

THE STUDENT COURT OF THE  
UNIVERSITY OF NEBRASKA-LINCOLN

DAILY NEBRASKAN,	)	
	)	
Plaintiff	)	DECISION OF
	)	THE STUDENT COURT
vs.	)	
	)	
ASUN AND SPENCER HARTMAN,	)	
	)	
Defendants.	)	

STATEMENT OF FACTS

On March 8, 2017, the Association of Students for the University of Nebraska (ASUN) passed Appropriations Bill #11 with a line item allocating \$134,882 to the Daily Nebraskan (Plaintiff). This is the only line item that appears on Appropriations Bill #11. On March 10, 2017, Spencer Hartman (Defendant) vetoed Appropriations Bill #11. Defendant later explained to the Senate in an email that his intent was only to veto \$20,000 of Appropriations Bill #11 and not the entire \$134,882 line item. On March 15, 2017 the ASUN Senate voted 21-6 to override the Defendant's veto, however, 22 votes were needed to reach a two-thirds majority of the entire voting senate.

Plaintiff filed its first petition with the Clerk of the Student Court on March 14, 2017 against the Defendants, ASUN and Spencer Hartman, in his official capacity as President of ASUN alleging the Defendant vetoed \$20,000 of the \$134,882 allocation in Appropriations Bill #11 on March 10, 2017 in violation of the ASUN Bylaws. Plaintiff also filed a First Amended Petition on March 15, 2017 and a Second Amended Petition on March 16, 2017 asserting the same issue. Defendant filed his answer to the Plaintiff's petition on March 27, 2017 contending that his veto was within his

constitutional authority under the ASUN Bylaws. He argues that a veto by a prior 1992-93 ASUN President supports his interpretation.

During the term of the 1991-92 Senate, the ASUN Bylaws were amended to incorporate Article II, Section 3(B)(1) (the “Bylaw”), which states, “the President shall have the power to veto any line item of an Appropriations Bill within eight class days and submit a statement of objection to the Senate at their next regular meeting after the veto, at which time the Senate may reverse the veto by a two-thirds vote of the entire voting membership.”

The Court held a hearing on March 28, 2017 to determine whether the Defendant’s veto was constitutional pursuant to the Bylaw.

#### FINDINGS AND DECISION OF THE STUDENT COURT

The question presented to the Student Court is one of ASUN bylaw interpretation and application. Namely, whether ASUN Bylaw Article II, Section 3(B)(1) (the “Bylaw”) provides the President with the power to veto a line item in an appropriations bill by effectively reducing the appropriation. We answer in the negative.

As an initial matter, while both parties argue whether the Defendant was clear about his intent of the veto, the Bylaw only requires the ASUN President to submit a statement of objection to the Senate at their next regular meeting after the veto. The Defendant provided the Senate with an explanation via email on March 13, 2017 and a statement at the Senate meeting on March 15, 2017. Therefore, the fact that he may not have been clear initially does not mean he failed to comply with the procedural aspect of the Bylaw requiring him to submit a statement of objection to the Senate at their next regular meeting.

Second and more importantly, the role of the Student Court is one of interpretation; it is to clarify the intent of the language in the Constitution and Bylaws of ASUN. This court is merely an adjudicative body, not a legislative assembly. Therefore, our job is to give ASUN bylaws a reasonable construction. The initial reference is to the actual text of the bylaw in question. Here, the terms of the Bylaw do not directly address the issue of whether the Defendant can use his veto authority to effectively reduce an appropriation. Therefore, the Court looks to the plain meaning of the language, as well as any legislative history of the ASUN Senate in order to arrive at a clear and reasonable interpretation of the Bylaw.

The Defendant contends a veto reducing an appropriation by a prior 1992-93 ASUN President and the subsequent failure of the Senate to override such veto supports his interpretation of the Bylaw.<sup>1</sup> He asserts the 1992-93 Senate's failure to override the veto suggests their approval of the President using his power to effectively reduce the appropriation. However, similar to the case currently before us, the 1992-93 Senate voted 21-1 in favor of overriding the President's veto,<sup>2</sup> and the Court finds this "acquiescence" of the Senate in 1992-93 unpersuasive. Further, the Court has been provided with no evidence of the specific intent of the enacting Senate about whether the Bylaw provides the President with the authority to reduce an appropriation.

Accordingly, the Court agrees with the position of the Plaintiff and interprets the language of the Bylaw based on its plain meaning. The language "veto any line item" means the President only has the power to strike a line item in an appropriations bill,

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<sup>1</sup> The Bylaw language regarding the President's power to "veto any line item" was the same in 1992-93.

<sup>2</sup> The 1992-93 Senate needed 22 votes in order to override the President's veto.

and not reduce the amount of the line item.<sup>3</sup> The language of the Bylaw makes no mention of the President's authority to reduce an appropriation, and this Court will not be used as a vehicle to rewrite the ASUN Constitution and Bylaws. The Court finds that giving the President the authority to reduce an appropriation, without explicit language permitting such action in the Bylaw, erroneously allows the President to legislate and substitute his will for the will of the legislative body of ASUN.

In making this decision, a majority of the Student Court (four justices) assembled and heard the arguments of the parties. A unanimous court, consisting of Justices Alyssa Stokes, William Blocker, Grant Mitchell, and Alan Davis, finds that the Defendant acted outside his authority under the ASUN Constitution and Bylaws when he reduced the line item in Appropriations Bill #11. The Court holds that the ASUN President only has the authority under ASUN Bylaw Article II, Section 3(B)(1) to veto any line item in its entirety; the veto power cannot be used to partially reduce a line item.

To be clear, the holding of the Student Court is that the plain meaning of the language of the Bylaw, as written, does not permit the President to reduce a line item in an appropriations bill. Therefore, the Court must emphasize that the current ASUN Senate is certainly free to express their intent regarding the power of the President to reduce an appropriation in a clearer fashion through their legislative power.

THEREFORE, based on the foregoing:

1. The veto by the Defendant of Appropriations Bill #11 is unconstitutional, and is therefore null and void; and

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<sup>3</sup> *Clinton v. City of New York*, 524 U.S. 417 (1998), a Supreme Court case submitted by the Plaintiff in written arguments, had little bearing on our decision. *Clinton* dealt with the constitutionality of the line item veto as granted in the Line Item Veto Act, and not a line item veto provision in a constitution.

2. The Plaintiff shall be awarded their full appropriation as specified in the line item in Appropriations Bill #11 and approved by the Senate on March 8, 2017.

Dated this 29th day of March, 2017,

/s Alyssa Stokes, Chief Justice of the Student Court