

IN THE SUPREME COURT

Action No. 12 SSC 001)
)
CONNOR BRADY)
PLAINTIFF)
)
Versus) ANSWER
)
WILL LEIMENSTOLL)
Student Body President)
RACHEL MYRICK)
Student Body Vice President)
DEFENDANT(S))

I. RESPONSES TO ALLEGATIONS OF PLAINTIFF’S COMPLAINT

A) DENY

- i. The provisional appointment of Ms. Brittany Reeves to Chairperson of the Hardship Parking Committee (HPC) was made by Defendants Leimenstoll and Myrick, communicated to Ms. Reeves, and accepted by Ms. Reeves on January 8, 2013 in the Student Government Suite during a meeting beginning at 1 pm.
- ii. At the time of Ms. Reeves’ appointment, the position had been vacant since the removal of Plaintiff Brady on December 6, 2012.
- iii. The provisional appointment of Ms. Reeves was made wholly in accordance with the provisions of I SGC §204 (A-G), particularly subsection (E), to which Plaintiff Brady refers. Defendant Leimenstoll informed Speaker Comparato of new provisional appointments for the spring semester, including that of Ms. Reeves, on January 8, 2013 at 3:40 pm via electronic mail with the subject line: “Official Notification of Provisional Appointments.” This notification occurred within two hours of the provisional appointment of Ms. Reeves and thus does not constitute a violation of the 48-hour limit set out in subsection (E).

B) ADMIT

- i. The Defendants confirm the removal of Plaintiff Brady on this date.
- ii. This fact is not relevant to the present case, except insofar as it created the opportunity for an eventual appointment or provisional appointment to fill Plaintiff Brady's position on the HPC.
- iii. The Student Code does not require or encourage the Student Body President or Student Body Vice President to make an immediate appointment or provisional appointment to fill a vacant position.

C) ADMIT

- i. The Defendants confirm the transfer of the email alias `hardshiparking@unc.edu` from Plaintiff Brady to Ms. Reeves at the Defendants' request on this date.
- ii. The removal of Plaintiff Brady from the HPC made it advisable to allow an active member of the Committee to answer clarifying questions concerning hardship parking via electronic mail.
- iii. The use of this alias, provided it is not used in the performance of roles exclusively assigned to the Chairperson, is not limited to a Chairperson or provisional Chairperson on the HPC. Plaintiff Brady's inclusion that he had used the aforementioned email alias while Chairperson of the HPC therefore is not relevant to the present case.

D) ADMIT

- i. The Defendants confirm the independent decision of the Department of Public Safety (DPS) to list Ms. Reeves as the "Hardship Chairperson" on its website.
- ii. Please see Part II of this paper for the Defendants' response to Plaintiff Brady's unwarranted inference that this fact indicates the Defendants' provisional appointment of Ms. Reeves prior to January 8 and a discussion of the circumstances that led to this mistake by DPS.

E) ADMIT

- i. The Defendants confirm their receipt of this request from Plaintiff Brady on this date.
- ii. The Defendants had not made any provisional appointments at the time of this request.

F) ADMIT

- i. The Defendants confirm the response from Defendant Myrick as quoted by Plaintiff Brady on this date.
- ii. The Defendants confirm that the action promised therein was duly performed.

G) DENY

- i. The Defendants did not at any point, verbally or in writing, notify Information Technology Services (ITS) of a provisional appointment. Specifically, because Ms. Reeves was not serving as a provisional appointment as of December 13, the Defendants did not notify ITS of the appointment of Ms. Reeves. The Defendants simply requested that the alias be transferred from Plaintiff Brady to Ms. Reeves.
- ii. The transfer of alias requested by the Defendants did not obligate them to make a provisional appointment or to notify Speaker Comparato of any such appointment. No such appointment or notification occurred prior to January 8.

H) DENY

- i. The date of the provisional appointment of Ms. Reeves was January 8, 2013. Ms. Reeves was not appointed on December 13, 2012.
- ii. The lack of notification of Speaker Comparato by December 15 is evidence in support of the fact that Ms. Reeves was not appointed on December 13. Further evidence is provided in Part II of this paper.

iii. The Defendants do not dispute Plaintiff Brady's assertion that his Complaint is in compliance with the Code's Statute of Limitations.

II. ALLEGATION OF DEFENSES

A) Ms. Reeves was not provisionally appointed prior to January 8, 2013

i. The Defendants did not initiate any of the action required for the appointment of a provisional appointment outlined in I SGC §204 prior to January 8, 2013. This includes notification of the future provisional appointment of the terms of the provisional appointment (D) and notification of the Speaker (E). Rather, these occurred on January 8, 2013. This is evidenced by a message dated January 2 at 1:12 pm, sent by Defendant Myrick to Speaker Comparato: "We don't want to make either of these Provisional Appointments until I meet in person with these candidates and determine whether they'd like to subject themselves to what will surely be a bumpy road through Congress."

ii. Between December 6 and her appointment on January 8, Ms. Reeves did not at any point assume privileges expressly assigned to the Chairperson of the HPC by the Student Code, including the compilation of the Committee's parking plan recommendations (I SGC §600 (B)), the special discretionary provision of a certain number Hardship Parking Permits (I SGC §600 (E)), collection of applications from Committee reviewers (I SGC §614 (3.ii)), and arrangement of interviews with appealing applicants (I SGC §615 (5)).

iii. Prior to January 8, 2013, Defendant Myrick was consistent in reiterating that provisional appointees had not yet been made. After Ms. Reeves expressed interest in being the Chairperson of the HPC on December 10, 2012, Defendant Myrick informed Ms. Reeves on December 12 that provisional appointments would occur in January, but asked Ms. Reeves to begin answering emails on behalf of the Committee. At 1:04 pm on December 19, 2012 she wrote to members of the HPC: "We have not yet made a Provisional Appointment for the Chair but we will do so in January."

B) The transfer of alias does not constitute proof of a provisional appointment

i. The transfer of the alias to Ms. Reeves cited by Plaintiff Brady is independent of the later provisional appointment made by the Defendants. The transfer was made in order to provide a means

through which clarifying questions regarding hardship parking could be answered because Plaintiff Brady was no longer in a position to do this. In an email sent on December 12, 2012 at 7:03 pm, Defendant Myrick wrote in a ticket to the ITS Help Desk: “Please submit [a] ticket that redirects the: hardshipparking@unc.edu alias to Brittany's email account (bareeves@email.unc.edu) for the time being until we appoint a provisional Hardship Parking Chair in January. “

ii. Plaintiff Brady did not immediately object to this action or indicate that he believed it to suggest the provisional appointment of Ms. Reeves. Plaintiff Brady stated in an email to Defendant Myrick: “I removed hardshipparking@unc.edu from my alias last week, so it should be available for anyone to have.”

iii. Ms. Reeves had been answering emails on behalf of the HPC, which is a privilege neither specifically assigned nor restricted by any portion of the Student Code. The performance of this function could fall *de facto* to any member of the committee.

C) The DPS website inaccurately suggested a provisional appointment

i. In a message sent on December 13, 2012 at 11:33 am, Defendant Leimenstoll wrote to DPS: “Brittany Reeves, copied here, will be the point person for now as we prepare for next semester.” Defendant Leimenstoll did not indicate in this or any other communication that Ms. Reeves was a chairperson, appointment, or provisional appointment.

ii. DPS subsequently replaced Plaintiff Brady’s name and contact information with Ms. Reeves and erroneously left the title “Hardship Parking Chairperson” on the document. While this mistake is regrettable, the Executive Branch is not responsible for inferences or misrepresentations on the part of DPS, just as it is not responsible for the conclusions that Plaintiff Brady draws from them. The Student Code does not mention the DPS website as a component of provisional appointments.

D) Ms. Reeves was provisionally appointed on January 8, 2013

i) Ms. Reeves was officially appointed on and only on January 8 2013, according to the protocol set forth in the Student Code and the

unchallenged Advisory Opinion issued by the Student Solicitor General on December 16, 2012. See above discussion in Part I.

ii) The provisional appointment of Ms. Reeves was communicated to Speaker Comparato according to the provisions of the Student Code and in accordance with a proposed schedule of appointments that had been sent by Defendant Myrick to Speaker Comparato on December 31 at 1:54 pm. This schedule is reproduced below:

“January 9 - External Appointment Applications Open
January 10 - Make Provisional Appointments for Chairs of SSSC & Hardship Parking and send notice of appointments to Speaker
January 18 - External Appointment Application Due
January 23 - External Appointment Interviews
January 25 - Nominations Made & Notifications Sent
January 29 - New Appointments & Provisional Appointees to R&J and O&A
February 5 - New Appointments & Provisional Appointees to Full Congress”

iii) Speaker Comparato indicated and maintains that the process of provisional appointment and notification followed by the Defendants was appropriate and lawful. Speaker Comparato approved the above timeline via electronic mail on January 2, 2013 at 12:47 pm. Defendant Myrick replied to Speaker Comparato, advising that she would “determine the status of the Provisional Chairs” on January 8 or 9 and subsequently provide emailed notification of any provisional appointments to Speaker Comparato.

III. DEMAND FOR JUDGMENT

The Defendants respectfully request (i) that the Court find that the provisional appointment of Ms. Reeves occurred in compliance with the Student Code and (ii) that it confirm the start date of Ms. Brittany Reeves' provisional appointment as Chairperson of the Hardship Parking Committee as January 8, 2013, with her provisional appointment to expire 30 days following.

I do affirm that I have read in full the foregoing answer and that the allegations contained therein are true to the best of my knowledge and belief.

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