

IN THE STUDENT SUPREME COURT)
)
Action No. 08 SSC 005)
)
Ronald F. Bilbao)
PLAINTIFF)
)
versus) [MOTION]
)
Ryan Morgan, Board of Elections)
DEFENDANT)

Motion To Dismiss

1 Questions Of Law

1.1

Pursuant to S.G.C. III § 523(A), a party may file a motion to dismiss the claim based on failures of the opposing party to comply with the requirements of S.G.C. III or any sections or provisions under its authority.

1.2

One of such provisions necessitates the Plaintiff to demonstrate standing to sue.

1.3

S.G.C. III § 409 outlines the standing necessary to bring an Election Action. Plaintiff does not claim standing under S.G.C. III § 409 or any subsections thereof.

1.4

The Plaintiff claims standing based on S.G.C. § 403(I)[1]{c}, which guarantees standing to appeal a disqualification decision. While S.G.C. § 403(I)[1]{c} does not mention disqualified candidates' rights, Defendant believes that the Plaintiff is referring to S.G.C. § 403(I)[2]{c}.

1.5

S.G.C. § 403(I)[2]{c} affords the right to challenge the disqualification to the Student Supreme Court and exists under S.G.C. § 403(I), which deals with disqualifications. As such, it outlines two types of disqualifications: Automatic and Other.

1.6

In its Punitive Decision 08-BE-031, the Board of Elections disqualified the Plaintiff in accordance S.G.C. VI § 403(I)[1]{e}, which exists under S.G.C. VI § 403(I)[1], Automatic Disqualification, and neither provides a procedure for, nor guarantees the disqualified [potential] candidate a right to appeal(ing) such disqualification to the Student Supreme Court.

1.7

Disqualified candidate's right to appeal is reserved exclusively for § 403(I)[2], Other Disqualification.

1.8

If the facts of the case are not disputed¹, Automatic Disqualification neither warrants an appeal nor is an appeal possible².

2 Questions of Fact

In addition to the questions of law outlined in (1.1) - (1.8), Defendant claims that the Plaintiff's complaint is moot³ for 08-BE-031 neither removes Plaintiff from an elected office⁴, neither punishes him in any other physically-tangible manner.

3 Order Sought

The Defendant asks the Court to dismiss Plaintiff's claim.

¹ And they are not, Plaintiff does not allege any factual inconsistencies or dispute findings of Punitive Decision 08-BE-031.

²e.g. Disqualification for Failure to Attend any Compulsory Candidate's Meeting cannot be overturned by the Student Supreme Court, provided the failure to appear is not contested and no mitigating factors are alleged, because such disqualification is a question of fact, not law.

³As opposed to an appeal of a fine against Plaintiff's campaign. The amount of the fine is subtracted from the total campaign expenditure reimbursement and hence constitutes factual and material harm for the Plaintiff.

⁴Mr. Bilbao garnered 1,106 votes taking the 3rd place in the SBP race and therefore was not placed on the 2009 General Election Runoff Ballot. BOE subsequently certified Ms. Jasmin Jones as the winner and SBP Elect.

Ryan Morgan, Defendant
The Board of Elections
(919) 962-8683, 2500 Student Union
UNC Chapel Hill, Chapel Hill, NC 27599

Valery Tenyotkin, Counsel
The Board of Elections
(919) 923-5583, 2500 Student Union
UNC Chapel Hill, Chapel Hill, NC 27599

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