

IN THE SUPREME COURT)	
)	
Action No. 10 SSC 003)	
)	
Deanna Santoro)	
Member, 92nd Student Congress)	
Plaintiff)	
)	
versus)	ORDER GRANTING
)	DEFENDANT’S
)	MOTION TO DISMISS
Andrew Phillips,)	
Chairperson, Board of Elections)	
Defendant.)	

I. BACKGROUND

On February 6, 2011, Plaintiff, Deanna Santoro, former Speaker of Student Congress, notified this Court of her intent to bring an action against Board of Elections Chairperson Andrew Phillips. On February 7, 2011, Plaintiff filed a complaint and submitted a motion requesting that Defendant be temporarily enjoined from certifying the results of the Student Body President Election. Acting pursuant to III S.G.C. § 410(B), Chief Justice Womack granted Plaintiff’s motion for a temporary injunction. Chief Justice Womack additionally ordered Defendant to respond to Plaintiff’s complaint no later than 5 pm, Wednesday, February 9, 2011.

In her Complaint, Plaintiff sought to have the Court reverse Board of Elections Administrative Decision 10-BE-07 and remand proceedings back to the Board of Elections to issue an Administrative Decision on the matter addressed in 10-BE-07 consistent with the Court’s interpretation of VI S.G.C. § 408(B)(1) and VI S.G.C. § 310(A)(5). Plaintiff argued the following entitled her to relief:

- (1) The Board of Elections’ alleged misinterpretation of IV S.G.C. § 408(B) overextended the powers granted to the Board of Elections in VI S.G.C. § 306(A) to interpret “open questions of law” because the Board of Elections established a “standard lack[ing] explicit basis in election law” by failing to consider VI S.G.C. § 310(A)(5) when making its interpretation. Thus, Plaintiff alleges that the BOE abused its discretion in “interpreting Title VI Section 408(B)(3) as overriding Section 408(B)(1).” *See* Complaint of Santoro, ¶¶ 4(f), *Santoro v. Phillips*, 10 SSC 003, (2011).
- (2) The Board of Elections’ alleged misinterpretation of IV S.G.C. § 408(B)(1) “diminished Plaintiff’s ability to enforce the laws passed by her Congress” and Plaintiff’s “duty” as “Speaker Emeritus and a member of Congress” to “ensure that the Code is enforced.” *See* Complaint of Santoro ¶¶ 2, *Santoro v. Phillips*, 10 SSC 003 (2011).

To support her legal arguments, Plaintiff alleged in her Complaint that:

- (1) In issuing Administrative Decision 10-BE-07 on December 13th, 2010, the Board of Elections failed to consider VI S.G.C. § 310(A)(5)—which, according to Plaintiff’s interpretation, expressly “prohibits Student Body Officers from running for Student Body President.” *See* Complaint of Santoro, ¶¶ 4(c), *Santoro v. Phillips*, 10 SSC 003, (2011).
- (2) In doing so, the Board of Elections misinterpreted VI S.G.C. § 408(B)(1) to allow Student Body Secretary Ian Lee to run for Student Body President.
- (3) Plaintiff, beginning on January 23, 2011, repeatedly asked Defendant in private to issue a new Administrative Decision regarding VI S.G.C. § 408(A) [sic] consistent with VI S.G.C. § 310(A)(5) of the Student Code. Specifically, Plaintiff “called Defendant three times, left two voicemails, and sent an email asking Defendant to take action.”¹ *See* Complaint of Santoro, ¶¶ 4(d), *Santoro v. Phillips*, 10 SSC 003, (2011).
- (4) Defendant blatantly ignored Plaintiff’s prompts until he declined to investigate the issue in a verbal conversation on Sunday, February 6, 2011. *Id.*
- (5) The Board of Elections alleged misinterpretation of VI S.G.C. § 408(B)(3) diminished Plaintiff’s ability to enforce the duties of Congress as required by II S.G.C. § 122(J), and, in any event, Defendant’s refusal to investigate Plaintiff’s “report” is a violation of the Student Code.²

On February 8, 2011, Defendant filed with the Court a motion to dismiss 10 SSC 003. In his motion to dismiss, Defendant argued two grounds for dismissal of Plaintiff’s Complaint. First, Defendant alleged that Plaintiff lacks the standing required to bring the claim under both III S.G.C. § 408 and III S.G.C. § 409(B).

Specifically, as to III S.G.C. § 408, Defendant argued that Plaintiff lacks standing because § 408 deals with executive acts and not elections actions. According to Defendant, the Student Code expressly differentiates between standing to bring a suit against an executive act and standing to bring suit against an elections action by codifying III S.G.C. § 409(B). As such, Defendant argued that III S.G.C. § 408 does not apply to election actions, and, therefore, Plaintiff must have standing under III S.G.C. § 409(B) or have none at all.

As to standing under III S.G.C. § 409(B), Defendant argued that Plaintiff lacks standing under § 409(B) because Plaintiff is not a “student directly and adversely affected by a regulation, ruling, or determination of the Elections Board.”³ In support of this argument, Defendant alleged

¹ Plaintiff in fact meant to state § 408(B)(1)

² Plaintiff cites no section of the Student Code in alleging that Defendant’s alleged decision not to investigate her report is a violation of the Student Code.

³ Emphasis in original.

that Plaintiff's resignation from her position as Speaker of Student Congress—which Plaintiff cited in her Complaint as necessary under IV S.G.C. § 408(B)(1) and which Plaintiff also cited as a harm caused to her—was a voluntary act of Plaintiff, and not directly caused by Defendant. Defendant did not address Plaintiff's claim of injury to her powers prescribed by II S.G.C. 122(J) in his motion to dismiss.

Finally, Defendant argued that, even if Plaintiff has standing under §409(B), the statute of limitations has expired as Defendant's private refusal to address Plaintiff's complaint is not an act of the Board of Elections as contemplated in the language "regulation, ruling, or determination." III S.G.C. § 409(B). Rather, Defendant argued, the refusal constitutes "an informal conversation with *one* member of the Elections Board" and thus the act in question from which the statute of limitations must run is therefore Administrative Decision 10-BE-07, on which the ninety-six hour statute of limitations prescribed by III S.G.C. § 513 has expired.⁴ See Motion to Dismiss of Phillips, pp. 2-3, *Santoro v. Phillips*, 10 SSC 003, (2011).

In response to Defendant's argument that Plaintiff lacks standing under III S.G.C. § 408, Plaintiff argued that she has standing under § 408 because, according to Plaintiff, § 408 grants standing to any student "in any case alleging invalidity or illegality of an act of any committee in the executive branch, which includes the BOE and its administrative decisions." See Complaint of Santoro, ¶¶ 2, *Santoro v. Phillips*, 10 SSC 003 (2011). Additionally, at the pretrial hearing, Plaintiff argued alternatively that she has standing under § 408 because, as a member of the Student Body, Plaintiff would be entitled to challenge the Board of Election's decision in 10-BOE-07 as, per Plaintiff, it reasonably can be construed as allowing an ineligible candidate to run for Student Body President.

In response to Defendant's argument that Plaintiff lacks standing under III S.G.C. § 409(B), Plaintiff argued that she has standing because she was "directly and adversely affected" by Administrative Decision 10-BE-07. *Id.* Specifically, Plaintiff cites II S.G.C. § 122(J), which states that the Speaker of Congress shall "ensure that all duties of the Congress and its officers are properly executed." According to Plaintiff, the Board of Elections' alleged misinterpretation of IV S.G.C. § 408(B)(1) is a "ruling . . . of the Elections Board" for the purposes of IV S.G.C. § 409(B). Plaintiff contends this ruling directly and adversely affected her ability to enforce the Student Code as to congressional Committee Chairs because the ruling, in failing to take into account IV S.G.C. § 310(A)(5), created confusion as to how Plaintiff was supposed to interpret and enforce IV S.G.C. § 408 (B)(1) as applied to Student Congress and its officers.⁵

⁴ The Court notes that if Defendant argues the correct act is the issuance of Administrative Decision 10-BOE-07, then the appropriate statute of limitations actually is seventy-two hours, as prescribed by IV S.G.C. § 307(C)(1).

⁵ The Court notes that in her Brief, however, Plaintiff states that IV S.G.C. § 310(A)(5) "does not mention the legislative branch." Additionally, not until submitting her brief and presenting oral arguments at the pretrial hearing did Plaintiff present her theory that she requested Defendant to reinterpret 10-BOE-07 despite IV S.G.C. § 310(A)(5) mentioning only the Executive and Judicial Branches because Plaintiff needed clarification from the Board of Elections as to how IV S.G.C. § 310(A)(5) might apply in relation to the Board's ruling on IV S.G.C. § 408(B)(1) in Administrative Decision 10-BOE-07 when the Board's ruling was applied to Congressional Committee Chairs. In her Complaint, Plaintiff only uses IV S.G.C. § 310(A)(5) as support that the Board of Elections misinterpreted IV S.G.C. § 408(B)(1) as allowing Ian Lee to run for Student Body President without first resigning as Student Body Secretary, stating that "Title VI Section 310(A)(5) expressly prohibits Student Body Officers from running for Student Body President." Thus, Plaintiff's Complaint contradicts her brief in that Plaintiff's Complaint presents Plaintiff's reason for requesting a reinterpretation of 10-BOE-07 because Plaintiff believed the interpretation allowed an ineligible candidate to run for Student Body President, while Plaintiff's Brief instead purports the primary reason for Plaintiff's request was to seek clarification on the interpretation solely for Plaintiff's unrelated purposes of complying with II S.G.C. § 122(J).

In response to Defendant’s argument that the statute of limitations as prescribed under III S.G.C. §513 has expired, Plaintiff alleges that the correct “act” to reference in deciding whether the Statute of Limitations has expired is not the Board of Election’s alleged misinterpretation of IV S.G.C. § 408(B)(1). Rather, Plaintiff argues that Defendant’s failure to investigate her “reports of violation of the Code”—which, per Plaintiff’s Brief, occurred when Defendant did not address her “official complaint” at the next Board of Election’s meeting. *See* Complaint of Santoro, ¶¶4(e), *Santoro v. Phillips*, 10 SSC 003, (2011). According to Plaintiff, Defendant’s failure is an elections act within the meaning of III S.G.C. 409(B) and as such it is the act from which the statute of limitations prescribed in III S.G.C. §513 should be deemed to run.⁶ *Id.*

II. ANALYSIS

A. Plaintiff’s argument that the statute of limitations has not expired

If the statute of limitations has expired, then Plaintiff’s action is barred, making it irrelevant whether Plaintiff had standing under III S.G.C. § 408 or III S.G.C. § 409(B). As such, I will address Plaintiff’s statute of limitations argument first.

Plaintiff argues that the correct injurious act from which to measure the running of the statute of limitations is Defendant’s failure to address her email-- accepted as a formal complaint by Defendant on February 4, 2011-- about the alleged misinterpretation of IV S.G.C. § 408 in Administrative Decision 10-BOE-07 at the next Board of Elections meeting. If Plaintiff is correct, then the statute of limitations is the ninety-six hour limitation prescribed by III S.G.C. § 513, and Plaintiff’s suit is not barred.

Defendant argues that Defendant’s failure to address Plaintiff’s formal complaint is not a “regulation, ruling, or determination of the Elections Board” within the meaning of III S.G.C. § 409(B), and as such the only elections act from which the statute of limitations can be measured is the issuance of Administrative Decision 10-BOE-07. If the latter is the case, then the statute of limitations is seventy-two hours, as prescribed by IV S.G.C. § 307(C)(1), and as the injurious act occurred on December 13, 2010 via the issuance of the decision, Plaintiff’s suit is barred.

However, the analysis required to determine whether the statute of limitations expired prior to Plaintiff filing her complaint does not begin with an analysis of Plaintiff’s and Defendant’s legal arguments as to what constitutes an elections act for purposes of constituting a “regulation, ruling, or determination of the Elections Board” within the meaning of III S.G.C. § 409(B).⁷ Rather, the analysis begins by determining what injury Plaintiff’s Complaint alleges.⁸ Once the injury alleged is determined, the action from which the statute of limitations must be deemed to run becomes clear.

⁶ III S.G.C. § 513 is the proper statute of limitations in this context because the act of refusal, if an elections act, would not be an administrative or punitive decision covered by the statute of limitations in IV S.G.C. 307(C)(1).

⁷ Emphasis added.

⁸ Emphasis added.

In Plaintiff's Complaint, the sole injury that Plaintiff asserted—a diminishment to her ability to carry out her duties as Speaker of Congress as required by II S.G.C. § 122(J)—was alleged by Plaintiff to be caused by the Board of Elections' alleged misinterpretation of IV S.G.C. § 408(B)(1) contained in Administrative Decision 10-BOE-07.⁹ This decision was issued on December 13, 2010.¹⁰ However, if I accept Plaintiff's allegations as to the nature of her injury and as to Administrative Decision 10-BOE-07 being the cause of Plaintiff's injury—as I must for the purposes of this motion to dismiss—there is only one logical conclusion that I can reach. That conclusion is that the injury Plaintiff claims to have suffered resulting from the Board of Elections' alleged misinterpretation of IV S.G.C. § 408(B)(1) materialized on December 13, 2011—the day Administrative Decision 10-BOE-07 was handed down. As such, the statute of limitations began to run on December 13, 2010. Thus, the statute of limitations expired, as per IV S.G.C. 307(C)(1), after 72 hours. Therefore, Plaintiff's suit is barred by the statute of limitations, and I am bound by law to dismiss Plaintiff's Complaint.

B. Plaintiff's argument that Plaintiff has standing to bring suit under both III S.G.C. § 408 and III. S.G.C. § 409(B).

As I have determined that Plaintiff's suit is barred by the statute of limitations prescribed in IV S.G.C. 307(C)(1), I will not address Plaintiff's or Defendant's arguments as to whether Plaintiff has standing to bring the suit under either III S.G.C. § 408 or III S.G.C. § 409(B). As such, the Court makes no determination on any aspect of the Standing issue.

⁹ At the pretrial hearing, Plaintiff, for the first time, alleged that she was harmed by Defendant's failure to investigate her complaint, and as such that was an injury for which her complaint should withstand the motion to dismiss. However, Plaintiff did not state this claim in her complaint, nor request relief on these grounds. As such, I will not address that argument, as doing so would be playing advocate for the Plaintiff and additionally possibly violate Defendant's due process rights.

¹⁰ At the pretrial hearing, Defendant submitted evidence of and Plaintiff indeed admitted to having received an email from Defendant on December 13, 2010 informing her of the decision in Administrative Decision 10-BOE-07—the same day the decision was handed down. Apparently, Plaintiff was unaware she received the email due to technical issues with an automated response system on her email account. However, the Student Code does not relieve parties' claims from being barred by the statute of limitations prescribed in III S.G.C. § 307(C)(1) because of technical difficulties—especially when the technical difficulty was due to no fault of the opposing party.

III. ORDER

ACCORDINGLY,

Defendant's motion to dismiss is GRANTED, and

The temporary injunction issued by Chief Justice Womack in 10 SSC 003 is hereby LIFTED.

Done this 17th day of February 2011, at 7:30 p.m.

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