

IN THE SUPREME COURT)

Action No. 08 SSC 005)

RONALD F. BILBAO)
PLAINTIFF)

versus)

RYAN MORGAN,)
BOARD OF ELECTIONS)
DEFENDANTS)

ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS

I. BACKGROUND

Plaintiff, Ronald F. Bilbao, was a candidate for Student Body President in the 2009 Election. After announcing the results of the general election for Student Body President on February 10, 2009, the Board of Elections met and issued a decision 08-BE-31 disqualifying Bilbao from the election for actions committed that day. Prior to disqualifying Bilbao, the Board of Elections had announced that he placed third in the general election and was therefore eliminated from the February 17, 2009 run-off election.

On February 13, 2009, Bilbao, notified this court of his intention to appeal a decision of the Board of Elections disqualifying him from the Student Body President Election. Bilbao filed his complaint with this Court of February 20, 2009 challenging the validity of 08-BE-31 on the grounds that it violated his right to the process outlined in VI S.G.C. § 403(D)(1) and § 403(I)(2)(a). Morgan and the Board of Elections (“defendants”) filed an answer on February 22, 2009 as well as a motion to dismiss on the grounds that Bilbao lacked standing to bring this action and that this Court lacked jurisdiction to hear the case.

Under III S.G.C. § 401 (2008) and the Student Constitution, this Court is limited to rendering decisions in live controversies and lacks jurisdiction in cases where there is no live controversy. Because this case does not involve a live controversy, it is dismissed. However, the Court also gives Bilbao leave to file a new complaint in this matter challenging the validity of 08-BE-29 and 08-BE-30.

II. DEFENDANTS' MOTION TO DISMISS

In the hearing on the motion to dismiss, counsel for defendants argued that this Court could not hear the case because Bilbao’s claim was moot and because the section of the Code Bilbao cited as providing standing did not apply to automatic disqualifications. Because this Court would have given Bilbao leave to amend the standing issue, we take no position on it in

this order. However, proof that this Court lacks jurisdiction for mootness is not an issue that Bilbao can readily amend.

Under III S.G.C. § 401 (2008) and the Student Constitution, this Court is limited to rendering decisions in live controversies and lacks jurisdiction in cases where there is no live controversy. In deciding whether a live controversy exists, this Court considers whether its decision will have a meaningful effect upon the interests of the parties.

In the instant case, Bilbao was disqualified after placing his defeat at the polls. His status as a disqualified candidate has not had a meaningful impact on his rights, privileges, and interests under the Student Code. Although Bilbao's counsel argues that Bilbao has suffered a reputational harm, public praise or criticism for one's actions are an inherent part of serving in the Student Government on this campus.¹ This Court is unwilling to recognize a reputational interest under the Student Code. Accordingly, we must grant the defendants' motion to dismiss for lack of jurisdiction.

In issuing this order, we note that in the event that Bilbao's disqualification would cause him a cognizable harm, such as a decision to bar him from a Student Government position because of the disqualification, this Court would have jurisdiction to hear a new complaint on the merits of the Board's action in rendering the disqualification decision.

III. ORDER

1. Defendants' motion to dismiss is granted.
2. Bilbao may file a new complaint challenging 08-BE-29 and or 08-BE-30 by noon on Friday, February 27, 2009.
3. Should Bilbao file a new complaint, defendants must file an answer to the complaint by noon on Monday, March 2, 2009.

For the foregoing reasons, the defendant's motion to dismiss is GRANTED.

Done this 26th day of February, 2009, at 1:30 a.m.

/s/Emma J. Hodson
Emma J. Hodson, C.J.
for the Court

¹ When asked how the Court could limit a reputational harm, Bilbao's counsel argued that we should look to whether the person raising the harm had his rights the process guaranteed by the Student Code violated. III S.G.C. § 104(D) defines jurisdiction as "the legal power of the court to hear and decide an action." Logically, this Court would first need to decide whether it had jurisdiction over a case before it decided the legal matter. To do otherwise, would mean that the court's decision was invalid as it lacked the legal power to make the decision. Thus, Counsel's argument puts the cart before the horse. The Court cannot decide the legal question of whether one's right to process under the Code if it has decided that it lacks jurisdiction to hear a case.