

IN THE SUPREME COURT

Action No. 10 SSC 003

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ORDER GRANTING A TEMPORARY INJUNCTION TO DELAY THE CERTIFICATION OF THE STUDENT BODY PRESIDENT ELECTION

On February 7, 2011 at 7:03 p.m., the petitioner, Speaker Emeritus of Student Congress, Deanna Santoro, asked this Court to enjoin the Board of Elections from conducting the Tuesday, February 8th election or, alternatively, from certifying and releasing the results of the Student Body President election on the grounds that the Board of Election abused its discretion in interpreting Title VI § 408(B)(3) as overriding § 408(B)(1) in Administrative Decision 10-BE-07 and therefore allowing Mr. Lee to run for Student Body President while still serving as Student Body Secretary. Plaintiff additionally contends that the Board’s interpretation in Administrative Decision 10-BE-07 overextends its limited powers to interpret the law in situations open to question derived by establishing a “standard which lacks explicit basis in election law.” Title VI § 306(A).

In the event of “extreme circumstances and when necessary”, Title III S.G.C. § 410(A) (2009), the Student Supreme Court may issue temporary injunctions against the Elections Board stopping an election to protect the Court’s jurisdiction or to preserve the status quo until a judicial determination can be reached. Id. Where, in the opinion of the Chief Justice, there is insufficient time to convene the court in order to issue a temporary injunction, he/she may issue a temporary injunction in the name of the Supreme Court. Title III S.G.C. § 410(B) (2009).

The Student Code provides little guidance on the proper procedure for granting a temporary injunction. However, 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) provide guidance in 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 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(A) 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.¹

Here, the motion alleges that the Board of Elections has violated Title VI S.G.C. §§ 306(A) 408(B) (1), and 408(B)(3) (2009). 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 Body President election by allowing an ineligible candidate to run for office. The harm to other parties of interest, as well as the harm to the authority of the Student Code and to the integrity of the elections process that would result from a potential violation of such magnitude is great; allowing the results of the election to be certified and later invalidating them may result in future problems. Thus, on balance, the best way for this Court to preserve the status quo in the election is to grant the plaintiff’s request to stop the Student Body President election by ordering the Board of Elections not to certify the results of the vote on this matter.

ORDER

Accordingly, the Court grants a temporary injunction preventing the certification and release of the results of the Student Body President election 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, Deanna Santoro, by 5 pm on Wednesday, February 9, 2011. 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 Thursday, February 10, 2011 at 5 pm.

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, nor issuing a formal opinion on the actions of the Board of Elections with respect to its decision in Administrative Decision 10-BE-07 and its actions related to that decision. Instead, this order merely preserves the status quo until a judicial determination can be reached.

Done this day February 8, 2011 at 3:10 p.m.

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

¹ Note that *Nichols v. Raynor* is not the only instance where the Court has exercised its power to issue an injunction of the elections process. See *Seelinger v. Gillooly*, 09 SSC 006.