorney General Goldfine acted within his capacity as Attorney General when issuing his interpretation. Article VII, Section 4, regarding senate vacancies is ambiguous and unclear. The Steering and Rules Subcommittee of the ASUNM Senate is strongly encouraged to rewrite or clarify this section. The AG should always consider precedence when rendering a decision or interpretation. The AG is however, not bound solely to precedence and can diverge from precedence if he/she strongly feels that the precedence is unfair or wrong.

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