

IN THE SUPREME COURT

Action No. 16 SSC 002

Autumn McClellan,)
PLAINTIFF)
)
versus)
)
David Joyner,)
Speaker of Student Congress)
Houston Summers,)
Student Body President)
DEFENDANTS)

**Order bringing case to
close with default judgment**

I. BACKGROUND

Note: Reprinted from previous order in 16 SSC 002

On February 2nd, 2016, Student Congress passed SCR-97-302, A Resolution to Schedule A Student Body Referendum On The Constitution Of The Student Body. On February 5th, 2016, plaintiff Autumn McClellan, Treasurer of the GPSF, requested the Chief Justice’s interpretation on SCR-97-202’s consistency with the Student Code. This interpretation was refused, but the Chief Justice did explain several administrative approaches, in general cases, in which the Court could be of assistance. Plaintiff McClellan then proceeded to file a verbal complaint. In the Spring general election on February 10th, 2016, this referendum to change the Constitution was not voted upon, although the status of that particular vote is currently being disputed in 16 SSC 001. On February 22nd, 2016 at 12:00 PM, following an extension granted by the Chief Justice due to the plaintiff’s technical problems, the plaintiff filed a written complaint with the Court alleging that two provisions in this were unconstitutional. The Marshal of the Student Supreme Court then served this complaint to the defendants, who acknowledged receiving it, and their deadline to respond was set to March 1st at 5:00 PM. The defendants failed to file an answer by this deadline. The Chief Justice granted an extension to March 4th at 5:00 PM at the request of the Student Solicitor General, which the Student Solicitor General, representing the defendants, acknowledged. The defendants, again, failed to meet this deadline.

Note: New section

On March 6th, 2016, the Student Supreme Court issued an order that would close the case with a default judgment if an answer were not filed by the defendants by March 8th, 2016 at 5:00 PM, effectively setting a third deadline for the defendants to meet, and, thus far, the first to explicitly state the consequences for missing it. The

defendants and their Counsel, the Student Solicitor General, received this order and acknowledged it.

On March 8th, 2016, at 8:00 PM, the defendants submitted an answer to the Chief Justice, three hours after the given deadline.

II. ANALYSIS

A justification for ending a case on the grounds of multiple missed deadlines is given in the previous order in this case. This is an area that the Student Code leaves unclear, and there is some implication there that the Chief Justice ought to have some degree of flexibility. Specifically:

III S.G.C. 705(1): “If the defendant fails to file an answer to the complaint in the time directed, the Chief Justice...[m]ay grant him/her an extension of time in which to file the answer if the Chief Justice determines that there were circumstances beyond the control of the defendant justifying the delay and the extension of time will not result in injury to the rights and remedies of the plaintiff.”

Now, from the date they received the complaint, the defendants were given over two weeks to file an answer, and they missed three different deadlines for doing so. I believe that all three of these dates were made clear to the defendants and their Counsel, and the third deadline was stated in the form of an order. An answer was ultimately filed, but several hours past final deadline. I think every accommodation within reason was given to the defendants to file an answer. While we don't like to be inflexible with deadlines in this way and make too many important decisions based on technicalities of procedure, this was an extreme case, and the order issued by the Court earlier was quite clear.

This brings a tricky balance. If we were to end this case now, we would bring an important issue to a close on the basis of a technicality. Down the slippery slope, one may try to argue that one can simply file a shaky case for anything they please against a defendant that would not file an answer, and this Court would simply grant relief via default judgment with little constitutional analysis. I do not think that this extreme is justifiable, and I discourage future Courts from using this decision as a basis for giving carte blanche authority. However, were the Court to allow this case to continue, the Court would be explicitly ignoring its own orders, undercutting itself, and allowing future defendants to delay a case by requesting and missing more and more deadlines. This is a possibility that seems much more likely.

As is the case with many things the Student Supreme Court deals with, however, this is highly situational, and we ought to make decisions that are the most fair to everyone. We do not believe this to be a sham case. The defendants are two of the highest elected student representatives at UNC, and the Counsel is the official legal representation of Student Government. The Court, upon a superficial analysis, believes it is reasonable that they were named the defendants. Granting relief in this

case via default judgment would not, as the previous order clarified, be the basis for a precedent in similar areas, since this decision would not be made on the basis of legal analysis of the issues, but a technicality.

III. ORDER

The Student Supreme Court declares that the two indicated areas of SCR-97-302 (Article 1, Section 11(2)(g) and Article 1, Section 11(11)) are void. This relief shall be moot unless SCR-97-302 were voted on again in any election; in that case, this referenda would be the same, except that the indicated sections would be stricken off. This is not a precedent for similar referenda or law, as this relief is granted as a default judgment, due to the defendants' failure to file an answer on time.



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Done this the 12th day of March, 2016 at 3:00 p.m.