**The Judicial Council**

**Of the Student Government Association**

**Of Western Kentucky University**

Opinion 2013FA – 006

In re Talisman Student Referendum

November 21, 2013

Chief Justice Seth Church delivered the opinion for the Council. Associate Justices Julia Payne, Kara Raley, Jackie Stewart and Megan Lemmons join.

On March 8, 2005, the Student Senate of the Student Government Association at Western Kentucky University unanimously passed Bill 08-05-S titled The Talisman Student Referendum. The Bill was passed to “hold a referendum in conjunction with the spring general elections for the purpose of recommending the Board of Regents implement a $9 per semester restricted student tuition fee that would allow every full-time student the opportunity to reserve a *Talisman* yearbook at no additional charge.” The referendum was passed by the students but the decision was never implemented by the Board of Regents. Due to the recent cuts to the Talisman budget, members of the Talisman have cited the SGA Bill as support for their position that the Talisman now receive the tuition fee to keep the Talisman free and high quality. At the fourteenth meeting of the twelfth Senate on November 21, 2013, it was brought to the Senate’s attention that the Talisman was using this Bill as backing. The Bill was immediately rescinded by an appropriate two-thirds vote as required by Robert’s Rules (see Judicial Council opinion 2013SP-001). After the meeting, a request was submitted to the Judicial Council to determine the official stance of SGA and whether or not the Student Senate can rescind a Bill authorized by student referendum.

The Judicial Council now holds that Bill 08-05-S was unconstitutional when it was passed and it is unconstitutional now. For a Bill or Resolution of the Student Government Association to be constitutional, it must be passed with an authorization from the Constitution, Bylaws or Robert’s Rules of Order. The Bylaws clearly state the way that a Bill or Resolution must be passed in Section 5.3. The Bylaws mandate that “All legislation shall go through two readings…[and be] approved by a majority vote of the Senate.” Nowhere in the Constitution, Bylaws or Robert’s Rules is there an authorization for the Senate to pass a Bill or Resolution through a student referendum. The Student Senate cannot pass a Bill or Resolution without following the appropriate procedures. As such, Bill 08-05-S was never properly passed by the student Senate, is unconstitutional and never represented the official position of the Student Government Association.

As such, the motion and subsequent vote to rescind Bill 08-05-S in accordance with Section 37 of Robert’s Rules of Order is null and void because “No motion is in order that conflicts with…the assembly’s constitution or by-laws, and if such a motion is adopted, even by a unanimous vote, it is null and void.”

In summary, Bill 08-05-S is unconstitutional, the motion and vote to rescind it are null and void, and the SGA holds no official position on the imposition of a Talisman student fee. If the Senate sees fit to allow legislation to be passed or failed under student referendum, they must first amend Section 5.3 of the SGA Bylaws.

*It is so ordered.*

Chief Justice Seth Church