

IN THE SUPREME COURT)	
)	
Action No. 08 SSC 002)	
)	
Matt Wohlford)	
PLAINTIFF)	
)	
versus)	[BRIEF]
)	
Ryan Morgan, Board of Elections)	
DEFENDANT)	

Contents

2	Index	1
3	Statement Of Facts	2
3.1	New Facts	2
3.2	Testimony	2
4	Questions of Law	2
4.1	Investigation Procedure	2
4.2	Punitive Decision	2
4.3	Evidence	2
4.4	Administrative and Punitive Decisions	2
4.5	Administrative and Punitive Decisions	2
5	Arguments	2
5.1	Investigation Procedure	2
5.2	Punitive Decision	3
5.3	Evidence	3
5.4	Administrative and Punitive Decisions	4
5.5	Administrative and Punitive Decisions	4
6	Conclusion	4

2 Index

S.G.C., 08-BE-001, 08-BE-010, 08-BE-012, *Klein v. Morgan*.

3 Statement Of Facts

3.1 New Facts

3.1.1

The Plaintiff does allege new facts in this Brief. Original complaint amended as ordered by this Court challenged the investigation and the procedure of the enactment of the sanctions by the BOE against the Plaintiff, not the facts.

3.1.2

This Brief, in fact, reverts to the original, unamended complaint, which this Court ordered be changed or the Plaintiff would have to comply with the Defendant's Request for Evidence filed with this Court.

3.2 Testimony

Plaintiff does not dispute this subsection.

4 Questions of Law

4.1 Investigation Procedure

Plaintiff does not dispute this subsection.

4.2 Punitive Decision

Plaintiff does not dispute this subsection.

4.3 Evidence

Plaintiff does not dispute this subsection.

4.4 Administrative and Punitive Decisions

This question is irrelevant to the case, for what is questioned in amended version of Complaint 08-SSC-002 is procedure of enactment of the sanctions, not their adherence to the S.G.C.

4.5 Administrative and Punitive Decisions

Plaintiff does not dispute this subsection.

5 Arguments

5.1 Investigation Procedure

5.1.1

The Board of Elections, hereinafter as BOE, did comply with investigation procedures S.G.C. VI § 403(D).

5.1.2

Size of the BOE is irrelevant to the investigation process. The BOE is charged with investigation of violations, enforcement, and administration of the election law. While the Defendant recognizes that a board consisting of only a Chair is less than perfect, the events in question took place during the first week of classes, which is hardly a commonplace occurrence. Chairman Morgan investigated the alleged wrongdoing alone because there was simply no other option. Indefinitely postponing an investigation is ethically questionable and has the potential to cast doubt on the integrity of the BOE.

5.1.3

Plaintiff's meeting with the Defendant constitutes the end of the investigation due to Plaintiff's admission to the facts.

5.2 Punitive Decision

5.2.1

The BOE functions under S.G.C, not N.C.G.S. S.G.C. VI § 402(A) allows the BOE to close the meetings for the "enforcement of elections laws." The BOE acted lawfully in this case. The meeting was also a continuation of a regular meeting of the BOE, properly advertised on the door of the BOE and the SG Suite, as required by S.G.C. VI § 204(A).

5.2.2

Plaintiff is only entitled to defense where there is sufficient question of fact. Since the Plaintiff admitted to the facts of the case, deliberations of the Board were limited to questions of law: adherence of those facts to S.G.C. VI.

5.3 Evidence

5.3.1

From Cambridge Advanced Learner's Dictionary:

investigate

verb [T]

to examine a crime, problem, statement, etc. carefully, especially to discover the truth.

During the meeting between the Plaintiff and Chairman Morgan, Chairman Morgan inquired about the events in question and the Plaintiff admitted participating in those events. Hence, the facts of the case have been determined and investigation is closed. What remains for the BOE is only to determine whether those facts are in violation of the election law. Said determination does not require a defense for it is a matter of law, not fact.

5.3.2

In addition, S.G.C. VI gives the Chair of the BOE the power to issue punitive decisions without the consent of the Board. Had Chairman Morgan acted "capriciously," as Plaintiff puts it, he would have issued a punitive decision immediately but, he did not. Chairman Morgan waited until the Board was assembled and then presented the facts, to which the Plaintiff admitted, to the Board for consideration.

5.4 Administrative and Punitive Decisions

Klein v. Morgan does not apply because it examined specific regulations, while this complaint challenges investigative conduct.

5.5 Administrative and Punitive Decisions

5.5.1

While this question is relevant, it is hardly disputable. The Board operates under the auspices of S.G.C. and complies with all provisions thereof in enacting all administrative and punitive decisions.

5.5.2

Ex post facto doctrine applies only to legislative and executive acts. Acts of the enforcing agencies, such as BOE or the district attorney, are not held to the same standard; statutes of limitation exist for that purpose. So long as the interpretation of the event(s) in question is based on a contemporary version of S.G.C., *ex post facto* doctrine does not apply.

6 Conclusion

The Plaintiff fails to demonstrate investigative misconduct on part of Chairman Moran or the Board of Elections. Defendant therefore asks the Court to uphold Punitive Decision 08-BE-012.

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