

IN THE SUPREME COURT)	
)	
Action No. 10 SSC 002)	
)	
Adam J. Horowitz, Leah Josephson,)	
Christopher B. Lane, Chelsea Cook,)	
)	
Plaintiffs)	
)	
versus)	ORDER GRANTING
)	EXTENSION TO ALL
)	PARTIES FOR MOTIONS
)	AND BRIEFS
Andrew Phillips,)	
Chairperson, Board of Elections,)	
Hogan Medlin,)	
Student Body President)	
Defendants.)	

I. BACKGROUND

- (1) On February 7, 2011 at 6:02 p.m., Plaintiffs Adam J. Horowitz, Leah Josephson, Christopher B. Lane, and Chelsea Cook, filed a Complaint asking this Court to enjoin the Board of Elections from allowing the UCommons referendum from appearing on the February 8, 2011 ballot, or, alternatively, from certifying and releasing the results of the UCommons referendum on the grounds that the Union campaign in support of the passage of the referendum violated numerous election laws under Title VI of the Student Code. See Title VI S.G.C. §§ 404(B), 405(F), 405(G), 406(I)(1), and 406(J) (2009). Additionally, the Plaintiffs contended that both Student Body President Hogan Medlin and Chairman of the Board of Elections Andrew Phillips failed in their respective duties to address these alleged campaign violations, as required by duties charged to them by the Student Code. See Title I, S.G.C. Article V §4, and Title VI S.G.C. §314, respectively.
- (2) Defendants submitted a timely answer to the Court responding to Plaintiff’s Complaint on February 9, 2011.
- (3) Upon receipt of the Complaint and Answer of all parties, the Court set the deadline for the submission of Motions and Briefs as Thursday, February 10, 2011 at 5pm.
- (4) On February 10, 2011, both Plaintiffs and Defendants prior to the Thursday, February 10, 2011 5 pm deadline filed Motions requesting the Court grant all parties an extension on the submission of both Motions and Briefs. Specifically, the parties both requested an extension on the submission of their Motions, proposing a new deadline of Friday,

February 11, 2011 at 12 pm. In addition, all parties requested an extension on the submission of their Briefs, proposing a new deadline of Saturday, February 12, 2011 at 12 pm.

II. ANALYSIS

The Student Code authorizes parties to submit Motions to the Court under Title III S.G.C. §§ 516, 517 (2009). Additionally, the Student Code authorizes parties to submit Briefs to the Court under Title III S.G.C. §§ 516, 519 (2009). However, the Code provides no express or implied guidance to the Court as to the proper procedure for granting parties' requests for extensions on deadlines set by the Court regarding the submission of Motions and Briefs. In fact, the Student Code is completely silent on the matter.

The sole guidance the Student Code provides as to the procedure to be followed by the Court when granting extensions on a document submitted to the Court is found in Title III S.G.C. § 507. This statute states that

If the defendant is required to file an answer to a complaint and he/she fails to file an answer in the time directed, the Chief Justice of the Student Body may grant him/her an extension of time in which to file the answer if the Chief Justice determines that there were circumstances beyond the control of the defendant justifying the delay and the extension of time will not result in injury to the rights and remedies of the plaintiff.

However, for several reasons, it is unreasonable to construe the Student Code's silence on this procedural matter as forbidding the Court leave to grant extensions on the submissions of Motions and Briefs.

First, the decision of the Court to grant an extension of the submission deadline for a Motion, Brief, or any other document submitted to the Court is a procedural decision of the Court akin to the many procedural decisions that the Code leaves to the discretion of the Court, such as the filing deadline for Answers to a Complaint. See Title III S.G.C. §507 (noting that a defendant must file an answer in the time directed by the Court). As such, it is hard to imagine that Student Congress intended to grant the Court the power to require such filings while simultaneously depriving them of the procedural authority to administer them.

Second, as the Student Code is completely silent on the issue and includes no other statutes that can be reasonably construed as forbidding the Court this procedural power, the Court is not engaging in judicial law making or in any way depriving Congress of its "supreme legislative authority." Title I S.G.C § 1(A).

Third, the parties' due process rights and the best interest of the student body both require, in part, access to and assurance of a fair and efficient judicial process. As such, where: 1) the Code lacks any statutory directive providing guidance as to Court

procedure; 2) the Student Code contains no statute expressly or impliedly forbidding the instant exercise of the Court's procedural powers over its own affairs; and 3) the Court has docketed before it pressing matters, waiting for legislative directive on the procedural question is not a viable option. Thus, for the aforementioned reasons, I hold that, despite the Student Code's silence on the matter, the Court has the power to grant parties' Motions for extensions of filing deadlines, including those concerning Motions and Briefs.

With that issue aside, the question then turns to whether granting an extension in this case is proper. Here, all parties have requested the same extension, citing similar reasons: academic coursework and midterms preventing them from filing a competent Motion or Brief by the original deadline of Thursday, February 10, 2011 at 5 pm. Referencing the only statutory guidance available under the Student Code as to granting extensions—Title III § 507—I think it proper to consider its two prong test when deciding whether to grant the extensions requested.

Under Title III S.G.C. § 507, an extension may be granted at the Chief Justice's discretion if a) the Chief Justice determines that there were circumstances beyond the control of the defendant justifying the delay and b) the extension of time will not result in injury to the rights and remedies of the plaintiff. Id.

While this statute does not deal with Answers filed by defendants specifically, the test is applicable guidance to analyzing the Motions presented in this case nonetheless. Here, Plaintiffs cite academic coursework—specifically midterms and other academic obligations—a circumstance indeed outside of Plaintiffs' control. Defendants do not contest this reason. As to the second prong, there is no risk of injury to any party's right or remedy, as all parties agree to the timeline of the requested extensions and no statute of limitation applies. I therefore find it proper to grant Plaintiffs' and Defendants' Motions requesting an extension on the submission of their Motions and Briefs.

ORDER

ACCORDINGLY,

The Court GRANTS Plaintiffs' and Defendants' Motions requesting an extension on the submission of their Motions, granting a new deadline of Friday, February 11, 2011 at 12 pm. In addition, the Court GRANTS Plaintiffs' and Defendants' Motions requesting an extension on the submission of their Briefs, granting a new deadline of Saturday, February 12, 2011 at 12 pm

Done this 10th day of February 2011, at 4:30 p.m.

/s/Jessica E.H. Womack
Jessica E.H. Womack, C.J.
for the Court