

IN THE SUPREME COURT)
)
 Action No. 08 SSC 001)
)
 Matthew Wohlford,)
 PLAINTIFF)
)
 versus)
)
 Ryan Morgan and the Board of)
 Elections,)
 DEFENDANTS)

ORDER

ORDER GRANTING DEFENDANTS’ MOTION TO DISMISS

In its motion to dismiss Defendants, (hereinafter “the Board”) argued that Plaintiff Wohlford failed to allege any direct or adverse harm in his complaint as required by III S.C. § 409(B). Because Plaintiff Wohlford did not allege direct and adverse harm to himself, we dismiss his complaint without prejudice.

I. Rule of Law

Title III, Section 523(A) of the Student Code provides that a party may file a motion to dismiss a claim based on failures of the opposing party to comply with the requirements of this Title or any Sections or provisions under its authority. A plaintiff must allege standing to bring an action. III S.C. § 501(A)(2). Title III, Section 409(B) provides that

Standing to bring an action before the Supreme Court for an election error or fraud in the acts, decisions and rulings of the Elections Board extends to plaintiffs who must have his/her powers, rights, privileges, benefits or immunities adversely affected, restricted impaired or diminished and the plaintiff must be:

...

B. A student *directly and adversely* affected by a regulation, ruling, or determination of the Elections Board.

III S.C. § 409(B) (emphasis added). The Board alleges that a party is directly and adversely affected when he or she is named directly in a punitive action taken by the Board. However, this Court interprets directly and adversely based on their plain meaning.

To be direct, something must proceed “without intervening factors or intermediates.” New Oxford American Dictionary (2d Ed.). As such, secondary or

collateral effects are excluded; rather, the harm must come from the action of the Board itself. This requires a reasonable nexus of causality from the board's action and the alleged harm. To be adverse, the action must be "harmful or unfavorable." New Oxford American Dictionary (2d Ed.). Notably, the statutory test *does not* require a student be *actively* affected. Whether a student is actively harmed by the board's action, or they are passively harmed by being prevented from doing something they otherwise would have done, standing still arises.

The interpretation advanced by the Board would limit a student's ability to challenge the Board's administration of elections to situations where a student can allege active harm from a punitive ruling and prevent students from challenging the Board's administration of elections by regulation or other proactive ruling. While the Board is correct that an action could arise in the event that it engages in punitive enforcement action, limiting standing to the context of active harm is a poor substitute for the ability to directly challenge the underlying regulation. In the context of an election, there is a risk that an enforcement action can cause substantial reputation damage to a candidate or his or her campaign. Even if this Court invalidated the underlying regulation and reversed the enforcement action, a candidate may continue to suffer damage to his or her reputation. Accordingly, we cannot expect regulations to be adequately challenged by suit following a punitive decision based on non-compliance. Therefore, the Board's interpretation of § 409(B) would in practice place many regulations outside of judicial review. We decline to interpret the Code to an end with such significant impact without clear evidence that such impact was the proper and intended purpose of the legislation.

II. Analysis

Here, Plaintiff Wohlford alleged that

4. . . . 08-BE-010 contains multiple instances of internal inconsistency, and that the Board of Elections overstepped its authority by rendering certain interpretations of the election laws which substantively change the Student Code a power reserved to the Student Congress alone.

34. Because 08-BE-010 is internally inconsistent it cannot be strictly adhered to by candidates or campaign workers.

35. Campaigns, even when diligent, are therefore exposed to unavoidable violations of election laws. 08-BE-010 fails its stated purpose to preempt confusion and avoid unnecessary sanctions against potential candidates of all upcoming elections of the 2008-2009 school year.

08 SSC 001, Plaintiff's Complaint (quotation omitted). Although Plaintiff Wohlford alleges harm to other candidates and to the "power reserved to the Student Congress alone" and challenges the enactment of 08-BE-010, he does not allege he personally was directly and adversely affected. Thus, we find that Plaintiff has not adequately pleaded standing under III S.C. § 409(B). While we grant the Board's motion to dismiss because Plaintiff has failed to comply with III S.C. § 409(B), we disagree with the Board's assertion that it is impossible for 08-BE-010 to directly and adversely affect a student.

Accordingly, the motion to dismiss is granted without prejudice. Plaintiff is granted leave to re-file a complaint in this action by noon on Monday, November 17, 2008.

Done this day November 10, 2008 at 9:50 a.m.

/s/Emma J. Hodson

Emma J. Hodson, C.J. for the
Court