

IN THE SUPREME COURT)	
)	
Action no. 14 SSC 002)	
)	
WILLIAM PIONTEK)	
PLAINTIFF)	
)	
v.)	ORDER DENYING
)	MOTION TO DISMISS DUE
)	TO LACK OF STANDING,
JOHN HARRIS)	GRANTING MOTION TO
Student Bar Association, Elections Committee Chair)	DISMISS BECAUSE
)	JUSTICE SO DEMANDS,
NANA ASANTE)	AND DENYING MOTION
ROBERT SPARKS)	FOR SUMMARY
MEGHAN BOYD)	JUDGMENT
TANISHA EDWARDS)	
RACHEL MORGAN)	
ANNIE KOUBA)	
JESSE RAMOS)	
Student Bar Association, Write-In Candidates)	
DEFENDANTS)	

I. BACKGROUND

On Tuesday, April 14, 2015, Plaintiff William Piontek filed a complaint alleging that the Student Bar Association Election Committee had abused its discretion in denying the complaint he filed regarding the April 1, 2015 Student Bar Association elections. Plaintiff alleges erred in three determinations. First, that the elections were “fair, open, and unbiased” in light of an email sent by Jack Boger, Dean of the UNC School of Law. Second, that defendants Asante et. al had not violated IX SBA Bylaws §11.2 when non-candidates had posted disparaging comments to the campaign’s Facebook wall. And, third, defendants Asante et. al had not violated IX SBA §11.6 when they distributed flyers instructing students on how to vote and when a third party wrote instructions for voting on whiteboards in the law school Pl. Compl. p. 1-2.

On Wednesday, April 15, 2015, Defendant John Harris filed an answer containing a motion to dismiss Plaintiffs complaints regarding Dean Boger’s email be dismissed because “justice so requires,” Def. Answer p. 5. That same day, Defendants Asante et. al filed an answer containing two motions, one for dismissal on the grounds that plaintiff had no standing and another for summary judgment on the grounds that there were no issues of material fact Def. Answer p. 9.

On Saturday, April 18, 2015 this Court convened a pre-trial hearing to consider the merits of those motions. Justice Madeline McCabe planned to attend the hearing via Skype, but was prevented from doing so by technical difficulties. All parties were asked if they would consent to the suspension of III SGC §305, which requires the presence of four justices to constitute quorum. Upon the understanding that all decisions would therefore require the unanimous votes of the justices present, all parties provide their consent.

II. FACTS

On March 31, 2015, Dean Jack Boger of the UNC School of Law sent an email to the law school student body which disputed claims by Plaintiff (who the Dean does not mention by name) that the Plaintiff had worked with members of the Law School’s administration to develop a plan to improve the Law School’s rankings such that it ranked in the Top 25 by the year 2025 (25 by 25). The Dean also professed to find such goals unwise (Defendants Brief p. 32). On April 1, 2015, Plaintiff sent an email clarifying his statements about the involvement of administrators in the development of the “25 by 25” plan and apologizing to Dean Boger for the any inconvenience his “ambiguous language” may have caused

(Defendants Brief p. 33). Following the election, the plaintiff filed a complaint with the Student Bar Association Elections Committee claiming that the email had compromised the fairness of the election and thus the election had violated IX SBA Bylaws §11)

Throughout the day of April 1, 2015, the Facebook page of the “Fresh and Honest Team,” a highly organized team of write-in candidates for SBA offices comprised of defendants Asante et. al made a number of posts urging students to vote for them. Plaintiff filed a complaint with the Elections Committee claiming that some of these posts were disparaging to him and therefore the “Fresh and Honest Team” had violated IX SBA Bylaws §11.2 (Plaintiffs Complaint p. 5-6, no. 42-65). That same day, defendants Asante et. al distributed flyers containing instructions on how students could vote in the SBA elections. A third party wrote instructions on how to vote on the whiteboards of law school classrooms. Plaintiff filed a complaint claiming that these actions were an attempt to “perpetrate a fraudulent election,” and therefore Defendants Asante et. al had violated IX SBA Bylaws §11.6.

On Thursday, April 9, 2015, the Elections Committee decided that no violations had taken place. The plaintiff notified the Court of his intention to file a complaint on Monday, April 13, 2015. On Tuesday, April 14, 2015, Plaintiff filed a motion requesting this court enjoin the current SBA President, Leslie Puzo, from installing defendants Asante et al as SBA officers. That injunction was granted at 10:00 a.m. on Tuesday, April 14, 2015.

III. ANALYSIS

Three motions were before the Court at the pre-trial hearing. We will address each motion in turn.

A. Motion to Dismiss Due to Lack of Standing

In his complaint, the Plaintiff alleges standing in this matter, pursuant to III S.G.C. § 640 (1), stating that he is a “student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the act in question.” In their response, the Defendants concede that the plaintiff is a “student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the act in question.” However, they deny that he had standing in the Student Supreme Court, citing to III S.G.C. § 640 (3), which states that “[f]or the purposes of standing, a constituent is defined [as] ... [a] member of any other recognized organization and committee or group receiving funds from the Student Congress.” The Defendants allege that, because the Student Bar Association (SBA) is not a “committee or group receiving funds from the Student Congress,” their actions fall out of the Student Supreme Court’s jurisdiction.

In their answer, the defendants quoted a part of this law:

“A plaintiff’s standing in the Student Supreme Court for a complaint based on ‘the question of legitimacy or illegality of an act by an officer, official or agent of... [a] recognized organization[]’ depends on that organization “receiving funds from the Student Congress.”

However, this is a misrepresentation of the law. Again, the full law states that “[f]or the purposes of standing, a constituent is defined [as] ... [a] member of any other recognized organization and committee or group receiving funds from the Student Congress.” In the pretrial hearing on April 18, 2015, the Defendants stated that they believed this meant that constituents must be a “member of any other recognized organization and committee or group” that is “receiving funds from the Student Congress,” and that because the SBA, though it is an officially recognized student group, had not received funds from Student Congress in the 2014-2015 school year, they are not constituents. However, the Court disagrees with this reading, believing, instead, that constituents in this line are defined as “[a] member of any other recognized organization and committee” or a “group receiving funds from the Student Congress.” We believe that the law, as it is written, is quite clear and grammatically correct. If it were meant in the way the Defendants stated, then the “and” would be omitted and the Code would state that constituents are “[a]

member of any other recognized organization, committee or group receiving funds from the Student Congress.” The Defendants stated, in their interpretation, that the Code is written in improper English and that their own interpretation correctly interprets this English. The Court disagrees.

Furthermore, we believe that the plaintiff has standing pursuant to Art. IX, § 6 of the SBA Bylaws, which states that “[t]he decision of the [SBA Elections] Committee may be appealed to the Student Supreme Court by submitting a verbal petition to the Chief Justice of the Supreme Court.” Our belief stems from our decision in a previous case, 14 SSC 001:

“...this Court does not find merit in the argument that a separate provision in Art. IX, § 6 of the SBA Bylaws confers jurisdiction by consent on this Court. The provision allows a student who was been impacted by the Elections Committee’s decision to ‘appeal[] to the Student Supreme Court.’ We believe that this is not a grant of jurisdiction, but rather gives a party that was involved in the decision before the Elections Committee the appropriate standing before this Court,” *Puzo v. Harris et. al* 14 SSC 001 (2015).

Upon questioning regarding this particular provision and precedent, the Defendants stated that they had not researched our previous decision on that particular part of the SBA Bylaws and verbally consented that it did, in fact, make the Plaintiff a constituent within the Court’s jurisdiction.¹

B. Motion to Dismiss Because Justice So Demands

This motion pertains only to allegations regarding the email sent by Dean Jack Boger of the UNC School of Law. The Court is permitted to dismiss issues at the pre-trial age simply because such is required by justice III SGC §732(A). What, precisely, that means is not addressed by the Code, but we interpret it to mean that we are permitted to dismiss complaints that require us to perform actions that would harm the credibility of the Court. Allowing matters pertaining to Dean Boger’s email would do just that.

This Court only has jurisdiction over students. III SGC §600 (A)(1) grants us jurisdiction over “controversies regarding actions of the Executive Branch, Legislative Branch, and all independent agencies of **Student** Government,” (emphasis added). III SGC §600 (A)(2) grant us jurisdiction over “questions of law arising under this constitution, the laws enacted under its authority of actions of...agencies of **Student** Government, and the governing documents of all independent agencies of **Student** Government and all officially recognized **student** organizations,: (emphasis added). Dean Boger is not a student.

In order to determine if the April 1, 2015 election was unfair in light of Dean Boger’s email, we would have to determine if the Dean’s email was, as the plaintiff alleges, misleading. We have no authority to do such.

Moreover, even if we assume for the sake of a hypothetical, the only circumstances under which this Court will assume anything about the Dean, that the email did unfairly disadvantage the plaintiff in the April 1, 2015 election, there is no relief this Court could provide. If he chose to, Dean Boger, or, for that matter, the Chancellor of the University of North Carolina, or the Governor of North Carolina, or any party outside of the Court’s jurisdiction, could send an email that endorses candidates for every election or repeated election of the SBA. The Court would not react to every one of these incidents by demanding another election be held, because we would not be able to prevent outside parties from repeating these actions in the future. If there were evidence or allegations that a relevant constituent were involved in this, our opinion may be different, but that is not the question.

C. Motion for Summary Judgment

¹ This section, “Motion to Dismiss Due to Lack of Standing,” was written not by Chief Justice Moore, but by Associate Justice Matt Leming.

In his complaint, the Plaintiff alleges that the Defendants are in violation of IX SBA § 11, which states that “[t]he elections shall be fair, open, and unbiased and shall be held to the highest ethical standards of democratic electoral conduct for participants and election officials.”

Plaintiff alleges questions of material factual disputes: (a) that University of North Carolina School of Law Dean Jack Boger sent an email which disparaged the Plaintiff, creating an unfair election; (b) that “he was not provided an opportunity to adequately address the veracity of the statements and the merit of the judgments presented in Dean Boger’s email...”; (c) that the Defendants had knowledge of third-party posts to their Campaign and Facebook pages that disparaged the Plaintiff; (d) that the Defendants presented their flyers as election procedures and not campaign materials; and (e) Plaintiff further alleges that the Defendants wrote campaign messages on the Law School’s white boards.

The Defendants request a motion for summary judgment, alleging that (a) Dean Boger’s email did not compromise the fairness of the election; (b) they did not disparage the Plaintiff; and (c) they did not perpetrate a fraudulent election.

As we have already dispensed with matter involving Dean Boger’s email, the first matter is no longer an issue for this Court to consider.

Second, we shall consider the matter of the Plaintiff’s allegations against the Defendant-Write-in Candidates. The Defendants deny knowledge on all counts of disparaging the Plaintiff, citing third parties, while the Plaintiff alleges that they did. One Defendant, John Harris, stated in the pre-trial hearing that he and the rest of the Elections Committee had the opportunity to review the Plaintiff’s evidence that the Write-In Candidates had knowledge of disparaging internet posts and campaign materials, which the Plaintiff had not submitted as evidence in the pre-trial documents (the Defendants had submitted much, perhaps all, of their evidence). He further alleged that some of this evidence had been submitted after a certain deadline and thus was not considered by the Elections Committee. The Plaintiff stated that he believed that evidence and their associated questions of fact ought to be considered in a full trial, along with the associated relief, for the Court to decide, as he disagreed with the Elections Committee’s decision.

The Court is inclined to agree with the Plaintiff in this matter; it is never specified that evidence ought to be considered or even submitted at a pre-trial hearing, and with the Elections Committee being one of the Defendants in this matter, the Court would prefer to leave these questions of material fact, the Elections Committee’s original decision, the merits of the evidence submitted late, the nature of this deadline, and whether the Elections committee had the opportunity to or ought to have reviewed this late evidence, to our own discretion once we view all of these in a full trial.²

IV. CONCLUSION

Because the Court elected to neither dismiss this case nor issue a summary judgment, this matter must proceed to trial. We recognize that is an unpopular outcome – Law School students begin exams on Monday, April 20. Members of this Court begin exams the following Monday. Following exams, students will likely disperse for summer or, as is the case for myself, graduate and forfeit their role in this matter. It is an unfortunate outcome, but one that is required by the laws governing this Court.

At trial we will seek first to definitively establish the extent to which defendants Asante et. al had prior knowledge of the third party posts to their campaign’s page and on the whiteboards. We will then turn to questions of law – which include which materials (Flyers and Whiteboard posts) are campaign materials, whether or not the SBA Bylaws require candidates be held responsible for actions of third parties, and what remedies this Court is empowered to offer.

The scheduling of trial and submissions of briefs will take place in the coming days. Notice of such will be sent to all necessary parties and will posted to the Student Supreme Court’s website, ssc.unc.edu.

² This section, “Motion for Summary Judgment,” was written not by Chief Justice Moore, but by Associate Justice Matt Leming.

ACCORDINGLY,

Defendants' motion to dismiss due to lack of standing is DENIED.

Defendants' motion to dismiss matters concerning Dean Jack Boger's email of March 31, 2015 is GRANTED.

Defendants' motion for summary judgment is DENIED.

A trial will be held at a yet to be determined date. At trial, the following question of fact will be addressed:

1. Did Defendants Asante et. al have prior knowledge of post to their Facebook page and writing on the whiteboard in the School of Law's classrooms?

The following questions of law will also be addressed

1. Do the voting instructions written on the whiteboards constitute campaigning?
2. Do the flyers distributed by defendants Asante et. al constitute campaigning?
3. Do the SBA Bylaws require that candidates for elected office be held responsible for actions of third parties in support of those candidates?
4. If this case is found in favor of the plaintiff, what remedies is the Student Supreme Court empowered to offer him?

It is so ordered.

Chief Justice South Moore with whom Justice Leming and Justice Chintalapudi join.

Justice McCabe took no part in this decision.

Done on this 20 day of April 2015 at 12:00 AM.