

IN THE SUPREME COURT

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Action No. 08 SSC 002

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Matt Wohlford  
PLAINTIFF

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VERSUS

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Plaintiff's Brief

Ryan Morgan for  
Board of Elections  
DEFENDANT

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Title VI of the Student Code, Title VI Section 403 D. N.C.G.S. Article 33C § 143-318.11, BOE Administrative Decision 08-BE-001, BOE Administrative Decision 08-BE-010. *Klein v. Morgan*, BOE Punitive Decision 08-BE-012.

Statement of Facts:

1. No new facts are alleged in this brief since the since the amended complaint in *Wohlford v. Morgan*.
2. Any new facts will be derived from the testimony from Chairman Morgan at the hearing and the ruling in *Klein v Morgan*.

Statement of Questions of Law

1. Did the Board of Elections comply with the procedures for investigation as outlined in Title VI Section 403 D?
2. Did the illegally closed meeting of the Board of Elections deny Mr. Wohlford of his procedural due process guaranteed to him under Title VI Section 403 D?
3. Did the Board of Elections have enough evidence at the time of the decision of Punitive Decision 08-BE-012 to find Mr. Wohlford in violation of election law?

4. Did the Board of Elections' Administrative Decision 08-BE-001, 08-BE-010, and Punitive Decision 08-BE-012 conflict with the Student Code?
5. Did the Board of Elections in enacting Administrative Decision 08-BE-001, 08-BE-010, and 08-BE-012 act "with an even-handed procedure designed to avoid prejudicing candidates or campaigns and to prevent surprise adverse changes in policy" (*Klein v. Morgan*)?

## Arguments

1. The Board of Elections failed to comply with the procedures for investigation as outlined in Title VI Section 403 D. The meeting between Chairman Morgan and Mr. Wohlford does not constitute a proper investigation under Title VI Section 403 D because Morgan was the sole member of the Board of Election at the time. No investigation was conducted prior to issuing BOE Punitive Decision 08-BE-012 since Mr. Wohlford was not notified of any investigation nor given the opportunity to mount a defense as mandated by Title VI Section 403 D. Without such opportunity "no administrative decision may be issued until the defendant has been given an opportunity to respond to the accusations" (Title VI Section 403 D). For these reasons the Board of Elections failed to comply with the investigation procedures required by the Student Code.
2. The meeting in which the Board of Elections issued BOE Punitive Decision 08-BE-012 was not in compliance with NC Open Meetings Law N.C.G.S. Article 33C § 143-318.11. It was not properly advertized to the public and members of the media were shut out of the meeting. This action denied Mr. Wohlford his procedural due process guaranteed to him under Title VI Section 403 D and was therefore unable to make any defense of his alleged actions.
3. Since the Board of Elections made no investigation compliant with the relevant student code, they did not have the evidence to find Mr. Wohlford in violation of election law.
4. The Board of Elections' BOE Administrative Decision 08-BE-010 was ruled as "an impermissible regulation" (*Klein v. Morgan*) since its interpretation is based on the location of the statement rather than the contents of the statement itself. The Court rules that there is a contradiction in the interpretation and in the Student Code. Since BOE Punitive Decision 08-BE-012 is based on BOE Administrative Decision 08-BE-010, 08-BE-012 is void.
5. The Board of Elections decisions in Administrative Decision 08-BE-001, 08-BE-010 and Punitive Decision 08-BE-012 were a direct result of alleged actions of the Plaintiff. The Board of Elections alleges a violation of election law Section 402(A)[1] but only under the clarification of (at that time) Administrative Decision 08-BE-001. This is an ex post facto ruling which clearly prejudices the Plaintiff

## Conclusion

Based on the arguments enumerated above and the similarity of this case to *Klein v. Morgan* the plaintiff demands relief by the reversal of the BOE Punitive Decision 08-BE-012.

Respectfully Submitted,

Andrew Pham

Counsel for the Plaintiff