

The University of North Carolina at Chapel Hill
Student Supreme Court

No. 06-SC-003

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Carolina Athletic Association)	
<u>Complainant</u>)	
)	
v.)	OPINION OF THE COURT
)	
Student Congress)	
<u>Respondent</u>)	
)	
)	

MR. CHIEF JUSTICE LILES delivered the unanimous opinion of the Court.

The 88th Student Congress passed SL 085, the effect of which is to reorganize parts of Title VII to require information from the Carolina Athletic Association(CAA) as well as to forbid student government officials from accepting tickets outside of the student lottery. The members of the CAA Cabinet receive from the Athletic Department tickets for each game, in return for service on the Ticket Review Board, these students are also exempted from the ticket lottery. The Carolina Athletic Association challenges the validity of 88 SL 085 as a legislative action. The CAA has standing to bring this action under Title III § 407(a) as a “student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the legislative act in question,” and this Court exercises our jurisdiction to decide the matter under its general jurisdiction over interpretation of the Student Code conferred in Title III § 401(a).

I.

This matter yields two questions for decision by this Court to ultimately deal with the question of the Act's constitutionality: 1) Does Congress have the power to enumerate the policy of the CAA through codification, and 2) Can Student Congress prevent student government officials from accepting non-lottery tickets?

II.

On the first question, the Court finds in the affirmative that Student Congress may legislate the policies of the student government but only within their power under the Code and the power of student government itself. In deciding this issue the Court deals with not only the limits of Congressional power, but also the limits of our own power and the very derivation of student government itself.

IIA.

Under Article I § 1(a) of the Constitution the Student Congress is the supreme legislative body and as such may legislate changes to all parts of the Student Code except the Constitution.¹ However this power is not unlimited, but dependent at least somewhat on the bounds of the power of students to self-govern. The power under the Code comes first and foremost from the Students as indicated specifically when the Preamble to the Constitution refers to student "self-governance." Additionally, the specific power of the Student Congress to administer the Student Activity Fee was delegated to Student Government by the Chancellor. So within the bounds of these powers the Student Congress may legislate the operation of Student Government. The

¹ The Constitution can only be changed by student referendum, further establishing the power of Student Congress as directly connected with the power of students in general.

power over tickets and athletics was similarly been delegated by the Chancellor and Board of Trustees to Athletic Department.

Student Congress does not have the power to control the Administration and therefore any attempt to do so is not just futile and moot, but it is also unconstitutional as a Congressional action *ultra vires*, or outside of their power.

IIB.

Student Congress cannot charge a subordinate organ under the Code with action outside of Student Congress' own power. Furthermore, Student Government is meant to work, and neither Student Congress nor any other branch of government can set up an organ of student government to fail by charging them with action they do not have the actual power to deliver. To specifically arrange for the failure of another branch of student government is specifically against the Preamble's charge of "responsible self-government" and "preserving order."

IIC.

Applied to 88 SL 085, Part C on line 35 where Congress charges the CAA to "execute any manual ticket distributions," is thus blatantly unconstitutional as it is not the Student Congress' power to delegate. Ticket distributions are conducted by the Athletics Department, and any policies concerning them are purely the business of that Department and University Administration. So any instance where Student Congress charges another organ of student government to dictate ticket policy Student Congress is acting outside of its power. Any actions by Congress dictating ticket policy are thus unconstitutional.

So far in Part A of Section 311 of the legislation that Student Congress charges the Ticket Review Board(as it means the officers of the CAA) to distribute tickets it is operating outside of

its power and thus that section is unconstitutional. Furthermore in Part B of the same Section where the legislation refers to the “Ticket Review Board,” as it means the advisory body within the Athletic Department, Student Congress is acting outside its power. Inasmuch as the section refers to a corresponding body within student government Student Congress is acting constitutionally. The same analysis applies to Section 312(a), where Congress cannot dictate policy to the Ticket Review Board, as an arm of the Athletic Department, but to the extent that such an entity exists within student government and under the Code, Student Congress is allowed to legislate such policies.

Sections 313(a) and 313(c) are additional actions by Student Congress outside of their power as much as they attempt to dictate the ticket distribution policy – a power previously noted that Student Congress does not have.

III.

In regards to the second question this Court finds that Student Congress cannot prevent student government officials from accepting non-lottery tickets. Section 313(b) of 88 SL 085 which attempt so achieve these ends is overtly broad and thus void for its vagueness, an additionally there is no prevailing authority which allows Student Congress to deprive a student government official of this right.

IIIA.

Nowhere in the Student Code is Congress given the power to deny student government officials of tickets in any way the Athletic Department chooses to disburse them. There is no ‘student bill of rights,’ but the right to be eligible to receive tickets to athletic, specifically

basketball games, is as undeniable a right as you can find in student politics.² Since Student Congress in no way has the power to determine the right, in now way can they deny this right – and for us to enforce this right would be outside out the power of this Court.

IIIB.

Section 313(b) is also overtly vague in its application to all student government officials. The measure was obviously enacted to stem corruption of any student government official in the making of ticket distribution policy or implementation of the process. Seeing that Student Congress was outside of its powers in thinking members of student government had such direct power over ticket policy the point is likely moot. However, even if they did have such a power, the measure is over inclusive to achieving its anti-corruption ends. This measure indicates that “any student government official” cannot accept non-lottery tickets. The expansive nature of this measure adversely affects the unknowing member of student government that has no influence on ticket policy, but somehow attains non-lottery tickets at the behest of the Athletic Department.

IIIC.

Section 313(b) also denies student officials the due process of impeachment inherent in the constitutional clause which allows Congress to impeach officials. This measure makes the acceptance of tickets a conclusive violation of their duties and thus an impeachable defense, even before there is a chance for explanation or opportunity for process. Though the Court notes the language of “may” within the measure, it is still far more conclusive an indictment of the official’s behavior to specifically breach the Student Code, thus allowing them to be charged with malfeasance. No matter the validity of an explanation the breach of the Code will thus

² This ruling does not deal with non-revenue generating sports. There was a point of information given by the CAA that no part of the student athletic fee goes to pay for basketball tickets. This makes revenue-generating sports that much different from non-revenue generating sports and even more distant from the power of Student Congress.

remain. The Court thinks that such mandates of impeachment of non-Congress officials, before the fact, are outside Congress' constitutional powers given in Title I, Article I, Section 4(K).

Congress has the power to lay down ethical standards *ad nauseam* for its own membership, with certain respects to process, because it is the final arbiter of its own membership.³ Though it can impeach student government officials, it would be remiss to think that Congress can simply rewrite all laws to dictate the actions of the other branches of government under threat of removal. No rational Court could read the Student Code to allow a policy where Student Congress effectively legislates to the Student Body President his or her platform, enforced by threat of impeachment. Student Congress can naturally bring up articles of impeachment on any student official under the Constitution, and conduct a proper trial, however it is completely outside the bounds of Student Congress' power to make determinations of what is impeachable before the fact – and inasmuch as Section 313(b) does this it is stricken as unconstitutional.

IV.

In deciding the issues before it the Court had to grapple with the problems of the current configuration of student government. At trial, the recent integration of the CAA into the Student Code were noted. The ultimate constituency of student government is the students from whom we derive our consent to govern. Continuously throughout the trial it was noted that the CAA derives the vast majority of its power from their capacity within the Athletic Department. After close examination, I am of the opinion that CAA, in its current form, serve sometimes contradictory constituencies, and as such has no place in the Student Code. Within the action and interpretation of Student Code, the students are supreme, and this is obviously not the case

³Title II, Article I, Section 114. *See generally also*, Title II, Article X.

when discussing policies of the CAA. I believe there is a place for the CAA to fulfill its constitutional charge and represent student opinion on athletic issues, but this is completely separate from its functions as the Ticket Review Board, administration of Fever, and somewhat the conduct of homecoming. So the parts of the current CAA which are beholden to the Athletic Department have a place as a completely separate entity, not at all associated with student government. The remaining CAA, is charged under Article I, Section 7 of the Constitution as an advocate for students on athletic issues.⁴

V.

To the extent that Student Congress attempts to legislate outside the scope of power delegated from students under Sections 311 and 312 of 88 SL 085, we adjudge and declare those actions unconstitutional. Additionally, for the previously mentioned reasons, Section 313 is stricken in its entirety as an overly broad exercise of a power we are not sure Student Congress actually possesses. The Court orders the implementation of this decision to the fullest extent possible by all entities subject to the jurisdiction of this Court.

It is so ordered.

This the 15th day of February, 2007.

Matthew L. Liles
Chief Justice

Julia Holliday
Associate Justice

Shayla Richberg
Associate Justice

Dominic Ruiz-Esparza
Associate Justice

⁴ Title I, Article I, Section 7.