

IN THE SUPREME COURT)	
)	
Action No. 08 SSC 004)	
)	
TIM NICHOLS)	
SPEAKER OF STUDENT CONGRESS)	
)	
PLAINTIFF)	
)	
versus)	MOTION TO DISMISS
)	
J.J. RAYNOR)	
STUDENT BODY PRESIDENT)	
)	
RYAN MORGAN)	
CHAIR, BOARD OF ELECTIONS)	
)	
DEFENDANTS)	

II. GROUNDS FOR THE MOTION TO DISMISS:
 PLAINTIFF FAILED TO PROPERLY FILE A COMPLAINT WITH THE ELECTIONS
 BOARD BEFORE FILING A COMPLAINT WITH THE SUPREME COURT

Title VI of the Student Code covers elections, elections laws, and elections law violations. The Complaint lists a number of allegations, all of which pertain to potential elections law violations, as listed in Title VI of the Student Code. Complaint at ¶ 3-6 (citing Student Code, Title VI §§ 402(L), 405(A)).

Under Title VI, the Elections Board is charged with “[administering] all laws governing elections . . .” Student Code, Title VI § 302(A). As part of that duty the Elections Board is responsible for “[hearing] complaints concerning candidates or the enforcement of elections laws.” Student Code, Title VI § 403(A). All allegations in the Complaint constitute complaints concerning “the enforcement of elections laws.”

The Elections Board alone is charged with determining whether elections law violations have occurred and, if so, what the appropriate penalties or remedies are for those violations.

Student Code, Title VI § 403(B) (“If the Board of Elections determines that violations of this Act have occurred the Board shall be empowered to issue fines, remove workers, call for a reelection, warn campaign staffs, and disqualify candidates. Penalties shall be appropriate to the relevant violation. The Board of Elections shall determine the appropriateness of such penalties.”). No complaints related to the allegations at hand were filed with the Elections Board. Because the Elections Board did not hear complaints related to these allegations, the Elections Board did not take action to determine whether or not violations occurred and, if so, what the appropriate penalties or remedies might be.

A plaintiff’s standing in the Supreme Court, when the cause of action is related to violations of elections laws, is contingent on the Elections Board taking previous action on the matter because the Student Code grants standing to bring an election action “for an election error or fraud in the acts, decisions and rulings of the Elections Board.” Student Code, Title III § 409 (granting standing to a number of potential plaintiffs, including “a student alleging election error in relation to a constitutional referendum, a constitutional initiative, a special referendum, an initiative election, or a review election.” Title III § 409(C)). Plaintiff should have brought the allegations to the Elections Board before bringing this suit. The Elections Board could have then ruled on whether or not violations occurred. If the plaintiff disagreed with the Elections Board’s action, then they would have standing to appeal to the Supreme Court under Title III Section 409(C) of the Student Code. The Elections Board has not acted in any way on any of the alleged violations, because the plaintiff improperly bypassed the Elections Board in filing this complaint. Absent action by the Elections Board, the plaintiff cannot have standing under Title III § 409(C).

II. REQUEST FOR THE CLAIM TO BE DISMISSED

The plaintiff failed to report the alleged elections law violations to the Elections Board and, because no potential violations were reported, the Elections Board has not yet acted on the matter at hand. Allegations of elections law violations should be first heard by the Elections Board, not the Supreme Court. There is no reason why the plaintiff needed to bypass the Elections Board in filing this complaint. Had the Elections Board been notified and taken action, then the plaintiff could have standing if he decided to appeal. Absent such action, the plaintiff lacks necessary standing for this suit. For this reason I respectfully ask the Court to dismiss the claim, pursuant to the Court's authority under Title III Section 523(A) of the Student Code.

Filed this the 18th day of February, 2009, at 7:30 p.m.

COUNSEL FOR THE DEFENDANTS

Kristopher M. Gould
Student Solicitor General