



# The Student Senate

Texas A&M University

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## Memorandum

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**To: Texas A&M Student Government Association Judicial Court**

**From: Aaron Mitchell – Speaker of the Student Senate**

**Date: October 2, 2015**

**Subject: Regarding 68-01 and other actions of the Judicial Court**

I write this memorandum after long observing shortcomings of the Texas A&M Student Government Judicial Court. I view the Judicial Court as a peer, much like I view a classmate that constantly comes to class unprepared. I have no doubt of the intelligence of our Judicial Court or their ability to make complex decisions, however I do question their understanding of the Student Government Association Constitution, Statutes of the Senate, as well as their motivation and dedication to serving the students of Texas A&M. Below, I shall describe several shortcomings of the Court, the action I will be taking to correct future mistakes, and my motivation for doing so.

Since the beginning of my term as the Rules and Regulations Chair of the Student Senate in the 67<sup>th</sup> Session, I witnessed the Court fail for the first time when they created Judicial Court bylaws that forced current and future members of the Judicial Court to resign if they were to file for election to be a member of a branch of the Student Government Association, which I believed to be in direct violation of the SGA Constitution. Led by Chief Justice Cooper, the Court later added the following subsection to Article XI Section VII of the Judicial Court Bylaws at my request, thus acknowledging their guilt.

(b) This bylaw shall expire on the final day of each academic year and be subject to renewal at the beginning of the final year. Each time, this bylaw must not have any vote against it in order to be renewed.

In the landmark case of 67-03, several Justices infamously quoted the incorrect version of The Student Government Association Election Regulations. That's correct—the Judicial Branch that is responsible for the Student Government Association that represents almost 60,000 students cited outdated legal documents in a case that determined the institution's Student Body President.

In addition, I have witnessed multiple rulings by the Court that I consider to be of faulty reasoning that were produced by an incomplete understanding of the S.G.A.C. Unfortunately, I do not have the time or patience to go through these rulings and argue them piece by piece. Doing so would require tens of



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pages of analysis. It is much easier for me to undermine the Court's inability or lack of desire to learn the rules of the Student Government Association by showing how actions of the Court have been illegal or ill-advised. Conveniently, I do not have to go far to find multiple examples. My point will be made by outlining three key mistakes in the Court's 68-01 ruling.

1. The signed opinion has not been made publically available. If the Opinion and Writ of Mandamus issued by the court is unsigned, it is thus invalid. The very action that the Court is forcing Commissioner Fuchs to take would be unconstitutional. As of 11:00 am on October 1, 2015, neither the Writ nor the Opinions were signed and publically available. The action that Commissioner Fuchs was forced to make was executed in the afternoon on September 30, 2015.

This is pursuant to Article IV Section III subsection (a) of the Student Government Association Constitution.

- (a) Ruling on any case by a majority vote of the Justices of the Judicial Court hearing the case. All rulings shall be accompanied by, at minimum, a majority opinion stating the ruling, the judgment imposed, and the reasoning of the majority. Rulings may also be accompanied by the reasoning of any plurality, concurring, or dissenting opinions in whole or in part. All opinions shall also, at minimum, clearly designate the names and **signatures** of the Justices of the Judicial Court joining the particular opinion, the name(s) of the parties, and the date and time of the decision.

If the opinion is signed, but not publically displayed, then the ruling is constitutional, but still out of line with the Judicial Court's Bylaws. All opinions are to be publically displayed as per the Bylaws of the Judicial Court, thus demonstrating further lawlessness by the Court.

This is pursuant to Article V Section IV of the Judicial Court Bylaws:

SECTION IV. Every opinion issued by the Court, whether majority, minority, or concurring, must bear the signature of each Justice joining the opinion. After approval, a copy of each opinion is to be placed in the Student Government Association Judicial Court permanent file. Similarly, all opinions are to be issued to The Battalion for publication and to all parties involved. Every opinion receiving at least two votes shall also be posted in the SGA front office, and must be transmitted to the parties involved.

In this instance, misconduct by the Court is clear.

2. In 68-01, the Court has continued its display of a failure to use the SGA Code correctly when it cited "The SGA Code in Article X, Section VI, subsection (a), 1" in their (unsigned) Writ of Mandamus. Anyone that even shortly glances at the S.G.A.C. can understand that there are



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scores of Article X's in the S.G.A.C. How can the students of Texas A&M or representatives in the Student Government Association trust the ruling of the group responsible for the highest and final interpretation of the S.G.A.C. when it does not understand its most simple functions?

3. The Judicial Court accepted evidence of a computer screenshot as proof of the Plaintiff doing his required duty to provide mandatory information to the Election Commissioner. Firstly, a computer screenshot can easily be edited to say whatever someone would like it to say. Secondly, there is no proof of him providing information on the said forms that he allegedly filled out. Thirdly, there was no due diligence by the Plaintiff or the Court to see if said webpages were in fact the correct webpages that one would need to go through in order to file. Fourthly, there was no investigation into external factors such as the possibility of the Plaintiff's credit card being denied, whether or not the Plaintiff was registering someone else, or whether or not the screenshot was from that Plaintiff's computer at all! To illustrate, if an online store were having a 50% off sale on jewelry for a period of 1 hour, and a customer submitted a screenshot of web history showing that he went to the website and reached a page that said "submitting order...please wait," during that hour, could he/she take the store to small claims court and demand that he be given the 50% off discount? No. That would be laughable and absurd.

A pattern of incompetence or misunderstanding of the S.G.A.C has been shown many times by the actions of Court. I have easily outlined four actions of clear lawlessness and one instance of a severe lack of due diligence, yet I have not even indulged into the gold mine of blunders provided by the Court's rulings over the past year. That would take many hours, which I do not care to spend. With these several points, I have already successfully flushed the Court's credibility down the proverbial toilet.

However, I don't blame the Court. What do they have to lose? They are untouchable. There is almost no way they can be removed. Even if they were to be impeached, the Judicial Court has the ability to review their own impeachment. They have no incentive except the Aggie Core Value of Excellence to learn the S.G.A.C. and produce well thought out opinions.

I blame a new rule—about four years old—that allows Justices to be appointed to serve as long as they are students at Texas A&M. This is obviously modelled after the Supreme Court of the United States, but there are several factors that do not parallel SCOTUS. One of the biggest is the simple fact that the Student Senate is given a resume and a 5 minute presentation, while the United States Senate is given a lifetime of legal work to consider when confirming Justices.

The solution is to legislate. On Wednesday, October 7, I will be introducing a constitutional amendment before the Senate that will fix our Judicial Court problem. I will propose returning to a Judicial Court that must be reconfirmed yearly or that has yearly terms. The Chief Justice will be appointed by committee



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with members from all three branches and will be confirmed by a 2/3 vote of the Senate. The Chief Justice or the committee will then appoint Associate Justices, which will also be subject to confirmation by Senate. *There will be no grandfather clause.*

I am embarking on this mission not because I have a personal interest in this recent case, but because I have a moral responsibility to stand up for what is right. As Thomas Paine so eloquently stated, "For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other." Lady Justice is calling a crusade, which I encourage the Senate to embark on.

Aaron Mitchell, Speaker of the 68<sup>th</sup> Student Senate

CC: Student Body President, Joseph Benigno  
The 68<sup>th</sup> Session of the Student Senate  
Amy Lloyd  
Kenneth Johnson  
Rusty Thompson

Attachments: S.B. 64-30 The SGA Constitution Modernization Amendment, p. 16-21