

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' BRIEF**
PLAINTIFFS)
Versus)
PAIGE COMPARATO,)
Speaker of Student Congress)
DEFENDANT.)

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TABLE OF AUTHORITY

STUDENT CONSTITUTION:

N/A

STATUTES:

Title III, Chapter 7, Article I, § 707(A)

In any action before the Student Supreme Court, the plaintiff must name all necessary defendants. Necessary defendants include all students who caused or contributed to the plaintiff's injury, officials or officers in charge of the student group that caused or contributed to the plaintiff's injury and all students whose powers, rights, privileges, benefits or immunities would be affected if the Court grants the relief the plaintiff requests.

Title III, Chapter 7, Article I, § 707(B1)

In any action before the Student Supreme Court, if:

1. The suit is based on an act of the Student Congress, the necessary defendants could include the Speaker, the Student Body President and officers of any other student group affected.

Title II, Chapter 1, Article II, § 113(B)

The Speaker Pro Tempore shall call to order Congress meetings and preside over the Congress in the absence or incapacity of the Speaker.

Title III, Chapter 6, Article I, § 600(A)

The jurisdiction of the Student Supreme Court shall:

1. Extend to controversies regarding actions of the Executive Branch, Legislative Branch, and all independent agencies of Student Government;
2. Extend to questions of law arising under this Constitution, the laws enacted under its authority of actions of the Executive Branch, Legislative Branch, Board of Elections, and other independent agencies of Student Government, and the governing documents of all independent agencies of Student Government and all officially recognized student organizations; and
3. Be based on a substantial controversy in law.

Title III, Chapter 6, Article II, § 611(A)

Standing to bring an action before the Supreme Court based on the question of legitimacy of a legislative act by the Student Congress shall extend to any student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the legislative act in question.

STANDING RULES OF STUDENT CONGRESS:

SCR-106-007

After approval of the Minutes, the order of business shall be as follows:

- I. Reports of the Officers of Congress

SCR-107-001

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.

SCR-111-001(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; provided that if the vote by which the motion was originally decided was taken by a recorded vote, only a member of the prevailing side may move for reconsideration.

CASE REFERENCES AND STARE DECISIS:

Project Dinah vs. Congress, 08-SSC-007

STATEMENT OF FACTS

1. The Student Congress considered SCB-94-242, “A Bill to Have SSSC Hear Ammunition Requests” on March 5, 2013, as part of its General Orders calendar.
2. Representative Austin Root, the primary sponsor of SCB-94-242, presented the legislation to the full Student Congress. Representative Daniel Rojas, a co-sponsor of SCB-94-242, was yielded time to ask questions, yielded his time to Rep. Root, and made a motion to previous question at the conclusion of Rep. Root’s remarks.
3. Rep. Root seconded Rojas’ motion, consent was called, and Representative Travis Crayton objected, noting that he wished to speak on the bill. Noting the objection, Speaker Pro-Tempore Connor Brady, presiding officer, asked for a vote on the motion. Speaker Pro-Tempore Brady asked for a vote on the motion and ruled that the “no” votes in the room had prevailed. Rep. Root called division on the vote.
4. Upon counting the “ayes” and “noes,” Speaker Pro-Tempore Brady ruled that the “ayes” had prevailed by a vote of 17-14, a majority, not the required 2/3 of present and voting members as required pursuant to SCR-112-007(B).
5. SCB-94-242 passed by a vote of 17-16 after debate was erroneously ended. Plaintiffs have alleged that this error affected, or could have affected, the overall outcome of the bill in question.
6. Plaintiffs filed complaint 12-SSC-002 on March 5, 2013, naming Speaker Paige Comparato, as Speaker of Student Congress, as the representative of its Defendant, the Student Congress, with allegations that a procedural error of the Congress diminished their rights to speak on legislation as members of Student Congress.¹
7. Comparato, representing the Defendant, the Student Congress, filed a motion to dismiss complaint 12-SSC-002 on March 8, 2013. Comparato stated that she was improperly included as a Defendant and Plaintiffs failed to name all necessary Defendants in their complaint, Plaintiffs’ complaint did not constitute “substantial controversy,” and that Plaintiffs lack standing to file complaint based on allegations contained in the complaint.²

¹ “Complaint” – 12-SSC-002-01

² “Motion to Dismiss” – 12-SSC-002-02

QUESTIONS PRESENTED

1. Do statutes require the presiding officer of a legislative action in controversy to be named as a Defendant in addition to the Student Congress?
2. Do statutes require the Speaker of Student Congress to be present at the time of a controversial legislative action to be considered a necessary Defendant in suits involving acts of the Student Congress?
3. Do the Standing Rules of Student Congress allow Plaintiffs to move for reconsideration of a recorded vote when they were not in the prevailing position?
4. Are constituents of the Student Congress limited to speaking on legislation before the Congress in the Public Comment Period of the Congress?
5. Are members of Congress limited to speaking on legislation before the Congress in committee meetings, in two-minute speeches before the beginning of Congress, and in reports of the officers of Congress?

ARGUMENTS

1. Defendant has filed a motion to dismiss 12-SSC-002 on the grounds that Plaintiffs have failed to name all necessary Defendants in this action. In fact, Plaintiffs have named all necessary Defendants under III S.G.C. § 707(A):

Plaintiffs named the Student Congress as the sole Defendant in this action as it involves a legislative action of the Student Congress. Defendant asserts that Plaintiffs failed to name all necessary Defendants by not naming the presiding officer, a student. The Congress is not a student that contributed to the damages of the Plaintiffs; rather, it is a legislative body.

Regardless of who served as a presiding officer at the meeting in question, the Defendant in this action is the Student Congress. The Finance Committee Chair, the Ethics Chair, or anyone else in the Congress could serve as the presiding officer, but Plaintiffs would still be required to name the Student Congress as a Defendant as the controversial action in question is one of the Student Congress, not specifically one of the presiding officer. The presiding officer acts as a representative of the Congress, regardless of which member it is.

Defendant alleges that specific students contributed to the damages of the Plaintiffs; however, should this argument be valid, each member of Congress, as well as the Parliamentarian, would be necessary Defendants under this interpretation as none of the aforementioned students raised a point of order about the procedural error pursuant to SCR-116-001.

2. Defendant has filed a motion to dismiss 12-SSC-002 on the grounds that Plaintiffs improperly named her as a Defendant in this action. In fact, Plaintiffs correctly named the Student Congress, with Paige Comparato, Speaker, as representation of the Student Congress, in accordance with III S.G.C. § 707(B)(1).

The statute grants leave to the complainant, Plaintiffs, to file against the Student Congress, while naming the Speaker of Student Congress when the suit involves an action of the Student Congress. Defendant asserts that because she was not serving as the presiding officer, she is not the proper Defendant.

Defendant's interpretation of II S.G.C. 115(B) is unreasonable. In her answer and motion to dismiss, she asserts that:

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.

Defendant is alleging that II S.G.C 115(B) also requires the Speaker Pro-Tempore of Congress to be named as a Defendant in suits involving actions of the Student Congress in the absence of the Speaker. The Defendant's allegation is implausible, as this reading lacks any textual basis.

There is no specific language in § 707(B)(1) suggesting that the statute applies to the Speaker of Student Congress *only*³ if a) they are present at the meeting in question or b) that they are the presiding officer over the motion in question. Instead, the language of § 707(B)(1) provides ability to name the Speaker of Student Congress in a suit involving an action of the Student Congress *regardless*⁴ of their presence or capacities as a presiding officer.

It should be noted that in *Project Dinah vs. Congress*, Speaker Tim Nichols was named as a Defendant because the suit involved an action of the Student Congress. He admitted to the allegation of being a proper Defendant, though he abstained from voting on the issue in question.⁵

3. Defendant has filed a motion to dismiss 12-SSC-002 on the grounds that Plaintiffs' complaint does not meet the requirement of III S.G.C. § 600(A)(3). Defendant further asserts that procedures exist to address the concerns of Plaintiffs, therefore not qualifying Plaintiffs' complaints as "substantial controversy."

Defendant's assertion is incorrect. She cites the Standing Rules of Student Congress, specifically, SCR-111-01(A) as procedure that can solve the legislative error. However, SCR-111-01(A), while it does allow reconsideration of a question, the motion must be made by a representative voting in the prevailing side.

Plaintiffs Aristy, Crayton, and McClelland all voted in the failing side of the motion, a recorded vote, thus, Defendant's assertion that a reconsideration is possible is false.

4. Defendant has filed a motion to dismiss 12-SSC-002 on the grounds that Plaintiff Anastas-King does not have standing to sue per III S.G.C. § 611(A). Plaintiff Anastas-King asserts that his rights to speak on the legislation in question were adversely affected because of his expectation to be yielded time from a representative in Congress, his own, as allowed under SCR-115-009.

Defendant seems to assert in her answer and motion to dismiss that the Public Comment Period is the only outlet for constituents to speak on legislation. This assertion is unreasonable because of other Standing Rules of Congress that allow time to be yielded, specifically SCR-115-009.

Anastas-King contends that had debate not been ended erroneously, he would have used his right to speak on yielded time from a representative, thus, his rights and privileges were violated, a requirement of the statute in determining standing of a Plaintiff.

5. Defendant has filed a motion to dismiss 12-SSC-002 on the grounds that Plaintiffs Aristy, Crayton, and McClelland do not have standing per III S.G.C. § 611(A).

³ Emphasis added.

⁴ Emphasis added.

⁵ Student Congress Minutes – 03/03/09

Defendant's interpretation of the Standing Rules of Student Congress is unreasonable in regard to SCR-106-007 and SCR-107-001.

Defendant contends that Plaintiffs Aristy, Crayton, and McClelland had opportunities to speak in the two minutes prior to Congress, at committee meetings, and in the reports of the officers of Congress.

There is no specific language in SCR-106-007 or SCR-107-001 suggesting that these are the only available opportunities to speak on a piece of legislation; instead, the language of SCR-106-007 provides the opportunity for committee chairs to address concerns of their committees (not voice their opinion on legislation), and SCR-107-001 provides a two-minute opportunity prior to Congress to address *any* issue, regardless of its inclusion on the agenda.

Defendant correctly notes that Plaintiff Aristy had spoken in Finance Committee about the bill in question; however, no language exists in the Standing Rules that limit members of Congress to speaking in only committee or only full Congress.

Plaintiffs assert that their rights to speak on the debate of a bill as members of Congress were violated by the procedural error of the Defendant, the Student Congress, regardless of any other opportunities available before Congress or at committee meetings.

Plaintiffs further contend that without procedural error, they would have spoken on the bill in question and the outcome could have been altered.

CONCLUSION

Defendant's allegation that the Plaintiffs lacks standing or has named improper Defendants is unfounded. As the Plaintiffs have illustrated, and as the Student Code allows, the Speaker of Student Congress is a reasonably named Defendant in a suit involving a legislative action regardless of his/her attendance or role at a meeting in question.

Furthermore, Plaintiffs have illustrated that their rights as members of Congress, as well as a constituent of the Congress, were violated by a procedural error of the Congress. Without this procedural error, Plaintiffs would have been afforded more opportunity to speak on the bill in question and possibly change the outcome of the bill in question.

Plaintiffs respectfully request that the Court deny the Defendant's motion to dismiss and grant the relief sought in their complaint.

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



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