



**University of South Florida  
Student Government  
Supreme Court  
2009 – 2010 Term**



**STUDENT GOVERNMENT SUPREME COURT**

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**Mr. Brian Goff v. Senate Impeachment Committee**

**CERTIORARI TO THE SUPREME COURT**

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Argued: March 24, 2010 --- Decided: March 31, 2010  
Opinion sent: April 7, 2010

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**Question Before the Court:** Mr. Goff appealed “the decision of the Senate Impeachment Committee for the Impeachment of Mr. Matthew Diaz that was made February 23, 2010.”

**Jurisdiction:** The case of Mr. Brian Goff v. Senate Impeachment Committee falls under the purview of appellate jurisdiction, as outlined in SG statute 501.2 and Constitutional Article 4.1.

**Relevant Facts:** On February 23, 2010, the Memo of Impeachment submitted by Mr. Brian Goff was read before the Senate. The Senate elected Senators Christian Marble, Lee Farrell and Steven Angotti to the Senate Impeachment Committee. The Senate took a 30 minute break to allow the Committee to decide whether or not to move forward with a formal investigation, during which they decided not to. On March 10, 2010, the Court decided to move forward with the appeal filed by Mr. Goff of the Senate Impeachment Committee’s decision. The case was heard on March 24, 2010.

**Verdict:** In response to the specific question asked by Mr. Goff, the court has determined that the Senate Impeachment committee failed to make the correct decision by a 5 to 3 vote.

**Justices:** Court members who voted that the Senate Impeachment Committee’s decision was incorrect are as follows: K. Corpion, C. Crawford, L. Kuznitz, S. Sanchez, and S. McCarthy. Justices L. Schneider, R. Then, and C. Potter dissented.

**Majority Opinion:**

**I** Mr. Goff’s request for a trial provided the Court with a very specific appeal, and that was the decision of the Senate Impeachment Committee to not go forward with an investigation into the allegations provided by Mr. Goff regarding the impeachment of Matthew Diaz. In answering this appeal, the Court looked to statute 211.2.2-1, which clearly states that the role of the committee is to “discuss the memo and vote on whether the memo warrants investigation.”

Based on the testimony of witnesses and the evidence provided to the Court, we find that the Senate Impeachment Committee did not execute their job correctly for three reasons:

1. The role of the Senate Impeachment Committee is not to decide whether allegations warrant impeachment, but rather to investigate the allegations and then present their findings to the Senate, who then votes on whether an impeachment is needed;
2. The Senate Impeachment Committee neglected Mr. Goff's claims in his Memo of Impeachment that the website had not been updated for 5 months by claiming it was currently updated, thus deeming Mr. Goff's allegations moot and essentially disregarding the entire basis of the Memo; and
3. The Senate Impeachment Committee did not exhaust all avenues to find out whether or not the website had been updated prior to the night of their discussion, thus leading to an unfinished investigation.

All of the Student Government Impeachment Proceedings are outlined in Chapter 211 of the Statues. According to 211.2.2-1, the first step of the Committee is to "discuss the memo and vote on whether the memo warrants investigation." The key word of this is *investigation*. Nowhere in this section does it say that the Committee is to determine whether or not an impeachment is merited, a mistake clearly shown in their statement, "the severity of the infraction does not merit impeachment." Furthermore, only the Senate can vote on whether an impeachment is merited, as cited in 211.2.4, and this is only if the Committee writes up Articles of Impeachment based on their *investigation*, which this Committee failed to execute properly.

It is clear to the Court that the Senate Impeachment Committee neglected the claims made by Mr. Goff in his Memo of Impeachment when considering whether or not to investigate further. According to the Memo, "Mr. Matthew Diaz neglected to update the Student Government Website for a period of 5 months. As of February 1<sup>st</sup>, 2010 the last time the website had been updated with Senate Meeting Minutes was September 2009." However, in the Committee's Statement from February 23, 2010, it is said, "Upon brief investigation, the Senate Minutes on the Student Government Website were found to be updated through February 10, 2010 under Archived Legislative Documents. As well, the Current Legislative Documents were fully updated." This leaves a period of 23 days in which Mr. Diaz could have updated the minutes were Mr. Goff's claims proven true. However, it appears that the Committee felt that because the website was currently updated, the 5 month span in question was a moot point, despite the fact that it was the basis for Mr. Goff's Memo of Impeachment. Furthermore, while being questioned, the Committee members claimed there was no way for them to check on when the website actually was updated, however in their Statement, it states there were "questions over the prompt manner in which the Legislative area of the website was updated" and cites that the "Senate Orders of the Day still require updating." This indicates a clear discrepancy between what was known and what they claimed to know, and further proves that they allowed their feelings over the "severity of the infraction," as stated in their Statement, to halt a proper investigation.

Finally, the majority of the Court feels that the Committee did not adequately exhaust all avenues for their "brief investigation." While being questioned, Mr. Christian Marble admitted to knowing that Ivan Gil would be the SG personnel to go to regarding all computer questions,

however he claimed to not have known nor had a way to find out when the website was actually updated. This claim was disputed by Senator Zain Nensey who, while on the stand, explained how one could easily discover when a document was uploaded and explained his own 5 minute process of learning how to do it. According to the Senate Minutes for February 23, 2010, the Senate Impeachment Committee was allotted 30 minutes to decide whether or not to move forward with the investigation, easily giving them enough time to speak to Mr. Gil about this process or tinker with the website to figure it out for themselves.

Again, the Court stresses that it was not the Committee's job to decide whether an impeachment was warranted, but rather to investigate the allegations brought forth and decide if an *investigation* was warranted. Based on the above mentioned evidence, the Court does find that further investigation was needed and therefore overturns the decision of the Senate Impeachment Committee.

Therefore, the Court decrees that a new Impeachment Committee be formed containing none of the original members (Senators Christian Marble, Steven Angotti, nor Lee Farrell). The Court has already established the necessity for an investigation above. The role of the new Impeachment Committee will be to properly and exhaustively investigate all the charges offered in the Memo of Impeachment, starting with step 2 under Statute 211.2.2, based on the finding that step 1 was completed but incorrectly. The Court also recommends that cons be considered in the selection of the new committee.

The Court also finds that it is necessary for the Senate to revise the statutes, specifically by adding a definition or clarifying the word "maintain," as referenced by Statute 403.8.6, and recommends that the severity of an offense is either written into statutes or given some appropriate measurement within the statutes.

In anticipation of questions regarding the legality of the Supreme Court's ability to enforce decisions on other branches of Student Government, the SG Supreme Court would like to use the example of the US Supreme Court's case of *Brown vs. The Board of Education*. When the Court handed down the ruling that it was illegal to segregate schools, it was not a question of whether Congress would enact the laws necessary to support their decision, it was a matter of when. Likewise, it is not a matter of whether or not the SG Senate will comply, it is a matter of when. In light of the rapidly approaching end of the 50<sup>th</sup> Term, the question of when the Senate will comply becomes a matter of great urgency.

### **Concurring Majority Opinion by Associate Justice Sean McCarthy:**

While I agree with the decision of the Court I have come to my decision for different reasons than my esteemed colleagues. The University of South Florida Statutes list Impeachment Proceedings in Chapter 211. 211.2.2 Part 2: Committee Procedure states, "1. The committee chair shall call an initial meeting to discuss the memo and vote on whether the memo warrants

investigation.” It is my belief that the reason this is the very first step the committee is to complete is the same reason committees such as this are formed in the first place. Their job essentially is to be a “gatekeeper”. That is, they are to look at these memos in order to “weed out” any frivolous, erroneous or extremely weak accusations so the Senate can concentrate their time on valid issues. For a committee such as this, after receiving the very serious and detailed allegations that they did, to vote that no investigation needed to be done was a travesty. They decided they did not even need to know if the allegations were true or not. This committee’s decision was not only unjust to Mr. Goff. They denied every member of the Senate their rights as provided in the statutes as well as perpetrating an injustice upon each and every student of the University of South Florida. The student body entrusts their elected representatives to hold themselves to a higher standard. Not only are they expected to act ethically but they must go a step further and not allow even the appearance of bias, favoritism, or ulterior motive. These were extremely serious charges alleged against the Senate President Pro Tempore. For the committee to be nominated and elected, have evidence reviewed, take a vote, and conclude their duties all within thirty minutes is shameful. If these allegations did not deserve to be investigated to see if they were true I wonder what degree of an offense must have been alleged before a yes vote would have been reached by this committee.

I came to my decision after reviewing the one statute mentioned above. I did not feel the need to advance into the argument(s) further as my colleagues did. While I reserve opinion on all the arguments presented, by both sides in the case, I do not believe they have any bearing on the question asked of us.

### **Dissenting Opinion:**

Opinion of Ranking Justice L. Schneider, Associate Justice L.R. Then, Associate Justice C.  
Potter

**I** It is the sentiment of the dissenting opinion that the Senate Impeachment Committee that convened on February 23<sup>rd</sup>, 2010 followed proper procedures and made a decision well within their jurisdiction.

Student Government statute 403.8.6. states that one of the duties of Senate Pro Tempore is to “maintain the legislative area of the SG website”. The term, “maintain”, is vague in exact definition.

Another request posed by Plaintiff Brian Goff was to “remove the power of decision from the hands of Mr. Matthew Diaz’s biased peers in the Senate Body.” We would like to address the alleged bias of the Senate Impeachment Committee. The allegations targeted the committee, but more specifically, the influence of the Committee Chair, Senator Christian Marble. Nowhere in statutes is it written that the committee must be unbiased.

Per Student Government Statute 211.2.2, the first step in Impeachment proceedings denotes "...call[ing] an initial meeting to discuss the memo and vote on whether the memo warrants investigation." The committee did so and in their initial meeting voted that the impeachment memo did not warrant investigation. The committee therefore did their job in accordance with statutes. If the Senate, or their constituencies, feel that the decision the committee made was not the right one, then there are ways in which the individual(s) could proceed forward, however, since the committee had not violated any statute in their proceedings, it is not the Supreme Court's jurisdiction to be that channel. Although the Plaintiff felt that Matthew Diaz's actions had warranted impeachment the ultimate decision rests with Student Government. Student Government Statute 211.1 states that Student Government officers "...may be subject to impeachment and subsequent removal." implying that although an impeachment memorandum may have been filed and sufficient evidence may prove accusations true, it does not guarantee that the officer will be removed.