

MONTEMAYOR, J. concurring in part and dissenting in the judgment.

This court, once again, was forced to hear a case and make its decision based upon procedure. Once again, it did not matter whether or not a rule had been broken by a member of the Student Government Association. There is not much question that Senator Pippen should have been impeached and removed due to malfeasance or neglect of duty, rather the question lies with the process of that impeachment and removal. After reviewing a timeline that both the petitioner and the defendant failed to agree upon- this court made several decisions and I respectfully dissent in part.

I concur with Part I.

I dissent in the judgment of Part II. This court is correct in that it appears our Student Senate does not seem to know the difference between the words “removal” and “impeachment”, thus so that they seem to use these words interchangeably throughout both the Student Constitution and the Senate Rules. Article II, Section 8 outlines the rules for a senator’s removal and does not mention impeachment. This court was forced to interpret the intent of this rule based upon the fact that before someone can be removed, they must first be impeached. I however, do not believe that because the senate chose to use the word “impeachment” in their senate rules and “removal” in the Student Constitution, they intended for them to have different meaning. It is obvious that the lack of the word “impeachment” in the Constitution means just the opposite, the Senate was under the impression that these two words would both end in a senator no longer being a member of the senate. Furthermore, I look upon past impeachments and removals of senators to better understand our senate’s intent and it remains obvious that the difference between the two was not properly defined and carried out in a way where the two processes were interchangeable.

This court points to the student constitutions of the University of Texas, University of North Texas, Baylor University, Texas Christian University, Southern Methodist University, and many others, in an effort to provide a better context of the use of the words “impeachment” and “removal.” It is the duty of this court, myself included, to rule based upon the Texas Tech University Student Constitution and my dissent in judgment stems from this.

This court would have you understand that an impeachment must come before a removal. According to the timeline of events regarding this case, there was in fact an impeachment before the removal. The majority stated that the R&A committee properly investigated the alleged misconduct of Senator Pippen and properly recommended Senator Pippen’s impeachment. It is after this point that I disagree with the majority. Senator Pippen was given an open and fair trial at the senate meeting before the student senate voted on his impeachment. The student senate then voted on his removal from office. The court believes that because Senator Pippen was not openly heard right before his removal vote, he was not given adequate procedural due process. I believe that because his open hearing before the student senate came before the removal vote,

regardless of how long before or what occurred after, he was in fact given his adequate procedural due process.

I concur with Part III.

I agree with the majority that the senate needs to review its governing rules and make necessary changes so that they are in line with our student constitution. I also strongly urge the senate and election commission to read through the rules regarding a process and then read through them again so that future due process violations do not occur and are not in question.