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Judiciary and Ethics Meeting Minutes 6/30/2011

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University of South Florida
Student Government Fifty-Second Student Senate

SUMMER SESSION
June 30th 2011

Call to Order by Chairwoman Samantha Toro at 10:35AM.

Toro- First order of business: roll call. I'm here. Carey?

Carey- Here.

Toro- Hussein?

Hussein- Present.

Toro- Thomas Saunders?

Saunders- Present.

Toro- Wilson?

Wilson- Present.

Toro- Hughes?

Hughes- Present.

Toro- Mark?

Mark- Present.

Toro- And Kimble? Okay. Are there any additions/deletions to the order of the day? Mr. Wilson?

Wilson- Motion to delete Rachel Shields from associate Justice.

Toro- Okay. Are there any objections? Seeing none. Okay, is there a motion to accept the agenda?

Motion to accept the agenda by Senator Mark.

Toro- Are there any objections? Okay, the agenda is accepted. I sent out the minutes for the previous two meetings. Did you guys get a chance to look that over? Okay, is there a motion to approve the minutes?

Motion to approve the minutes by *Senator* Hughes.

Toro- Okay, are there any objections? Okay the minutes are approved. Open forum.

Open Forum

Toro- Are there any motions to speak? Alright, moving right along: judicial confirmations. First is going to be Nathan Watters. You can go ahead and get them. And just a refresher, these are going to be going the way that we have been doing all of our confirmations in Senate. Mr. Wilson?

Wilson- So, when we do questioning, are you going to have to acknowledge us before we speak?

Toro-Yes, I will have to acknowledge everyone before they speak. Hello, welcome Mr. Watters.

Watters- Thank you.

Toro- Okay, the way that this is going to work: Mr. Goff is going to present the candidate. Oh, I'm sorry, Mr. McCarthy is going to present the candidate. If you have any questions regarding the position and any sort of technical questions regarding the hiring, the position, any nature of that, please direct them toward Mr. McCarthy before the candidate begins his opening speech. So, you have the floor.

McCarthy- Sorry about my appearance. Fortunately, I have a work out with my trainer in a few minutes. So, I wanted to be here because this is extremely important to the court; we really need to get some qualified candidates and get the court filled back up and we have two very qualified candidates reporting today. The first is Nathan Watters. One thing I love about Nathan is that he is very diverse, besides a great student with a great GPA. He works at Florida's largest law firm, they even trusted him with a lot of information that is sensitive to nature; cases that they are working on and they fully trusted in Nathan and he works there several hours a week. Also, he's a pilot and has other diverse interests that he could bring to the court. It's just something that he's an interesting person with a different point of view than maybe some of the other people we have. That's it; I'm going to let him speak for himself because he's a great guy and I really think you're going to enjoy him.

Toro- Thank you. Are there any questions regarding the position for Mr. McCarthy? Mr. Saunders?

Saunders- How many people did you interview for the position?

McCarthy- Totally; Person to person, fifteen.

Goff- We interviewed over ten people. We did it over two weeks. The first week, we interviewed over two days; it was like eleven people. The second week we interviewed...I wanna say another five candidates over another two days. So, we... I think there was a total of 31 applicants, so we interviewed quite a few.

Toro- Okay, Mr. Wilson?

Wilson- Of the applicants, were the ones you selected to go before JEC, we're they not enough or was it, "Okay, this is exactly what we're looking for,"? These are the people we really want.

McCarthy- I'm going to tell you, we had a diverse group; Mr. Goff, myself, we're diverse enough. Between the two of us and when you throw in the president, and our advisor and Robert, all coming from Greek background and being older just totally different people. I am going to say our top five was unanimous.

Goff- It was exactly the same.

McCarthy- Between the entire committee. You know, we wrote down our top five. The top five were completely unanimous; we were blown away. Okay.

Toro- Okay, thank you, Mr. McCarthy. Okay, Mr. Watters, you're going to have two minutes for an opening speech and then the senators will be asking you questions. I'm going to have two minutes for an optional closing speech. Okay. Hello, Mr. Kimble.

Kimble- Hello. My apologies.

Toro- It's fine, you can sit next to me. So, Mr. Watters, whenever you're ready you can begin.

Watters- Hello, my name is Nathan. I am a senior at the University of South Florida. I have a double major in political science and mass communication. Political science is my pre-law track. I am very much interested in going into the legal field. Specifically I am interested in media litigation. I currently am employed in Holland and Knight; which is Florida's largest law firm. It's a great opportunity for me. It is kind of like an internship role as far as my position there but it has given me the opportunity to work with some of the greatest legal professionals in the business. Currently I am in charge of maintaining all correspondences between the firm and the court. I am constantly interacting with the judicial process of making sure everything is submitted on time and reviewing the documents and I also set up for depositions and that type of thing. So, I am very aware of the order and the structure behind the judicial process. I am excited about joining the court. I think it's a great opportunity. I feel at this point in my life and academic career I have something I can bring to the table especially with the court. Obviously my experience and my background as far as also extracurricular activities and my outlook on student affairs in general. That's pretty much it. Thank you.

Toro- Thank you. Okay. Are there any questions from the committee? Mr. Saunders?

Saunders- It seems you have a lot of experience as far as interpreting legal documents from what you do. What kind of experience do you have in writing legal documents?

Watters- Honestly, I don't have that much experience in writing it. I have worked with several attorneys, specifically John Jones, who wrote a lot of the probate laws in the state of Florida, which was kind of an

interesting task. It's very tedious; a lot of background research goes into something like that. But it definitely is something that's exciting.

Toro- Mr. Wilson?

Wilson- You're going to get the access view before the Senate, so I want to make sure that you're aware; you are a dual-major and you are a senior, so I'm expecting that you're going to have quite a bit of credit hours next semester, or...?

Watters- No, actually I've kind of been preparing myself along the way. I try to keep my credit hours low; right at 15. I don't like to overwhelm myself, but at the same time I like to be aggressive in my academic approach.

Toro- Mr. Wilson?

Wilson- So, what is your course load going to be like for the fall?

Watters- 15 credit hours.

Wilson- And are those all physical classes, or are they online...?

Watters- No, I believe I have one or two that could be online. I would have to double check; I am still kind of balancing it out.

Wilson- Okay.

Toro- Okay, any other questions? Mr. Kimble?

Kimble- What type of law does your firm deal with?

Watters- Holland and Knight mostly handle civil litigation; a lot of mal practice, a lot of civil disputes, probate, that type of deal.

Toro- Ms. Hughes?

Hughes- Will you still be fulfilling your internship during the fall and spring semester?

Watters- Yes, that's what's kind of the neat part about working for Holland and Knight. It's very flexible as far as the hours I work there. It's not rigorous or demanding by any means; it's just several hours a week so...

Toro- Ms. Brown?

Brown- During the election season, the court is pretty much on call to hear grievances and I believe you guys have 24 to 48 hours to hear the grievances, so is your schedule flexible enough, is there anything that would stop you from being available at a moment's notice?

Watters- No. No, it's flexible.

Toro- Mr. Wilson?

Wilson- I'm looking at your list of organizations and affiliations. On top of your course load, and your internship, and this position, it looks like six other organizations that you're a member of. Is that going to...like where is this job going to be on your priority list?

Watters- Well, obviously it's going to be one of my top priorities. It's a very serious role, it's a very serious position and I don't think it should be taken lightly. A lot of the other clubs that I am a part of, it's just by mere affiliation; there is one or two that I am very active in, specifically Resounding Liberty, as I am the president of that. With that, the president tends to delegate a lot of the tasks at hand, so...

Toro- Mr. Saunders?

Saunders- I actually have three questions, related to the Rocky the Bull opinion.

Toro- Go ahead.

Saunders- Alright, first one was when you wrote the opinion, I have a copy, this is the actual opinion.

Watters- Okay.

Saunders- In reference to election rules/commission rules procedure that you recited in response to the case, why did you decide to cite the rules of procedure over statutes?

Watters- Mainly because, I believe when we are looking at any controversy in the court, I believe the first thing we should do is to go back and look at the rules and procedures to make sure that everything was followed to "the T" before we address any issues that are brought up as far as the relevant facts. And if we see a violation there or if we see something has stepped outside the boundaries in that area, then I think that right there is where we need to address the issue.

Saunders- Alright. Why did you feel it was necessary in your opinion, to write a procedural error of the election/rules commission?

Watters- Basically because I believe there should be a fair balance between the students and the candidates and the ERC. I believe that both are operating on a separate level, both moving forward, trying to do the best they can and they need to operate within the guidelines that are set forth by our governing documents.

Saunders- Alright, and because you added that procedural error into your opinion, did you feel that it was within the scope of the matter that was brought in the Rocky the Bull case to judicate that matter about the procedural error?

Watters- I mean outside of the procedural error what would I address the issue?

Saunders- No, I'm sorry that was unclear. In the Rocky the Bull opinion, you cited the procedural error in your opinion; did you feel that it was within the scope of the matter of the actual case to add that part on?

Watters- Oh, absolutely. Absolutely.

Toro- Any other questions? Ms. Hughes?

Hughes- What attracted you to this position?

Watters- Like I said, I've always been interested in the legal profession. Obviously, that's my goal; someday to be a great attorney. I'd love to stay in the Tampa area. I love the Tampa area. But, I feel like I have something to bring to this Supreme Court, at this point in life I feel like it's a great time. I feel like there's a lot of great things going on at USF and I just want to be a part of them. I want to get involved.

Toro- Mr. Saunders?

Saunders- Do you believe that the judicial branch as a whole should be a reactive or proactive body?

Watters- I definitely think it should be reactive. Obviously, to be proactive would be being legislating from the bench and I don't think that's within our judicial file to do such.

Toro- I have a question. Would you consider yourself more strict constructionist or loose constructionist and why?

Watters- Hm. I would say more strict. I think the law is the law. I think it is black and white. I think when we address issues we bend the law according to the situation and I think that's where we get a gray area. So, I think that when we approach issues like that we need to back and read it verbatim and we need to apply it that way.

Toro- Mr. Saunders?

Saunders- Can you give an example of a time you have had to act impartially?

Watters- Hm. I try not to put myself in situations like that of course. Probably, around the holidays in my house, I have to say I'm kind of more of a mama's boy, so I tend to give mom more gifts, but don't tell dad; those types of deals, but something like that.

Toro- Any other questions? Mr. Wilson?

Wilson- If there were ever extensive extenuating circumstances where someone was in violation of some statute or something that was of illegal precedence like would be willing to negotiate or maybe even bend your opinion just a little bit to perhaps facilitate that person's individual situation?

Watters- I'm a firm believer in like I said...Sometimes we don't agree with laws, we don't necessarily agree with statutes, but that's not up for us to interpret it like that. I believe that just because we don't like a certain issue and just because it doesn't fit us at that particular moment in our life, it's no excuse; ignorance is no excuse. Just because you don't like it...there are a lot of things I don't like in life. But we still operate with it.

Toro- Mr. Saunders?

Saunders- What do you hope to gain from the position?

Watters- You know, just experience. I think that it's important that as I approach law school and stuff like that I can kind of gauge myself with other people that share my same interest and stuff like that. I look forward to working with Robert and Sean McCarthy and all that. I think that's going to be a lot of fun.

Toro- Okay, at this time...Oh, now you will have an optional two minute closing speech if you want.

Watters- Sure. Well, first and foremost, let me thank you guys for taking the time to have me here. I hope that I've answered your questions in detail. I'm excited about the opportunity to serve on the court and please consider my recommendation. Thank you.

Toro- Okay, at this time is there a motion to discuss? Mr. Wilson?

Wilson- So moved.

Toro- Okay, we're now in discussion. Could you please leave the room while we discuss? Thank you. Okay. The way we're going to do this, instead of formal pro/con, we're going to do it in a fashion of unmoderated caucus so, if you have anything to say, you can raise your hand to talk about it. Is there any sort of discussion on the candidate? Mr. Saunders?

Saunders- Well, immediately, with his opinion, he stated explicably that he is a reactionist and a strict constructivist, but then he added the addendum about the ERC procedural error, that I think was outside of the scope, like the original judication; what they were asked to judicate. So, that seemed like he was a more of litigating from the bench type of thing.

Toro- Okay, Mr. Wilson?

Wilson- I really wanted to ask him a question about if he came into a conflict of interest where he thought a statute was written incorrectly, what he would do about it or if he would...he never really actually...that was kind of what I was trying to get at but it seems to me like he reads the book black and white and even if he saw an issue, he might not necessarily do anything to change it.

Toro- Mr. Saunders?

Saunders- This something actually you were talking to me about earlier, he wants to be an attorney and he has a whole bowl of experience like that and judicial gets like 10 hours or something like that?

Toro- Five.

Saunders- Five hours a week. Ten hours?

Senator- 10 hours.

Saunders- 10 hours.

Toro- Oh.

Saunders- 10 hours. It might not be what he is expecting, based on the amount of experience like he has for the law because he is very very reactive.

Toro- Ms. Brown?

Brown- Okay, I'm sure that Mr. Goff and Mr. McCarthy did a good job explaining the rule of the court, the realm of the way they operate, the expectations of a justice, so I'm confident that he knows what he's getting into. And as far as him being proactive or reactive, I think that the opinion...I think that he just might have been looking for something more to do with it, because the intention of that question is if the candidate was five minutes late, how would you handle that? But because the question was written incorrectly, he just might have felt a need to overcompensate and I totally understand that; I've done that on tests before, so I can see where he's coming from, but if his answer is, "You know, if I see an issue with the law, I'm not going to touch it," that's what we want a justice to do, unless they have a declaratory justice to bring before them or a case brought before them, they really shouldn't be touching the laws. That's what we have, and if we give that power to them, what's the point of the Senate? So, I think that he is a good candidate and his law experience will bring a sense of professionalism and experience to the court.

Toro- Okay, at this time, is there a motion to vote? Mr. Carey?

Motion to vote by Senator Carey.

Toro- Okay. Are there any objections to voting? Seeing none. We'll do this by roll call. Mr. Wilson?

Wilson- Yes.

Toro- Mr. Carey?

Carey- Yes.

Toro- Mr. Hussein?

Hussein- Yes.

Toro- Ms. Mark?

Mark- Yes.

Toro- Ms. Hughes?

Hughes- Yes.

Toro- Mr. Saunders?

Saunders- Yes.

Toro- Mr. Kimble?

Kimble- Yes.

Toro- And I abstain. With a vote of seven to zero to one, this candidate passes.

(Applause)

Toro- Congratulations Mr. Watters. You will go before Senate at our next meeting, before your final confirmation.

Watters- Thank you so much. I appreciate it.

Toro- Congratulations. Hello. Welcome. Wait, is Mr. Goff coming back? So, we're going to do the exact same thing. Mr. McCarthy is going to present the candidate and if you have any specific questions for Mr. McCarthy, please just get those out of the way in the beginning, so you have the floor.

McCarthy- This really had me, when Matrell came in and applied for the job, besides the opinion that he wrote and the great background, I also like that he seems to be an extremely responsible person and a thoughtful person. He didn't just...well you'll see when you ask him questions; he doesn't just jump when he has something that comes from his head, he likes to think about it and give a realistic, honest answer. Whether it's tailored to what you want to hear. He's really interesting and great like that. He's got a law background in a law society. He wants to be an attorney, he's excited about law and the great thing is he's here until 2013, so he's got a future in the court. I think with the experience he has now and the experience that Robert and I can give him. When we leave, this could be our new leader of the court in 2012. So, I think you guys will be pleased.

Toro- Okay, thank you, Mr. McCarthy. Do you guys have any questions for Mr. McCarthy? None? Alright, thank you. Okay, so how this is going to work: you're going to get two minutes for an opening speech, then we're going to ask you some questions and then you're going to have an optional two minute closing speech and then we're going to ask you to leave the room and discuss and vote. Okay, so now you're going to have two minutes, whenever you're ready, you can start.

Everett- Alright, my name is Matrell Everett, as most of you all know. I am 20 years old. I'm actually a junior in senior standing. I'm studying political science and minoring in international affairs. I plan to focus on international law, so that's my main goal. I love the law. I love the processes; the way it works. I've been studying it for a while now. This is something that I really wanted to do and I'm grateful that I've found something that I really love doing at such an earlier age. So, it keeps me focused and it's sort of a set goal in life. So, that's what I'm doing now.

Toro- Okay, thank you. Are there any questions from the committee? Ms. Hughes?

Hughes- Do you consider yourself a strict constructivist or a loose constructivist?

Everett- Okay, well I believe that the laws are in place, and the facts have reason in it. The laws and facts do not change. So, based on whatever the facts are in the laws, you can't go wrong. Strict

constructionist means you're sort of strict with the law, right? I'm sorry. Strict constructionist and loose constructionist is sort of like you're strict with the law. You can't be...the law's in place; you cannot sort of go against the law. So, whatever is in place with the law with the facts, you have to go with that.

Toro- Mr. Saunders?

Saunders- This is more of a technical thing. In your work experience on your application, you held a position of student support assistant at USF. In your application for employment, you listed that you have never worked for USF or any institution or direct support organization.

Everett- Oh, Into USF is not actually with USF. It's its own company, based on USF. So, I'm not an actual USF employee; I'm an Into USF employee. It's a separate organization from the actual USF. So, that's what that was.

Toro- Yes, Into is actually its own company. I just remembered.

Hughes- What experience do you feel has equipped you to take on this position?

Everett- I've actually taken constitutional law with Dr. Taubert and my writing was...writing is really important with him. So, he really challenged me to articulate to form an opinion and keep an objective and pick a side and stick to that side. So, it was a long process, but I feel like I finally grasped that knowledge and I'm sort of...my whole major in general is changing the way of my thinking. So, I think more and articulate more with my arguments and deal with more facts presented and laws presented in the case. So, I feel like that alone gave me more experience to do that. To do this job.

Toro- Mr. Saunders?

Saunders- In your Rocky the Bull opinion, do you feel like there's any set of circumstantial evidence other than of course actually being on time that would make you consider shifting your position?

Everett- Not at all, because the statutes clearly state: it gives it two weeks after the spring semester to return an application. It's not up to the court to return the student's responsibility, but with anything you wait until the last minute with, you're going to take that risk. So, we can't actually say that to the student, but that's a student risk. And the student took that risk if he waited till the last minute to turn his application in; as with anything in life. If you wait till the last minute, you're taking that risk of something going wrong.

Saunders- What does your schedule look like for the fall?

Everett- The schedule for the fall, I am actually taking 12 or 13 credit hours. Arabic language requirement and plus the lab for that. I'm taking Empirical...Temporary Empirical Thought. It seems like it's not going to be easy, but it seems like it's going to be a good year.

Toro- Mr. Wilson?

Wilson- How many credit hours are you taking in the fall?

Everett- In the fall? 13.

Toro- Mr. Saunders?

Saunders-When forming a judicial opinion, would you take into account legislative intent?

Everett- Legislative intent? Actually in the American judicial system, justices are free from political influence. Legislative intent that brings some kind of political influence. So, if it's not saved in the constitution and if it's not saved in the law, so then the facts in the case would not be presented.

Toro- Mr. Wilson?

Wilson- Are you involved in any other student organizations that would take some of your time on a weekly basis that might prevent you from being able to do your duties or...not necessarily prevent but something else that would be added onto your schedule?

Everett- My pre law fraternity. The meetings are every two weeks and they're Sundays, so there's not much time to commit with that.

Toro- Mr. Saunders?

Saunders- Do you have any other experience in writing legal documents?

Everett- Well I've taken...Local Government with her. Just writing in general. And actually Dr. Johnston, is a really good professor and that's where I really found my niche of writing at from him. It wasn't along the lines of forming a judicial opinion or anything but it had the same concept of thinking critically, articulating arguments and presenting the facts and backing it up with additional information. So, I think that general process is there and I learned that from Dr. Johnston. So, with that, I think I'd be perfect for this job.

Toro- Are there any other questions? Mr. Wilson?

Motion to discuss by Senator Wilson.

Toro- I just want to give him the option of the closing speech. So, right now you have two minutes in case you want to say any closing remarks.

Everett- Okay, I thank you all for your time. It was nice meeting all of you. And I think that's it.

Toro- Okay, thank you.

Everett- Alright.

Toro- Okay. Would you like to reinstate your motion?

Wilson- Yes. I reinstate my motion to discuss.

Toro- Okay, so we're going to move into discussion now. Please leave the room and we'll call you back later on. Just as before, if you have any sort of comments, please raise your hand. Mr. Saunders?

Saunders- He is probably very very good at legal writing. I was in that class. I had to do a boat load of writing. And it was actually legal opinions that you had to do. The only small concern that I had is that in his application, he miss cited statutes in his opinion and there was an error on his application. Other than that...

Toro- Okay. Mr. Wilson?

Wilson- I would say that I have a concern with experience, but he's young and he's being groomed. So, it's kind of a middle ground concern.

Toro- Ms. Hughes?

Hughes- I've worked with Matrell recently and I went to Rally in Tally with him. From speaking with him, I do see the lack of experience, but his eagerness to learn, which is something that you always want and what you will need makes him perfect for this position and you want to have that diversity with people too. He is young, we need young people, because we want somebody who is going to be there. And I feel like if he is in this position, he will stay in. He has such an eagerness to learn. He is a student so I feel like his intent for this is...you know he loves his student body and I've seen that in Street Team with his involvement in there; he is very dedicated and very committed. I feel like we would never have to worry about that issue. But with that being said, in any lack of experience that he may not have. With his eagerness to learn, I know it won't take any time at all for him to pick up.

Toro- Okay. Any other comments, points?

Goff- Am I allowed to? I want to say that he was really nervous to come before you guys...

McCarthy- If you weren't impressed with him at all, that was not even him at all. I mean, this guy knocked my socks off.

Toro- For the sake of the minutes, please wait until I call on you before...Okay, Mr. Wilson?

Motion to vote by Senator Wilson.

Toro- Okay, are there any objections? Seeing none. We are now voting.

Toro- Mr. Wilson?

Wilson- Yes.

Toro- Mr. Carey?

Carey- Yes.

Toro- Mr. Hussein?

Hussein- Yes.

Toro- Ms. Mark?

Mark- Yes.

Toro- Ms. Hughes?

Hughes- Yes.

Toro- Mr. Saunders?

Saunders- Yes.

Toro- Mr. Kimble?

Kimble- Yes.

Toro- And I am abstaining. This vote is 7 to 0 to 1. This candidate passes.

Toro- You will next go up before the Senate at our next meeting for your final confirmation. Okay, we are now in announcements.

Announcements

Toro- Does anyone have any sort of announcements? Mr. Saunders?

Saunders- Happy Thursday.

Toro- Happy Thursday indeed. Was this not the most fun thing ever? Okay, is there a motion to adjourn? Mr. Wilson?

Motion to adjourn by Senator Wilson.

Toro- Are there any objections?

Adjournment called by Chairwoman Samantha Toro at 11:08AM.

