

## COURT

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tee and that the appointment be retroactive beginning fall 1993.

The court ruled that Barnhart's application was lost rather than sabotaged by Bowen, and that the allegation of intentional malice was hearsay. However, it granted Barnhart's request that his application be forwarded to Bowen and a favorable recommendation given.

After the court's ruling, Bowen told the *Emerald* that the court has no power to compel him to change his mind, and that he would not nominate Barnhart for a position on the UCFS Committee.

In the case of Carson v. Bowen, Carson filed a petition asking the court to declare Ballot Measure 1 invalid after it had been passed by the student body.

This measure eliminated the Incidental Fee Committee and transferred its duties to a restructured Student Senate. The restructuring raised an interesting question for IFC members who hold two-year seats: Would they get to retain their positions in a different capacity on the restructured Student Senate? While most of the IFC members' seats expire the end of this term, members who hold two-year seats would have had another year in office.

Carson argued that Ballot Measure 1 was an invalid attempt by Bowen to delegate his power of appointment to the ASUO. Carson said the measure wasn't an "amendment" to the Constitution because it didn't modify the actual language of the revised ASUO Constitution. Therefore, Carson believed it was merely Bowen's "interpretation" of the Constitution.

Carson said the court had final authority on the interpretation of the measure. Thus, the measure should be viewed as wholly invalid or non-binding based on the opinion of the court.

However, the court ruled that amendments to the ASUO Constitution do not have to change the actual language of the Constitution. All that is required for amendment is a majority of the votes.

The court further ruled that there's no danger of confusion in this case, because the measure simply retains the status of students holding office in the IFC and Student Senate under the pre-revised Constitution. Basically, this measure was a fix for a unique situation, Carson's petition was denied.

"(Carson) challenged the Grandfather clause (which states that all two-year student positions will carry over as long as the students' services are beneficial to the student body). He thought that it was an issue and (the court) judged in the ASUO president's favor," Bowen

said.

In the case of Fisher v. Bowen, *Emerald* columnist Fisher challenged Ballot Measures 3 and 13, which students voted on in the primary elections April 27-28. Fisher asked the court to rule the results of the election invalid because he said the measures were on the ballot before being approved by the court.

Bowen submitted 20 ballot measures to the court for approval April 12. Measures 3 ("Recreation and Fitness") and 13 ("EMU Charter") were ruled invalid by the court. However, they still appeared on the ballot for the April 27-28 election.

Four members of the court issued an injunction prohibiting the EMU Board from counting or releasing the results for Measures 3 and 13. Bowen submitted a letter signed by himself and the elections coordinators declaring the measures invalid.

In this case, the court ruled against Bowen and the ASUO Elections Board. The court said that since neither Bowen nor the elections coordinator was an elections officer, they had no power to declare the elections or the measures invalid.

"I had spoken with (Fisher) before the court handed down its decision," Bowen said. "I said that he was right, so it had already been decided."

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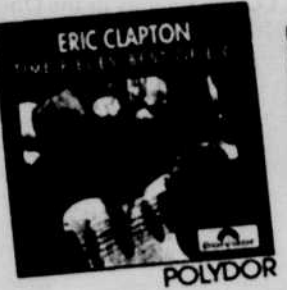
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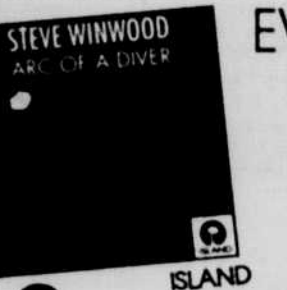
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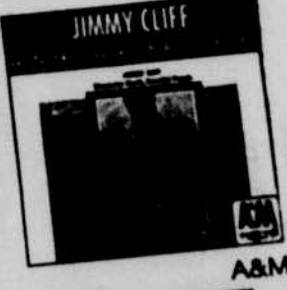
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