**The Judicial Council**

**Of the Student Government Association**

**Of Western Kentucky University**

Opinion 2013SP – 006

Disqualification of Keyana Boka

Please Note: This opinion was overruled by a decision of Howard Bailey, VP of Student Affairs

April 8, 2013

Chief Justice Seth Church delivered the opinion of the Council. Associate Justices Justin McDole and Kara Raley join.

At the request of Cain Alvey, the Judicial Council initiated an investigation into the following email, sent by the Honors College:

Hello Honors College,

Make sure to take a few minutes tomorrow to support our Honors College SGA Candidates.

Keyana Boka - President

Brad Cockrel- Executive Vice President

Nicki Seay - Administrative Vice President

Happy Voting,

Destiny Savage

External Relations Graduate Assistant

Western Kentucky University Honors College

Alpha Gamma Delta -Theta Iota Chapter

Upon receiving the email, Officers of the Student Government Association, in conjunction with the Chief Justice, contacted Rebekah Russell, the Coordinator of Constituent Relations for the Honors College. Mrs. Russell stated that the email was sent without staff oversight or approval. Mrs. Russell then contacted Destiny Savage and asked her if she had been approached by a SGA member running for election and asked to send the email. At that point, Ms. Savage said she was approached by Keyana Boka in person and later by phone asking her to mention the Honors candidates.

In accordance with the Constitution, Bylaws, Election Codes and Kentucky State Law, the Judicial Council held a hearing on April 8th and heard oral arguments from both Mr. Alvey and Ms. Boka. At that meeting the Judicial Council reached the following decision:

Ms. Savage, by acting on the solicitation of Ms. Boka, became a de facto agent of the Boka campaign. While Ms. Boka did not personally send the email, we find that this act of solicitation violates the spirit of Section 3.8 of the Election Codes which say: "No candidate shall use any mail, electronic or physical, for self-promotion during the election."

Though the email was not sent by Ms. Boka, the Judicial Council believes she knowingly and willfully violated the election codes by seeking to promote herself. Ms. Boka asked that the Honors College mention Honors College candidates knowing that she was the only Honors College candidate on the ballot for President. Also, the Judicial Council holds that the phrasing of Section 3.8 of the Election Codes banning emails during the "election" should be interpreted to refer to the campaigning period as well. If an act is declared illegal during the election there is no reason it should not be treated as such during the campaign.

This unfair access to 1,500 honors students is undoubtedly an advantage that most candidates do not have. The current election has already been illegally biased and will remain biased in any special/runoff elections, despite the sending of a retraction email by the Honors College. The bias cannot be undone, but the effects of that bias can be fought. The only way to accommodate the fair election of Student Body President is to disqualify Ms. Boka for the current election. Mr. Cockrel and Ms. Seay claimed no involvement with the email and the Judicial Council has no reason to believe otherwise. Their candidacy will not be affected.

In accordance with these facts, the Judicial Council hereby disqualifies Keyana Boka for the Spring 2013 elections and orders that votes cast for her will be considered null and void. The candidate with the second most votes (in this case, Cain Alvey) will be declared the winner.

*It is so ordered.*

Chief Justice Seth Church

Associate Justice Julia Payne, joined by Associate Justice Kelly Simmons, dissenting.

We respectfully dissent to the decision of the Judicial Council to disqualify SGA presidential candidate Keyana Boka. According to Section 3.8 of the election codes, “No candidate shall use any mail, electronic or physical, for self-promotion *during the election*.” As the e-mail in question was sent out before the start of the election, we do not believe that Ms. Boka technically violated the election codes. The election codes use the distinct terms “election campaign” and “election” throughout the document. At best, it is unclear whether these terms refer to the campaigning period and election as a whole or as separate events. This rule, however, specifically refers to the “election,” which can be most easily interpreted as the forty-eight hour period in which voting takes place. Therefore, since the e-mail was sent before voting began, the rule was not violated, or at least, it is unclear whether a violation has taken place. In a situation with such vague evidence, we believe that it is the duty of the judicial council to revert to the democratic process, or in other words, the voice of the student body. As shown by the election results, the student body has already spoken strongly in favor of Ms. Boka, who won by a margin of over fifteen percent. It would be entirely unfair to discount the votes of the over six hundred students who supported Ms. Boka by disqualifying her from the election. While the idea of a second election at first seems to be a viable option, the majority of justices seemed to believe that it would do little to atone for the bias supposedly caused by the e-mail. Moreover, voiding the original election results due to supposed misconduct by Ms. Boka could bias students against her, worsening the problem, rather than resolving it. Therefore, we believe that the election results should stand as is, with Keyana Boka remaining student body president.