

IN THE SUPREME COURT)
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 Action no. 22 SSC 007)
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 Dean Pearce, et. al.)
 PLAINTIFF)
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 VERSUS)
)
 Residence Hall Association Executive Board et. al.)
 DEFENDANTS)

**ANSWER,
 MOTION TO DISMISS**

INTRODUCTION

The Residence Hall Association (“RHA”) hereby responds to the allegations raised by the Plaintiff, Dean Pearce (“Dean”) and Andrew Gary (“Andrew”). Although the Defendant agrees with most of the facts brought forth in the Plaintiff’s complaint, the Defendant disagrees with the interpretation of said facts by the Plaintiff.

For the charge brought against Miller, the Defendant will argue (1) the Student Supreme Court (“the Court”) lacks jurisdiction as the Plaintiff is seeking an advisory opinion of the RHA’s bylaws and (2) does not include an active “controversy” per J.C.S.G § 610 (A)(1); (3) the Plaintiff lacks standing as the Ethics Hearing and training have already occurred with the Plaintiff having been reinstated as Governor of the Connor Community with makes this claim subject to mootness; and (4) the Defendant’s actions were not outside the scope of the RHA’s bylaws which refer to Article IV Section 3 of the RHA Constitution to “oversee all community governor and community government training and development”.

For the charge brought against Worley, the Defendant will argue that this charge is (1) subject to mootness since the events in question have already occurred since the charges have been brought forth; (2) the charge lacks standing as the Defendant Worely has since stepped down as RHA president; and finally (3) the prohibition of the Plaintiff as Connor Community Governor when the Ethics Hearing started was not a violation of the law per the RHA’s Bylaws Article VII Section 4.

For the charge brought against the RHA executive board, the Defendant will argue the RHA (1) already provides meeting minutes available to the public that follows open meeting laws set forth in North Carolina General Statutes Article 33C of Chapter 143; (2) student organizations like the RHA are not subject to North Carolina’s open meeting laws; and (3) the professional body of a public organization such as the RHA Executive Board is not subject to North Carolina’s Open Meeting Laws per North Carolina General Statutes § 143-318.10 (C) of Chapter 33C.

JURISDICTION

The Defendant admits that RHA is an independent agency of student government, as stated in I J.C.S.G.

§121(B)(8). The Defendant, however, denies that the Supreme Court has jurisdiction in the matter of determining the specificity of the Bylaws of RHA, pursuant to III J.C.S.G §610(B). The Plaintiff seeks “a court order barring the Vice President, and other members of the RHA, from further interference with the Community Government appointment process” that would be an advisory opinion of the RHA’s bylaws. The Defendant also denies the Court has jurisdiction as the complaints do not include an active “controversy” per J.C.S.G § 610 (A)(1).

STANDING

The Defendant admits that Dean Pearce has standing in this matter as a resident of a university recognized on-campus residential community, Connor Community, in accordance with III J.C.S.G §620. However, the Defendant raises the validity of standing in relation to mootness as the Defendant has been reinstated as the Connor Community Governor and actions in question demanding judgement have already occurred.

NECESSARY DEFENDANTS

The Defendant claims that Dean Pearce and Andrew Gary omitted the necessary Defendants pursuant to III J.C.S.G §716(B)(5) in complaint 22-005 which was consolidated into complaint 22-007. The Plaintiff may not simply name the organization, RHA, as a Defendant, but should have named officers involved in the alleged action, as stated in III J.C.S.G §716(B)(5). Hence, the Defendant moves to dismiss the complaint pursuant to III J.C.S.G §716(B).

PLAINTIFF’S REQUESTED RELIEF AND DEMAND FOR RELIEF

The Defendant claims that the Student Supreme Court lacks the jurisdiction to provide the relief requested by the Plaintiff, as stated in III J.C.S.G §610(B). The Plaintiff is requesting that the Court make changes to the RHA guidelines and bylaws, which is essentially asking the Court to issue an advisory opinion. The only method for amending RHA bylaws, as prescribed by law, is through a two-thirds (2/3) vote of the Board of Governors, and the RHA Guidelines for External Grants is subject to amendment by the Executive Treasurer and the Executive Board of RHA.

DEFENSE #1: Open Meeting Laws & Standing

During the time of all charges brought against the Defendant, and specifically against Miller, the Plaintiff had not been sworn in as Connor Community Governor. The Plaintiff was elected as “Governor Elect” but had not legally been sworn in as Governor. Therefore, the Plaintiff’s argument that the “powers, rights, privileges, benefits or immunities of their position as Connor Community Governor” is invalid. At the time, the Plaintiff did not maintain the position of Connor Community Governor so any “power” of the Plaintiff’s position was not yet in effect. This brings the question of standing by the Plaintiff and if the power they claim to hold was in effect. Furthermore, complaint 22-003 states the “Plaintiff asserts that the prohibition of the Plaintiff from exercising their rights and duties as Connor Community Governor is in violation of the law”. However, the “rights and duties” expressed by the Plaintiff had not yet been given to them.

The claim that all “actions taken at all meetings of the Executive Board of the RHA be rendered void” and that the RHA does not follow open meeting laws per North Carolina General Statutes is simply not true or possible. Student organizations like the RHA are not subject to open meeting laws. In the North Carolina General Statutes § 143-318.10 (C) of Chapter 33C, “Public body does not include a meeting solely among the professional staff of a public body” which includes the RHA Executive Board meetings. Therefore, the RHA

Executive Board as a professional staff of the RHA is exempt from open meeting laws. The RHA Advisor acts as an independent monitor of the RHA’s meeting minutes by reviewing and uploading them. Though student organizations are not included under open meeting laws, the RHA still posts public meeting minutes. Therefore, the Plaintiff’s claim that the RHA fails to comply with North Carolina’s open meeting laws is moot and invalid.

DEFENSE #2: RHA Bylaws/Constitution

In Article IV, Section 3 of the RHA Constitution, the Vice President of the RHA Executive Board has the authority to (1) “To oversee community governor elections”; (2) “To oversee all community governor and community government training and development, including retreats, Fall and Spring training sessions, ongoing leadership development sessions, and transition”; (3) “To ensure accountability of governors and community governments”; and (4) “To directly advise the Community Governors”. Therefore, the RHA, and Miller, were not operating outside of their legal capacity to ensure Community Government accountability and leadership transition when limiting the deadline for the Community Government application deadline. The claim that (1) the Defendant denied the “promulgation of a Community Government publication concerning applications for appointed positions violates the Community Governor’s unlimited authority to appoint members of the Community Government is not in accordance with any of the governing documents of the RHA, or the Connor Community Government”; and (2) the claim that the “refusal to promulgate their ‘Meet the Governor Email’ constitutes an illegal infringement upon their rights and duties as Connor Community Governor” are both false. The RHA allows Governors unlimited authority of their Community Governments within the bounds of the RHA Executive Board and the Board of Governors as seen in Article IV, Section 3 of the RHA Constitution.

DEFENSE #3: Mootness

The Plaintiff has been reinstated as Connor Community Governor. Therefore, a decision made by the Court would be deemed moot as the relief demanded has already been given to the Plaintiff. The Defendant is open to supporting the Plaintiff in their reinstated role as Connor Community Governor but denies the need for the Court to intervene when the charges in question have been resolved. As shown in the complaint against Miller, the training of Community Government officers has already taken place and the Ethics Hearing referred to in both complaints against Miller and Worley has already occurred with rectification of the issue. Furthermore, the RHA Ethics Board reserves the right to make any or all of the recommended sanctions listed in Article VII Section 4 of the RHA Bylaws which includes (1) “Probation for a set duration to be determined by the Executive Board” and (2) “Suspension from offices or committee positions held for a set duration to be determined by the Executive Board”. Therefore, when the claim that the “Defendant prohibited the Plaintiff from participation in any actions pertaining to the office of Connor Community Governor until the conclusion of the Ethics Hearing” is a legally valid action per the RHA Bylaws. The right to suspend officers, including a Community Governor, is in the rights of the Defendant per Article VII Section 4 of the RHA Bylaws. Therefore, the Plaintiff’s claim that this probation of the Plaintiff’s right and duties are a “violation of the law” is simply false.

DEFENSE #4: PRECEDENT

The Defendant claims there is precedent at UNC Chapel Hill. The Defendant brings attention to the fact that this Court has found challenges to be moot and dismissed them for lack of jurisdiction. See Bilbao v. Morgan, No. 08–005 S.S.C. (Feb. 26, 2009) (order granting motion to dismiss); see also Barnes v. Albright, et al., No. 69–007 (DISMISSED as moot); and see Erdal v. Vann No. 22-001 (DISMISSED as moot).


Furthermore, see *Vigil v. Residence Hall Association*, No. 16-008 for motion to dismiss on grounds of jurisdiction. These cases set precedent for the Defendant's Answer to move to dismiss case 22-007 and why the Defendant's motion should be granted.

MOTION TO DISMISS

The Defendant, RHA, moves to dismiss the complaint on the following grounds:

1. The Court lacks the jurisdiction necessary to grant the relief requested by the Plaintiff, in accordance with III J.C.S.G. §610(B). The Plaintiff is requesting the Court to suggest a revision of the RHA bylaws, which would entail the Court issuing an advisory opinion.
2. The Plaintiff failed to name the necessary defendants in accordance with III J.C.S.G. §716(B)(5). The Plaintiff may not simply name the organization, RHA, but must name specific officers involved in the relevant action to the complaint. The Court may dismiss the case on this basis in accordance with III J.C.S.G. §716(B).
3. The Court lacks the jurisdiction necessary to grant relief requested by the Plaintiff, in accordance with III J.C.S.G § 610 (A)(1). The Plaintiff has failed to show an active controversy and claims demanding judgment are moot.

Respectfully Submitted,



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Filed this ____ day of October 2022 at ____.