

IN THE SUPREME COURT

ACTION NO. 22-007

DEAN PEARCE, CONNOR COMMUNITY
GOVERNOR;
et al.

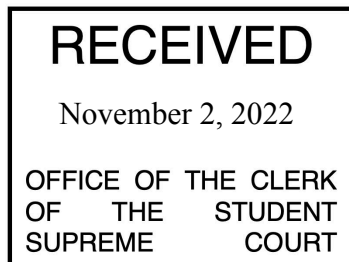
PLAINTIFFS

v.

RESIDENCE HALL ASSOCIATION
EXECUTIVE BOARD;
et al.

DEFENDANTS

BRIEF AGAINST DEFENSE’S MOTION
TO DISMISS BY PLAINTIFF DEAN
PEARCE



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I. Clarification of Motion for Dismissal

Though the Defense puts forward a number of arguments in their filing, the filing is a joint Answer and Motion to Dismiss. The Plaintiff asserts that the section titled "MOTION TO DISMISS" constitutes the motion to dismiss, as it is both named as such, and contains the necessary contents: the allegation of grounds and order sought, that being dismissal. See R. 40. As such, though the Plaintiff chooses to address a number of potential arguments in this Brief, they assert that only the issues presented by the Defense in this particular section are in order for the consideration of the motion.

II. Standards for Dismissal

Per R. 40, a motion to dismiss the claim of a Party shall be in order "based on failures of the opposing party to comply with the requirements of these Bylaws, the Student Constitution, or if justice so requires"

III. Defense's Failure to Meet Standards

None of the assertions of the Defense contend that the Plaintiff has failed to comply with the requirements of the Bylaws of the Court, the Student Constitution, nor have they made any appeals to justice.

IV. Defense's Allegation of Grounds: Court's Lack of Jurisdiction

"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."

IV.1. Definitions

Per *Black's Law Dictionary* (10th ed. 2014):

advisory opinion A nonbinding statement by a court of its interpretation of the law on a matter submitted for that purpose.

IV.2. The Plaintiff's requested relief does not request a change to the RHA bylaws

In no instance has the Plaintiff requested of the Court any change to the RHA bylaws, nor an order demanding that they be altered. Therefore the Defense's allegation that the Court does not have jurisdiction to "suggest a revision of the RHA Bylaws" is immaterial to this case, and thus their allegation of a lack of jurisdiction falls flat.

V. Defense's Allegation of Grounds: Necessary Defendants

Though the Plaintiff does admit that the Court has the right to dismiss the case on the basis of an improper inclusion of a necessary defendant per III J.C.S.G. §716(B), the Court's Bylaws state that "the Court shall note the Omission of a Necessary Defendant to the Plaintiff and allow them a maximum of twenty-four (24) hours to fix the mistake" (R. 30(a)) prior to such a dismissal. If, in the Court's opinion, Necessary Defendants have been omitted, it would not be grounds for immediate dismissal as the Defense claims.

VI. Defense's Allegation of Grounds: Question of Controversy

The Defense states that "the Plaintiff has failed to show an active controversy and claims demanding judgement are moot". However, per R. 14 "a party seeking to show that the Court lacks jurisdiction must make an affirmative showing that the Court lacks jurisdiction in a matter". A mere claim that the Plaintiff has "failed to show an active controversy" does not meet such a standard.

VII. Non-Motion Questions

The following questions have not been presented in the Defense's Motion for Dismissal, and therefore the Plaintiff has merely included them for the sake of completeness.

VII.1. Question of Controversy / Mootness

The Defense raises the allegation that the Court does not have jurisdiction "as the complaints do not include an "active controversy"". The Plaintiff believes that *Bilbao v. Morgan* No. 08-005 establishes that the question of "active controversy" is equivalent to mootness.

VII.1.1. Reinstatement

The Defense specifically raises the question of mootness in "Defense #3", where they state that "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 Plaintiff would like to state that at no time did they demand reinstatement as Connor Community Governor. This would, furthermore, have been extremely unlikely, because the final judgement of the RHA Ethics Hearing was entered after the filing of the Complaint.

VII.1.2. Training

The Defense states that "the training of Community Government officers has already taken place". Frankly, this is not true, no officers have yet been appointed to the Connor Community Government.

VII.2. Question of Advisory Opinion

"The Defendant ... denies that the Supreme Court has jurisdiction in the matter of determining the specificity of the Bylaws of the 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 issuance of an order is an example of binding enforcement, and would therefore not meet the standard of a "nonbinding statement" (IV.1) of an advisory opinion.

Furthermore, the ability of the Court to issue injunctions against enforcement of an interpretation of the law which it rules to be invalid has been affirmed as recently as *USG Senate v. Grodsky*.

Finally, the Plaintiff would like to raise the point that, even if the Court cannot grant one (1) of the Plaintiff's several grounds for relief, it does not necessitate the dismissal of an entire case. The existence of alternative grounds for relief is specifically enshrined in R. 24(a)(5), and there have been many cases in this Court's history where it has not granted every request for relief which the Plaintiff has made.

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