

IN THE SUPREME COURT)
)
Action No. 08 SSC 006)
)
Ronald F. Bilbao)
)
PLAINTIFF)
)
VERSUS)
)
Ryan Morgan)
Chair, Board of Elections)
DEFENDANT)

COMPLAINT

I. Jurisdiction

1.1

The plaintiff argues that the Student Supreme Court has jurisdiction over this matter according to Title VI Section 403(K) of the *Student Constitution of University of the North Carolina at Chapel Hill*, “Appeals of Administrative or Punitive decisions of the Board of Elections shall be heard by the Student Supreme Court.” Thus, the Student Supreme Court has exclusive jurisdiction over the appeals of Board of Elections Administrative and Punitive decisions.

1.2

In this complaint, the plaintiff asks the Supreme Court to evaluate the validity of *Punitive Decision 08-BE-030* issued by the Board of Elections on February 12, 2008, which levies a fine to Mr. Bilbao’s campaign of \$40.00. As we dispute the validity of this fine, we also ask the Supreme Court to evaluate *Punitive Decision 08-BE-031* also issued on February 12, 2008 which disqualifies Mr. Bilbao “from the 2009 General Election race for the office of Student Body President”.

1.3

As these documents constitute “actions of...[the] elections board,” the plaintiff asserts that the Supreme Court does have jurisdiction over this matter.

II. Standing

2.1

According to Title IV, Sect 403(K) of the *Student Constitution of the University of North Carolina at Chapel Hill*, standing to bring a complaint to the Student Supreme Court extends to any plaintiff claiming to have his or her “powers, rights, privileges, benefits or immunities adversely affected, restricted, impaired or diminished.”

2.2

In this case, the plaintiff asserts that Mr. Bilbao’s “rights, privileges, benefits” under Title VI, Sect 402(B)[1a], would be “restricted, impaired, or diminished” by *Punitive Decision 08-BE-030*. According to Title VI, Article IV, Sect 402(B)[1a] a candidate for Student Body President is afforded \$400.00 as “the maximum funds that may be spent by the candidates, their campaign workers or other people on behalf of the candidates.” *Punitive Decision 08-BE-030* lowered Mr. Bilbao’s finances by \$40.00 limiting his ability to cover his personal expenses as well as expenses incurred by his campaign staff.

2.3

Furthermore, according to Section 403(K) of the *Student Constitution of the University of North Carolina at Chapel Hill*, “a student directly and adversely affected by a regulation, ruling, or determination of the Elections Board” has the standing to bring election action to the Supreme Court. According to *Punitive Decision 08-BE-030*, “the BOE has unanimously (4-0) determined the placement of the signs in violation of S.G.C VI Sect 402(G). As a result of the alleged violation, “the BOE has unanimously (4-0) decided to fine Mr. Bilbao \$5.00 for each sign in accordance with S.G.C. VI Sect. 402(G). The total fine shall be \$40.00.” This penalty would indicate that Mr. Bilbao was in fact “directly and adversely affected by regulation, ruling, or determination of the Elections Board.” Therefore, the plaintiff asserts that Mr. Bilbao has standing under the Student Code to bring action against the Board of Elections.

III. Necessary Defendants

3.1

Title III, Section 510(B)[3] of the Student Code mandates that for suits based on election action, the Election Board Chairperson shall be a formal party defendant in every action. This clause provides the justification for the inclusion of the Board of Elections as a necessary defendant, because this appeal suit is based on election action.

IV. Relief

4.1

Issued by the Board of Elections on February 12, 2008, *Punitive Decision 08-BE-030*, pledges to “fine Mr. Bilbao \$5.00 for each sign in accordance with S.G.C. VI Sect. 402(G). The total fine shall be \$40.00.” *PD 08-BE-030* states:

On February 10, 2009, between 9:00am and 10:00am, Chairman Morgan became aware of eight (8) signs promoting Ron Bilbao’s candidacy inserted into the ground in the quad, along the walkway in front of the Louis Round Wilson Library. Upon questioning of Mr. Bilbao regarding the signs, Mr. Bilbao admitted to positioning the signs at the aforementioned location.

4.2

PD 08-BE-030 claims that the activities described above “are in violation of S.G.C. VI Sect 402(G)”.

4.3

The plaintiff interprets the activities that the Board of Elections allegedly finds in violation with the Student Code to be:

1. A lawful placing of signs in the quad area in accordance with S.G.C. VI Sect 402(G). According to the code, any fine would be levied with the advice and consent of the proper University official. In this situation, the respected University official would be Ms. Nancy Graves, Administrative Assistant for the Office of the Associate Vice Chancellor for Campus Services. Ms. Graves’ consent was gained the morning of the day of the alleged violation and in her executive opinion, the “exact location of the signs placement would not bring damage to University Grounds”

4.4

The plaintiff admits to the act of placing the signs in the quad area before the Louis Round Wilson Library but only before gaining expressed consent from the proper University official. It was the plaintiff’s belief that under S.G.C. VI Sect 402(G), this action would be permissible.

4.5

To address the issue of *PD 08-BE-030*, S.G.C. VI Sect 402(G), the code was interpreted lawfully by Mr. Bilbao. As stated in the said code, “no campaign materials may be placed on trees, shrubs, or other plants on the University campus”. The actions of Mr. Bilbao in no way violated such code and was validated by the explicit consent of a University administrator.

4.6

On the morning of February 10, at approximately 8:48am, Mr. Bilbao and his Chief of Staff, Garrett Haywood, met with Ms. Nancy Graves, Administrative Assistant for the Office of the Associate Vice Chancellor for Campus Services, to discuss the placement of the signs. The plaintiff and his Chief of Staff had been referred to Ms. Graves by a Mr. Dave Brannigan, the Head Groundskeeper who was present on the grounds that morning. In the conversation with Ms. Graves in her office, consent was granted after Ms. Graves spoke directly to the South Building and Maintenance Head of Grounds, Robert Cooper, and deemed the area directly beside the sidewalks in the quad area to be worn barren and absent of any plant life (grass). This, in her opinion, would be acceptable for the placement of 8 ½” x 2” stakes and not cause any damage that would need restoration. Based on this decision of the UNC Grounds Department (relevant administrators), Mr. Bilbao and his Chief of Staff proceeded to the quad area and installed the eight campaign signs.

4.7

Shortly after the installment of the eight signs in the quad area, Mr. Bilbao was contacted by BOE Chairman, Ryan Morgan. In this conversation, Mr. Bilbao was asked to remove the signs with failure to do so would result in campaign fines. With the knowledge of S.G.C. VI Sect 402(G), Mr. Bilbao felt within his rights to leave the signs in the quad area without the risk of any sanction. It was his understanding that the agreement he had made with Ms. Graves, Administrative Assistant for the Office of the Associate Vice Chancellor for Campus Services, superseded BOE regulation. This action he had taken was in compliance with S.G.C. VI Sect 402(G) thus making the presence of the signs in the quad area legal.

4.8

These facts and the expressed consent of a University official are what Mr. Bilbao believes to be the basis of his authorized action in accordance with S.G.C. VI Sect 402(G) and grant no validity to *PD 08-BE-030*.

V. Demand for Judgment

5.1

The plaintiff respectfully asks that The Court reverse the Board of Election’s *Punitive Decision 08-BE-030* and order that the Board of Elections issues a public retraction of its statement that Mr. Bilbao committed a campaign violation. If the Court finds Mr. Bilbao’s action to be legal, the Plaintiff asks that Mr. Bilbao’s campaign not be fined \$40.00 after the end of the election.

5.2

In addition, the plaintiff respectfully requests that the Court also reverse the disqualification of Mr. Bilbao as the supposed fines were directly linked to that course of action, *Punitive Decision 08-BE-031*. This decision was handed down on February 12, 2008 as a result of “Mr. Bilbao knowingly and willingly committing a campaign violation”. The basis of this argument and punitive decision is the result of Mr. Bilbao refusing to remove the eight campaign signs in the quad area after being told by Chairman Morgan they were in violation of the Student Code. Mr. Bilbao contests his disqualification as he was verbally assured by Vice Chairman Valerie Tenyotkin that an

acceptance of a fine (legal or not) and continuing of a violation would result in any further punitive damage. Since Mr. Bilbao was in no violation of Title VI in the placement of such signs, failure to remove his signs could not be “knowingly and willingly committing a campaign violation.” The plaintiff asks the court to reverse the board’s decision in *Punitive Decision 08-BE-031*.

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I do affirm that I have read in full the complaint and the allegation contained are true to the best of my knowledge and belief.

Filed this day of February, 27, at 11:45 a.m.