

IN THE SUPREME COURT)
)
Action No. 09 SSC 006)

ORDER GRANTING A TEMPORARY INJUNCTION TO DELAY THE CERTIFICATION OF THE STUDENT CONGRESS DISTRICT 1 ELECTION

On February 11, 2010 at 7:48 p.m., the petitioner, Student Congress District 1 candidate, Marc Seelinger, Jr., asked this Court to temporarily enjoin the Board of Elections from certifying the results of the Student Congress District 1 election on the grounds that the Board of Elections violated Title VI S.G.C. § 511 (2009).

In the event that the Chief Justice of the Student Body is temporarily absent, the justice having the greatest seniority among those justices serving on the Supreme Court may, during the absence, exercise all powers and shall perform all responsibilities which the Chief Justice of the Student Body may exercise or is to perform under the law. Title III S.G.C. § 302 (2009). Because Chief Justice Emma Hodson was temporarily absent at the time of the petitioner’s filing, as Senior Associate Justice of the Student Body I am charged with “...issu[ing] temporary injunctions against the Elections Board stopping an election...to preserve the status quo until a judicial determination can be reached...in extreme circumstances and when necessary...[when] there is insufficient time to convene the court in order to issue a temporary injunction...” Title III S.G.C. § 410 (2009).

The Student Code provides little guidance on the proper procedure for granting a temporary injunction. Therefore, I must rely on several preliminary determinations made on behalf of the Court regarding Title III S.G.C. § 410 in the order granting a temporary injunction to delay the release of the childcare services fee referendum in the case of *Nichols v. Raynor* (Action No. 08 SSC 004-04) before deciding whether to grant the motion for a temporary injunction.

In the order for temporary injunction in *Nichols v. Raynor*, the Court first determined that Title III S.G.C. § 410 was put in place to allow the Court to act quickly in order to preserve an action without waiting for the parties to file pleadings in the matter. In keeping with the intention of this provision, the Court also understood that the Student Code gives the Court the authority to grant a temporary injunction when a motion has been filed that alleges extreme circumstances and necessity sufficient to warrant a temporary injunction. Therefore, the Court will grant a temporary injunction provided the motion on its face alleges “extreme circumstances” and it is necessary for the Court to grant a temporary injunction.

The order for temporary injunction in *Nichols v. Raynor* also included the Court’s determination of what “stopping an election” entails. The Court found that, while the motion for the injunction contemplates that stopping an election entails stopping voting, the phrase “stopping an election” implies more than merely stopping voting. The Court elaborated that an election is not a singular event, but a series of actions occurring along a general timetable and such actions may include preparing the ballot, accepting ballots, counting the ballots, and announcing/certifying results. Therefore, the Court determined that it may enjoin any of these actions and not just voting.

Turning to the motion, Title III S.G.C. § 410 requires “extreme circumstances” and necessity before this Court may issue an injunction stopping an election. The extreme circumstances contemplated are those relating to the underlying harm, not the procedural circumstances. As such, in its order for temporary injunction in *Nichols v. Raynor* the Court stated that before an election is halted, the balance of harms must be such that more harm occurs from the conduct of the election than from the injunction itself. The clearest case where this would enjoin voting is when the ballot itself contained an error that would lead to permanent harm to a party at interest.

As set forth above, the Court in *Nichols v. Raynor* determined that an election is not a singular event, but a series of actions occurring along a general timetable and depending on the phase of the election, the harm from the injunction will vary. Accordingly, the Court determined that less extreme circumstances are regarded to halt an election after ballots have been cast than immediately prior to casting ballots.

Here, the motion alleges that the Board of Elections has violated Title VI S.G.C. § 511 (2009). Though the circumstances alleged are substantial and warrant full legal and factual consideration by the entire Court, the petitioner does not allege the ballot itself is defective, nor does the petitioner forecast a permanent injunction against ever certifying the results of the Student Congress District 1 election. Therefore, the circumstances raised would generally not rise to a level that this Court should order that the results not be certified. However, if the facts alleged in the motion are taken as true, it appears that the Board of Elections may have engaged in a violation of Title VI that could have compromised the integrity of the Student Congress District 1 election. Allowing the results of the election to be certified and later invalidating them may result in future problems. On balance, the best way for this Court to preserve the status quo in the election is to grant the request to stop the Student Congress District 1 election by ordering the Board of Elections not to certify the final results of the vote on this matter.

ORDER

Accordingly, the Court grants a temporary injunction preventing the certification of the District 1 election results until the Court can decide whether there was indeed a violation of Title VI. In granting this temporary injunction, the Court is mindful that students will want to have the election results certified and released in a timely manner.

Therefore, the Court further orders that the answer in this matter must be filed with the Court and served on the opposing party, Taylor Holgate, by 5 pm on Sunday, February 14, 2010. In the interest of judicial economy and efficiency, the Court further orders each party to file briefs explaining their legal arguments against or in defense of the actions alleged in the complaint and answer by Monday, February 15, 2010 at 5 pm.

Failure to file and serve the complaint by the stated deadline and in accordance with the requirements of Title III of the Student Code will result in the Court rescinding this order and permitting the Board of Elections to certify the District 1 election results.

By ordering the Board not to certify the results of the election, this Court is in no way implying that the election results are to be automatically invalidated. Instead, this order merely preserves the status quo until a judicial determination can be reached.

Done this day February 11, 2010 at 10:10 p.m.

/s/Kathleen D. Oppenheimer
Kathleen D. Oppenheimer, S.A.J.
for the Court