

IN THE SUPREME COURT)

Action No. 10 SSC 001)

Rick Ingram)

Plaintiff)

versus)

Andrew Phillips,)

Chair, Board of Elections)

Shruthi Sundaram,)

Vice-Chair, Board of Elections,)

Connor Brady,)

Secretary, Board of Elections)

Keyoor Patel,)

Treasurer, Board of Elections)

Cydney Swofford,)

Member, Board of Elections)

Patricia Flood)

Member, Board of Elections,)

Margaret Wood)

Member, Board of Elections)

Defendants.)

ORDER DISMISSING

IMPROPER DEFENDANTS

I. BACKGROUND

- (1) On February 7, 2011, Plaintiff, Rick Ingram, notified this Court of his intent to bring an action against Board of Elections Chair Andrew Phillips and six other members of the Board. In his Complaint, Plaintiff sought to have the Court immediately vacate the Board of Elections' decision to investigate the plaintiff's potential disqualification as a Student Body President candidate. Alternatively, Plaintiff requested the Court issue a temporary injunction under Title III S.G.C. § 410(A) (2009) requiring that the election be postponed until the matter is settled so as not to disrupt the integrity of the election process. Plaintiff asserted in his Complaint that all Defendants are necessary to the suit—as opposed to solely the Chair of the Board of Elections being necessary—because all relevant decisions of the Board were made unanimously. See Complaint of Ingram, ¶¶ 3(7), *Ingram v. Phillips, et. al.*, 10 SSC 001 (2011).
- (2) On February 9, 2011, five out of the seven total named Defendants-- Shruthi Sundaram, Connor Brady, Keyoor Patel, Cydney Swofford, and Patricia Flood-- filed answers with this Court, asserting that while Chair Andrew Phillips, per Title III S.C.G. § 510(B)(3) (2009) is a necessary Defendant to the action, all other named members are unnecessary

Defendants.¹ Defendants assert that since the actions leading to the suit were made by unanimous decision, the Chair can adequately represent the Board in the suit. As such, these five Defendants contend that they were brought into the suit improperly, and they request to be dismissed from the suit. See, e.g., Answer of Sundaram, ¶¶ 3, *Ingram v. Phillips, et. al.*, 10 SSC 001 (2011).

II. ANALYSIS

Here, Defendants rely in part on Title III S.G.C. § 510(B)(3) (2009) in asserting that they are improper defendants to the suit. § 510(B)(3) states that

In any action before the Student Supreme Court, if . . . the suit is based on an election action, the necessary defendants could include all parties who would be directly and adversely affected if the complaint were upheld, or against whom an injunction would have to be issued. The Elections Board Chairperson shall be a formal party defendant in every action.²

Defendants read § 510(B)(3) as requiring none but the Chair of the Board of Elections as a mandatory necessary Defendant in a suit brought against the Board concerning an election action, with other parties being appropriately named only in limited circumstances. Additionally, Defendants argue that as the decision leading to the suit in question was unanimously decided by the Board, the Chair can adequately represent the Board's interest without Defendants being party to the suit. As such, the Defendants conclude that they are unnecessary to the suit and thus improper.³

Plaintiff, on the other hand, cites no section of the Student Code when naming the Defendants other than Chair Phillips, relying solely on his conclusion that because “decisions regarding investigations have been made unanimously, all of the above are necessary defendants.” See Complaint of Ingram, ¶¶ 3(7), *Ingram v. Phillips, et. al.*, 10 SSC 001 (2011).

It is true that Title III S.G.C. § 510(A) (2009) requires the plaintiff to “name all necessary defendants”, defining necessary defendants to include “officials or officers in charge of the student group that caused or contributed to the plaintiff’s injury and all students whose powers, rights, privileges, benefits or immunities would be affected if the Court grants the relief the plaintiff requests.” Id. However, Plaintiff fails to cite this statute in support of naming all members of the Board as Defendants as opposed to just the Chair, relying instead on his theory that Defendants’ unanimity in decision equates with Defendants’ necessity to the suit. I find, however, that Plaintiff’s conclusion, is not an accurate reflection of the Student Code.

¹ Defendant Wood could not be served, and after a reasonable investigation, Chief Clerk Michael Gordon found that no such person serves on the Board of Elections or exists in the University student body. As such, there is no answer from Defendant Wood. Additionally, Chair Phillips admitted he is a necessary defendant in the suit. See Answer of Phillips, ¶¶ 3, *Ingram v. Phillips, et. al.*, 10 SSC 001 (2011).

² Emphasis added.

³ Though Defendants do not explicitly cite a section of the Student Code when asserting they are improper parties to the suit, the relevant portion of the Code discussing improper defendants is Title III S.G.C. § 511(A) (2009).

Rather, I interpret Title III S.G.C. § 510(B)(3) to elaborate upon the discussion contained in Title III S.G.C. § 510(A) as to when officers shall be named as defendants. I interpret § 510(B)(3) to clarify that when a suit concerns an election action, the only Defendant required is the Chair of the Board of Elections, with other defendants being only necessary when they would be “directly and adversely affected” in the event that the “complaint were upheld” or “an injunction . . . issued.” Title III S.G.C. § 510(B)(3). Finally, despite my interpretation of § 510(B)(3), defendants in addition to the Chair are required in elections actions to be named if the party is a “student whose powers, rights, privileges, benefits or immunities would be affected if the Court grants the relief the plaintiff requests.” § 510(A). However, as demonstrated by the discussion below, the mandates § 510(A) and § 510(B)(3) do not contradict each other.

In this case, Defendants Sundaram, Brady, Patel, Swofford, and Flood are all officers or members of the Board of Elections. However, as previously shown, with the exception of Chair Phillips, § 510(B)(3) does not make the Defendants necessary to the suit solely by virtue of their office. Additionally, I find that the suit contests an action of the Board taken in its official capacity, and nothing more. As such, Defendants are not necessary to the suit by virtue of being “students whose powers, rights, privileges, benefits or immunities would be affected if the Court grants the relief the plaintiff requests” because the powers contested are those of the Board—not those of the Defendants in their individual capacities. Thus, § 510(A) does not make Defendants necessary to the suit. Finally, I agree with Defendants that due to the unanimous nature of the Board decisions leading to the suit, Chair Phillips can adequately represent the Board’s interests and its rights in the suit.

Title III S.C.G. § 511(B) (2009) allows the Court to “dismiss an improper defendant from an action before it on its own motion.” Thus, in light of the above analysis, and under the authority granted to the Court in § 511(B), I conclude that Defendants Sundaram, Brady, Patel, Swofford, and Flood are improperly named defendants. Furthermore, as Defendant Wood has been determined to be a person on neither the Board of Elections nor a member of the University student body, I find that she is also an improperly named Defendant.

III. ORDER

ACCORDINGLY,

The Court DISMISSES Defendants Shruthi Sundaram, Connor Brady, Keyoor Patel, Cydney Swofford, Patricia Flood, and Margaret Wood from the suit, leaving Chair Andrew Phillips the sole Defendant in 10 SSC 001.

Done this 9th day of February 2011, at 11:30 p.m.

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