

UNIVERSITY OF KENTUCKY
STUDENT GOVERNMENT ASSOCIATION SUPREME
COURT

Case No. 2-Spring-2018

ROSS BOGGESS, CLAIMANT

v.

UK SGA ELECTIONS BOARD, RESPONDENT

[February 26, 2018]

CHIEF JUSTICE TREVOR NICHOLS delivered the opinion of the Court in which JUSTICE GENTRY COLLINS, JUSTICE MARK BUTLER, JUSTICE ARAYO SOKAN, JUSTICE BRADLEY STRAIT, and JUSTICE JAKE BARTLETT joined.

CHIEF JUSTICE TREVOR NICHOLS writing for the unanimous court.

This matter appears before this Court as a result of a complaint filed by Mr. Boggess. Specifically, Mr. Boggess claims:

There were students that were labeled as ineligible to vote. They do not have the same opportunity and freedom to easily vote. There are trends that student athletes in particular football players were forced to go through extra steps to cast their ballot resembling Jim Crow and voter suppression law. This was supposed to be resolved last year in Lyon v Elections Board. Multiple students emailed Ashley Jones without getting timely response.

Evidence presented at the hearing on this matter was minimal, yet insightful. Aside from personal anecdotes provided by Mr. Boggess alleging “Jim Crow” styled tactics to prevent what he assumedly believes were intended to prejudice and/or prevent University of Kentucky student-athletes from voting in Student Government Elections, there was absolutely no evidence presented that would show any form of discrimination whatsoever was present prior to or during the opening of the polls.

It pains the Court to entertain Mr. Boggess' comparison of student-athlete participation in Student Government elections to the type of state and local laws that enforced racial segregation in the United States until the mid 1960s. Additionally, and quite frankly, this Court finds it an abuse of the judicial process to allege such superfluous claims, wholly lacking in merit, in order to depict a disparity in opportunity that does not exist.

Jim Crow laws were justified by some as a "separate but equal" mentality, encouraging and enforcing the discrimination of racial minorities, and offering anything but something that could be construed as "equal." Public education was segregated based on race, with black and other minority students having a complete lack of access to the type and quality of education received by white students. There was a complete disparity in resources like desks, school supplies, and textbooks when compared to that which was offered for students in white schools. This principle extended to, but was not limited to, public transportation, public places, libraries, restrooms, and restaurants.

Specific to voting during the period in which Jim Crow was enforced, black voters were intimidated, beaten, harassed, and killed when attempting to participate in elections. Often, literacy tests were used as a tactic by white officials to prevent black voters from participation in elections, while the same officials claimed white voters, illiterate themselves, were eligible to cast their votes. Furthermore, in Democratic primary elections in the South, polling officials would often not even allow black voters to join the Democratic party, hence preventing their ability to vote and effect change. At polling location, white officials would literally purge voting rolls, taking the names of black voters off of the registry. Southern states would require the payment of a "tax" before allowing voters to participate, preventing black voters with no or low incomes from voting. Black voters would be wrongfully charged with crimes and imprisoned, with those causing the imprisonment being fully aware of laws precluding former prisoners from voting. The obvious and despicable practices that prevented black voters from participating in elections was a contributing factor to the passage of the Voting Rights Act in 1965, however black voters still continued to face horrific discrimination and prejudice when exercising their right to vote.

While Mr. Boggess states student-athletes "[did] not have the same opportunity and freedom to easily vote," this is factually incorrect. In the circumstance that any student experience technical difficulties in the voting process, the Elections Board establishes and advertises physical polling locations where students can cast paper ballots. Furthermore, any student experiencing any problem in casting their ballot could contact the Assistant Director for Student Government in person, via phone, or via email. It was stated at the hearing on this matter that a total of three (3) students contacted the Assistant Director in regard to trouble using the online voting system. Moreover, and admitting that certain individuals may have encountered frustration in voting online, at no point during the election were the physical polling locations closed or unavailable during polling hours.

Mr. Bogess has failed to show that student-athlete voters attempting to vote online for his ticket were more adversely affected than student-athlete voters attempting to vote for another presidential ticket. Indeed, a problem may exist with the online registration and voting opportunity for student-athletes. However, with the only relevant evidence presented

being three (3) emails to the Assistant Director, and that alternative means for voting were provided to all students, it is hard to find any merit in Mr. Boggess' claim.

At the hearing on this matter, Mr. Boggess presented the argument that his target population for earning votes was student-athletes given the relationships he has formed and developed during his tenure at the University of Kentucky, and therefore his opportunity to gain votes was adversely affected. This argument also lacks merit. While Mr. Boggess may feel entitled to the votes of student-athletes, or more specifically the student-athletes with whom he has developed a personal relationship, the nature of the Student Government Association election entitles no candidate to any student's vote. Furthermore, this Court heard another action on this same day relating to Mr. Boggess and his solicitation of votes via email. In that matter, also a unanimous decision, this Court nullified 10 (10%) of Mr. Boggess' total votes due to his use of a mass-email tactic, where he solicited the votes of approximately 29,000 students using a "Qualtrics" system. It is difficult for the Court to hear a complaint regarding a voter's access to the polls, when the same complainant specifically solicited the votes of approximately 20,000 undergraduate students.

Despite the obvious defects in the claim presented, and the comparison brought forward by Mr. Boggess that this Court refuses to entertain, there still remains the potential that student-athletes experience more issues with online voting than other students.

Given the foregoing, and in line with our previous holding in *Lyon v. UKSGA Elections Board*, (Spring 2017), this court is dismissing this claim without prejudice. The ability of each eligible student to vote is an integral part of the Student Government Association System.

It is so ordered.