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Declaratory Judgment Panel Agenda

Tuesday, January 7, 2014

4:00 PM

- I. Attendance
 - a. List Guests
 - b. Announce Absences
- II. Additions/Deletions to Agenda
- III. Open Forum
- IV. Declaratory Judgement:
 - a. Request from SG Solicitor General: Shaheen Nouri regarding statute: **704.1.3 (statute of limitations)**
- V. Adjournment

*University of South Florida Government
Supreme Court 2013-2014*

Bryan Buenaventura (BB): I call this declaratory judgment panel meeting to order. The time is 4:02pm. The day is January 7th, 2014. Present is from the panel is myself Bryan Buenaventura, Michael Kalmowicz (MK), and Sammy Hamed (SH). As guests, we have members who are not on the panel: Daniel Shapiro (DS), Corey McCance (CM), Alexas Sacasas (AS), Katherine Burkhard (KB), and our clerk Brandon Telchi. Are there any additions/deletions to this agenda? Seeing none, is there a motion to approve this agenda?

SH: so moved

BB: are there any objections? Seeing none, this agenda is now approved. Is there a motion to move into open forum?

MK: so moved

BB: are there any objections? Seeing none, we are now in open forum. Does anyone from the gallery have anything to say? Seeing none, is there a motion to move out of open forum and into declaratory judgment?

SH: so moved

BB: are there any objections? Seeing none, we are now in declaratory judgment. And now we will review the request made by Solicitor General Shaheen Nouri regarding statute 704.1.3 which it talks about the statute of limitations. I'm going to read exactly what it said on the original request: 704.1.3 the statute of limitation for election cases must be filed with the supreme court shall be 24 hours after the close of polls for the general elections or run-off election if it occurs. And the solicitor general Shaheen Nouri wants to clarify exactly and he wrote this in the request: senator Evan Brown filed an appeal with the court on Tuesday October 23rd at 5:38pm with regard to the elections rule committee decision on Monday October 22nd at 3:02pm. May the court please clarify first why senator Brown's appeal did not violate statute 704.1.3 statute of limitations and was accepted past 24 hours, and second, why this was mentioned by the ERC in its pre-trial motion and never discussed by the court in its decision; all clarification is greatly appreciated. So I think we should go about this addressing both of those issues, one at a time. For the first one, 704.1.3, by clarifying it it specifically addresses elections cases, and it limits the 24 hour period until after when the poll closes. Senator Brown's appeal was not an election case, it was a jurisdictional issue, and it was an appeal; and as far as statutes are regarded, there is no statute of limitations for appeals, and since it was an appeal there is no time or limitation set to bring up the appeal, so that is what the first one has. Do any of the other members have any further clarification they would like to make?

SH: no, that makes sense.

BB: okay, Michael Kalmowicz do you agree?

MK: perfectly clear

BB: okay. Now we move on to the second one where solicitor general Shaheen Nouri states why this was mentioned by the ERC in a pre-trial motion and never discussed by (inaudible) decision. We accepted the case to address the issue of jurisdiction and in the percuriam opinion we the court felt that it should specifically address what was brought forth to the court; meaning the jurisdictional issue. The matter of what was written in the pre-trial motion it was addressed in pre-trial—meaning before the trial was made, where court leadership unanimously denied the pre-trial motion and further, even when it was further appealed to the dean for students, Dr. Freeman, Dr. Freeman agreed that it was procedurally correct. And I feel with that that clarifies the issue of why we didn't discuss it in our opinion; because our opinion was specifically addressing what was brought to the court, and it was an issue of jurisdiction. The matter of it being brought forth in the pre-trial matter was addressed when we looked over it. And we as court leadership decided that it did not hold weight to entertain it so we dismissed the pre-trial motion. Do any of the other members feel that they need to clarify anything else for number two?

SH: no, I just agree that our decision didn't need to address the pre-trial motion because we addressed it before the trial and we released explanation of our vote anyways, so I don't think it needs to be addressed in our opinion either.

BB: yeah. And even when it was, again reiterating, even when it was appealed the second time to Dean Freeman, he specifically mentioned that it was procedurally correct in what we did. So I feel that that clarifies that; if any other members want to clarify anything about the other things then with that said we will issue a legally binding opinion of what we discussed today and we will send it to Shaheen Nouri, and he will send it to the students that originally solicited him to request this clarification. So with that said, is there a motion to move to adjournment?

SH: so moved.

BB: are there any objections? Seeing none, this declaratory judgment panel meeting is now adjourned at 4:08pm.