

IN THE SUPREME COURT)
)
 Action No. 16-002)
)
 Joseph R. Nail,)
 PLAINTIFF)
)
 Versus)
)
 Paul Kushner,)
 Chair, Board of Elections)
 Andy Hoang,)
 Member, Board of Elections)
 Joanna Zhang,)
 Member, Board of Elections,)
 DEFENDANTS)

**ORDER HALTING ELECTIONS
 AND INVALIDATING BOARD
 OF ELECTIONS ACTION**

I. BACKGROUND

On January 28, 2017, Katharine Shriver filed a complaint to the Board of Elections (“Shriver v. Nail”) concerning the actions of Joe Nail (“Plaintiff”), a candidate for Student Body President, and members of his campaign. Following the declaration of candidacy by Plaintiff, the Chair of the Board Elections served this complaint to Plaintiff on January 30, 2017.

On February 1, 2017 Plaintiff filed an answer to this complaint. The Board of Elections (“Defendants”) held the Shriver v. Nail hearing on February 2, 2017 at 6:00 p.m. Defendants then delivered their decision in Shriver v. Nail on February 4, 2017.

Following the delivery of this decision to Plaintiff, he provided notice to this Court of his intention to file an appeal concerning the Shriver v. Nail decision pursuant to VI S.G.C. §831(A). This Court subsequently received that appeal and complaint in the early hours of February 5, 2017, along with a motion requesting a temporary restraining order to enjoin Defendants from enforcing the Shriver v. Nail decision. Pursuant to VI S.G.C. §831(C), this Court received the Shriver v. Nail complaint, answer, and Defendants’ final opinion on February 5, 2017.

In his complaint, Plaintiff alleged that (1) pursuant to I S.G.C. §901(E), the Board of Elections shall only conduct official business when at least five members of the Board are present; (2) in violation of I S.G.C. §901(A), there are currently only three members of the Board of Elections; (3) the Board of Elections failed to take minutes during Plaintiff’s hearing in Shriver v. Nail, violating VI S.G.C. 831(C); (4) the Board of Elections improperly determined the number of points to assign to Plaintiff pursuant to VI S.G.C. 801(A); (5) the Board of Elections improperly placed the burden of proof on Plaintiff in Shriver v. Nail contrary to I S.G.C. 904(A); (6) the Board of Elections improperly interpreted VI S.G.C. §403(B) and VI S.G.C. §403(C); and (7) the Board of Elections violated “common principles of justice ... requir[ing] ... candidates be offered the opportunity to defend themselves.”

This Court convened on February 5, 2017, at 1:00 p.m., pursuant to VI S.G.C. §831, to determine whether to consider Plaintiff’s appeal.

II. ANALYSIS

Plaintiff's allegations against Defendants can be reduced to two central claims: (1) the actions undertaken by Defendants in *Shriver v. Nail* are invalid because the Board of Elections' membership lacks a sufficient quorum to conduct official business pursuant to I S.G.C. §901(E), and (2) Defendants erred in their interpretation of various elements of election law pursuant to Title VI of the Student Code.

Concerning Plaintiff's first claim, I S.G.C. §901(E) unequivocally states that "official business shall be conducted only when at least five (5) members of the Board of Elections are present." Though the Board of Elections was unable to produce minutes from the *Shriver v. Nail* hearing, given that the Board has only three confirmed members, it is clear that the Board did not satisfy the quorum requirement under I S.G.C. §901(E) at the hearing in question. Student Supreme Law is silent concerning vacancies on the Board of Elections, but clearly prescribes an explicit quorum requirement (I S.G.C. §901(E)) and explicitly outlines procedures for the appointment and confirmation of members of the Board (Article V, Section 2 of the Student Constitution; I S.G.C. §211(B)-(E)). That the Board currently lacks sufficient membership to achieve a quorum renders not only this action in *Shriver v. Nail* illegitimate and invalid, but further prohibits the Board from conducting its official business, including the certification of election results, pursuant to I S.G.C. §902.

Concerning Plaintiff's second claim, this Court finds these allegations premature. Because the hearing in *Shriver v. Nail* was conducted without a sufficient quorum, contrary to I S.G.C. §901(E), the Board of Elections' decision in this matter is not valid and thus not subject to further review by this Court. This Court has not evaluated the merits of *Shriver v. Nail* and makes no determination in this order as to the merits of any allegation made or disputed in *Shriver v. Nail*.

III. ORDER

ACCORDINGLY,

- 1) Pursuant to III S.G.C. §631(C), this Court issues a mandatory injunction against the Board of Elections from conducting any official business until such time as the Student Body President has nominated (Article V, Section 2 of the Student Constitution), Student Congress has confirmed (Article V, Section 2 of the Student Constitution; I S.G.C. §211(E)), and this Court receives proper documentation that the Board of Elections has a sufficient number of members to conduct official business pursuant to I S.G.C. §901(E) and lifts this injunction.
- 2) Therefore, the Spring General Election scheduled for February 14, 2017, is hereby postponed. Candidates shall comply with the February 9, 2017, at 5:00 p.m., deadline for ballot petitions. However, no candidates shall be certified, nor shall any candidate engage in campaigning until such time as the Board of Elections has a sufficient number of members to conduct business to certify candidates pursuant to I S.G.C. §902(6). Any campaigning conducted during the election postponement period shall be considered a violation of VI S.G.C. §405(A) and shall be subject to punitive action by the Board of Elections pursuant to VI S.G.C. §801(E)(2).
- 3) The Board of Elections shall determine and publicize a new timeline for the Spring General Election at such time as there is a sufficient number of members to conduct business pursuant to I S.G.C. §901(E).
- 4) The Board of Elections' February 4, 2017, decision in the matter of *Shriver v. Nail* is hereby rendered null and void, as the decision was rendered without a sufficient quorum as required by I S.G.C. §901(E). The Board of Elections shall conduct a re-hearing on this matter at such time as there is a sufficient number of members to conduct business lawfully pursuant to I S.G.C. §901(E).

It is so ordered.

Done this 5th day of February, 2017, at 06:19 p.m.