

IN THE SUPREME COURT)

Action No. 09 SSC 002)

Zach Dexter)
Finance Chair, Student Congress)

&)
Saang M. Lee)
Rules and Judiciary Vice-Chair, Student Congress)

PLAINTIFFS)

MOTION TO DISMISS

Versus)

Joseph Levin-Manning)
Speaker, Student Congress)
DEFENDANT)

I. GROUNDS FOR THE MOTION TO DISMISS: PLAINTIFF LACKS PROPER STANDING

Plaintiffs’ Complaint alleges that the Plaintiffs have standing under Title III, Section 407 of the Student Code. Title III, Section 407 of the Student Code does address standing to bring actions based on legislative acts. All Claims for Relief, as listed in Plaintiffs’ Complaint, reference, explicitly or implicitly, SCB-91-064, thus it is implied that Plaintiffs allege that SCB-91-064, as initially passed by Congress (“the Bill’), is a “legislative act.” Complaint, ¶ 4a-4e. Therefore, proper standing for the Plaintiffs is dependent on a finding by the Student Supreme Court that the Bill was, in fact, a “legislative act.”

Standing cannot exist to challenge proposed legislative acts. III Student Code § 407(B). Upon information and belief, Student Body President Jones vetoed SCB-91-064 (“the Bill”) on Tuesday, November 17, 2009.¹ Thus the Bill remains a proposed legislative act and cannot

¹ Student Body President Jones informed the Defendant that she has vetoed SCB-91-064, but has not yet provided the Defendant with a copy of the vetoed bill.

become a “legislative act” unless and until SCB-91-064 is subsequently passed by a two-thirds majority of Student Congress, thus overriding the veto.

Further, “Standing to bring an action before the Supreme Court based on the invalidity of a legislative act by the Student Congress shall extend to any student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the legislative act in question.” III Student Code § 407(a). Plaintiffs’ “powers, rights, privileges, benefits or immunities” cannot be “adversely affected, restricted, impaired or diminished” by the Bill, as the Bill has been vetoed and SCB-91-064 will not go into effect unless and until it is passed by a two-thirds majority of Student Congress.

Plaintiffs lack proper standing for the following reasons: 1) SCB-91-064, as initially passed by Student Congress, remains a proposed legislative act because the Bill was subsequently vetoed by Student Body President Jones; and 2) the Plaintiffs’ “powers, rights, privileges, benefits or immunities” were not “adversely affected, restricted, impaired or diminished” because the Bill was subsequently vetoed by Student Body President Jones.

II. REQUEST FOR DISMISSAL OF THE COMPLAINT

For the foregoing reasons, Defendant moves to dismiss the complaint.

Filed this the 18th day of November, 2009, at 5:00 p.m.

/s/ Kristopher M. Gould
COUNSEL FOR THE DEFENDANT

Kristopher M. Gould
Student Solicitor General