

IN THE SUPREME COURT

Action No. 12 SSC 002 }
 GRANT ANASTAS-KING }
 TAR HEEL RIFLE AND PISTOL CLUB, }
 JOSHUA ARISTY, }
 TRAVIS CRAYTON, }
 PETER McCLELLAND, }
 PLAINTIFFS }
 Versus }
 PAIGE COMPARATO }
 Speaker of Student Congress }
 DEFENDANT. }

MOTION TO DISMISS

I. DISPOSAL OF CLAIM

III S.G.C. Section 732 states, “Before trial of an action, a party may file a motion to dismiss the claim based on failures of the opposing party to comply with the requirements of this Title or any Sections or provisions under its authority, or if justice requires.” The subsequent sections of this document support the motion to dismiss on the grounds of necessary defendants, jurisdiction, and standing.

II. NECESSARY DEFENDANTS IN ACTION BEFORE THE SUPREME COURT

Pursuant to III S.G.C. Section 707 (A), “the plaintiff must name all necessary defendants. Necessary defendants include all students who caused or contributed to the plaintiff’s injury”. In this claim, Plaintiffs did not name all of the necessary defendants. Speaker Comparato was improperly brought into the action as a defendant, because despite her role as the usual chief administrator of Student Congress, she was not present at the Student Congress meeting on the night of March 5th, 2013 and had no power over the decision that was made. According to II S.G.C. Section 113 (B), it is the role of the Speaker Pro Tempore of Student Congress to “preside over the Congress in the absence or incapacity of the Speaker”. Speaker Pro Tempore Brady, who is also the counsel for the Plaintiffs and filed this claim with the Supreme Court, was in charge of the meeting in question and responsible for making all official rulings as Presiding Officer on March 5th, 2013. Speaker Pro Tempore Brady was the Presiding Officer during the motion in question, and he made every decision of procedure and ruling with no input from or contact with Speaker Comparato. Therefore, Speaker Comparato was improperly named as a defendant in this case, as she is entirely unconnected with the ruling, as well as the harm caused to any plaintiffs. Speaker Pro Tempore Brady caused or contributed to the plaintiff’s injury because he was presiding at the time of the legislation, therefore he is a necessary defendant in this case. Pursuant to III S.G.C. Section 709 (B) “the Supreme Court may dismiss any action in which a necessary defendant has been omitted”.

III. JURISDICTION

According to III S.G.C. Section 600 (A.3), the jurisdiction of the Student Supreme Court shall “be based on a substantial controversy in law”. The claim filed by Counsel, Speaker Pro Tempore Brady,

does not meet this requirement, because this is a frivolous complaint and can be solved within the Student Congress. The defendant agrees that the Student Congress needs to follow the correct procedures. However, there has been no contact from the plaintiffs to Speaker Comparato to discuss alternative procedures to address the concerns; the plaintiffs filed a complaint with the Student Supreme Court merely 4 hours after the Congress meeting concluded. There are procedures in place that can address their concern and resolve the situation, including SCR-111-01 (A): "when a question has been decided, it is in order for any member to move for the reconsideration thereof on the same or the succeeding legislative day". This complaint does not constitute a substantial controversy because it can potentially be solved within the organization if the Plaintiffs cooperate with the Defendant. Speaker Pro Tempore Brady, Counsel, was in email contact with Speaker Comparato following the meeting at 8:43pm when he sent her the final passed legislation for the evening, did not note or make any mention of the occurrences that are stated in the complaint. In addition, Speaker Comparato was within the presence of Chair Crayton, Plaintiff, for approximately 60 minutes from 10:30pm to 11:30pm that night on March 5th, and at no time did Plaintiff mention the issues stated in the complaint or indicate there were any problems. However, one hour later, this complaint was fully drafted and filed. The Defendant considers action in the Student Supreme Court to be a measure of last resort to be pursued only if a substantial disagreement between parties of facts or law exists, and only once other avenues for relief provided in the Code have been exhausted; therefore, the Defendant requests that the complaint be dismissed due to lack of jurisdiction.

III. STANDING

Speaker Comparato reviewed the rough draft of the minutes from the Full Congress meeting on March 5th, and has found support that none of the plaintiffs have standing in this case. These minutes can be made available to the court if requested. The lack of standing will be explained for each plaintiff: Mr. Anastas-King, Tar Heel Rifle and Pistol Club, and Student Congress representatives Aristy, Crayton, and McClelland. Plaintiffs state in complaint SSC-12-003 that pursuant to III S.G.C. Section 611 (A), Plaintiffs have standing, and that their rights to speak on the bill before its passing were adversely affected by the legislative act in question. Beginning with Plaintiff Anastas-King, his rights to speak on this bill before this passage were not violated. According to the rough draft of the minutes for the Full Congress meeting on March 5th taken by the Principal Clerk Ciera Combs, Plaintiff Anastas-King spoke for two minutes during the Public Comment Period of the agenda. According to SCR-107-002, "All regular meetings of the full Student Congress shall include a public comment period to allow constituents of the Congress the opportunity to address the body on agenda items." In addition, SCR-107-002 states that the Public Comment period shall be a maximum of thirty minutes long, and each speaker is allowed a maximum of two minutes to speak on an agenda item. This is the main portion of the agenda a non-representative can speak unless a representative yields to a member of the public during debate. In addition, every member of the Tar Heel Rifle and Pistol Club present was made aware of this opportunity to sign up and speak at some point according to the principal clerk. Plaintiff Anastas-King was the only member of the organization who signed up to speak, according to the sign up sheet administered by Principal Clerk Combs, even though there were more than a dozen speaking positions left available. Plaintiff Anastas-King and members of Tar Heel Rifle and Pistol Club had the opportunity to speak about the bill, and Plaintiff did in fact speak. Thus, their rights to speak were not violated by the act in question. Therefore, Plaintiff Anastas-King and Tar Heel Rifle and Pistol Club do not have standing in this case.

In regards to the three Student Congress representatives who are Plaintiffs in this complaint, Aristy, Crayton, McClelland, historically there are multiple times throughout a meeting of Student Congress

where a representative has the opportunity to talk about an agenda item outside of the debate on the particular bill. One option available pursuant to SCR-107-001 states, "Every Student Congress member shall be allowed to Speak for a period not exceeding two minutes before Student Congress convenes. Such member shall inform the presiding officer of his/her desire to speak before the presiding officer calls the meeting to order." According to Principal Clerk Combs, none of these representatives requested time before the meeting to speak about this bill. Individually, Chair Crayton and Vice-Chair McClelland also had additional time to speak. As illustrated in SCR-106-007, the order of business in every Student Congress meeting includes "Reports from the Officers of Congress". As Rules and Judiciary Committee Chair, Plaintiff Crayton has an unlimited amount of time in his report to speak about any matter he chooses. According to the rough draft of the minutes, Chair Crayton stated he was not in attendance at the previous committee meeting, so he yielded the floor to the Vice-Chair of the Rules & Judiciary Committee, Representative McClelland, to give the report. At that time Vice-Chair McClelland also had the opportunity to speak on the bill if he decided to, therefore both of these plaintiffs were not denied the right to speak on the bill. As a result of this support in the rough draft of the minutes, Plaintiffs had multiple chances where they could have spoke about the bill, therefore the legislative act in question did not violate their rights to speak. In addition, this bill had already passed through two separate committees before being passed favorably to Full Congress including the Finance Committee and the Rules & Judiciary Committees. Plaintiff Anastas-King spoke in both of these committee meetings, and Representative Aristy spoke on the bill multiple times in Finance Committee according to the minutes of those meetings. These extensive opportunities for discussion of the bill illustrate that Plaintiffs do not have standing in this case because their rights to speak on the bill were not violated by the legislative act in question. The defendant requests that the complaint be dismissed because the Plaintiffs have no standing, and in order that Congress may work together to correct Speaker Pro Tempore Brady's error without recourse to the Student Supreme Court.

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



Paige Comparato

Speaker of Student Congress

Defendant

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