

IN THE SUPREME COURT)	
)	
Action No. _____)	
)	
Andrew H. Gary)	
PLAINTIFF)	PLAINTIFF’S MOTION
)	FOR A TEMPORARY
Versus)	RESTRAINING ORDER
)	
Board of Elections,)	
DEFENDANT)	
)	
)	

MOTION

1. Pursuant to R. 38, a party may move for a Temporary Restraining Order (TRO) or extraordinary writ to prevent the opposing party from engaging in some act until the case may be tried.

2. Pursuant to R. 38, a motion for TRO shall be granted only provided that “the granting of the TRO or extraordinary writ is necessary to preserve the jurisdiction of the Court, the rights of the party requesting the order, or the availability of remedies; and the party requesting the TRO or extraordinary writ must be clearly entitled to the relief requested.”

3. This case is one in which the “extreme circumstances and when necessary” doctrine might be applied. Such doctrine can be seen in its application to motions in *Broadhurst v. Kushner, et al.* (2017), *Horowitz, et al. v. Medlin and Phillips* (2011), *Santoro v. Phillips* (2011), *Holgate v. Gillooly* (2010), *Seelinger v. Gillooly* (2010), and *Nichols v. Raynor* (2009). Precedent stemming from *Nichols v. Raynor* 1 S.S.C. 226 (2009) traces its roots to III S.G.C. §410 which limited the injunctive relief capabilities of this Court to “stopping an election.” Through 2016, this provision existed in the Student Government Code, in its last iteration being found at III S.G.C. §631(A) and now today found in III J.C.S.G. §541(A), providing that the Court “may issue temporary injunctions against the Board of Elections stopping an election to protect the Court’s jurisdiction or to preserve the status quo until a judicial determination can be reached.” This authority is distinct from that established in R. 38.

4. In seeking a TRO, PLAINTIFF must 1) establish a clear right to the relief or 2) that denial of relief would cause adverse harm. This standard, established in *Whittemore v. Ruffin* 1 S.S.C. 2 (1970), must be viewed with a

contemporary lens, as *Whittemore* assumes the absence of equal protection provisions that have since been codified into the Student Constitution under the Non-Discrimination Policy. *Whittemore* similarly places value on consistency between the body of Student Law and University Policy, which includes fundamental equal protection provisions.

5. We assert that the electoral fundamentals are shaped by DEFENDANT's improper administration of elections. Denial of a TRO would cause substantive harm to the electoral process and the rights of the PLAINTIFF. Continuing to allow DEFENDANT to act in an illegal manner jeopardizes the results of the referendum (see Exhibit A of PLAINTIFF's Complaint) and increases the need for a complete rerun of the election because the longer the election continues, the more graduate students will be able to unduly influence the outcome of the referendum.
6. Violations of electoral law which occur earlier in an election cycle are viewed by this Court as more significant and a greater cause for relief, per *Klein v. Morgan* 1 S.S.C. 212 (2008).
7. Plaintiff moves for a TRO or other extraordinary writ such that:
 - a. The Board of Elections be enjoined from distributing, using, and conducting this referendum until such time as this Court shall have rendered judgment in this matter or the issue is rendered moot.

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

/s/ Andrew H. Gary

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Filed this the 31st day of October, 2023, at 2:15 a.m.