

Syllabus

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SUPREME COURT OF THE STUDENT BODY

Syllabus

T.J. EDWARDS v. BOARD OF ELECTIONS

ORIGINAL

No. 23–002 Orig. Decided February 19, 2024

T.J. Edwards, at the time an undergraduate student who had committed to perusing graduate study at the University of North Carolina at Chapel Hill, originally sought to run for Student Body President and Graduate and Professional Student Government (GPSG) President. They later decided to only seek the latter office, rendering moot most questions of law raised by their original complaint. The Board of Elections, in its administration of the 2024 Spring General Election, had originally rejected Edwards’s candidacy on the grounds that it violated Student Const. ch. 3 art. I §1(2), a clause that establishes the basic qualifications one must possess to hold the office of GPSG President. Edwards claimed II J.C.S.G. §601 protected their ability to stand for election to this position. The Board of Elections later argued this provision was irrelevant pursuant to II J.C.S.G. §201(B). This case was the first since Undergraduate Student Government and Graduate and Professional Student Government were decoupled by the Student Constitution of 2017 to raise questions of how these two governments interact. It forced the Court to grapple with novel questions of the powers reserved for constituencies and the rights maintained by individual students.

Held: The Board of Elections did not violate Student Const. ch. 3 art. I §1(2). VII GPSG Code 4.002(a) is constitutional and allows only current graduate or professional students to stand for election to the office of GPSG President. Relief denied.

SHUE, C.J. delivered the opinion the Court, in which BELCHER and CONWAY, JJ., joined.

Alex Thornburg served as Counsel for the plaintiff. *Grace Lena* and *Christian Chung* also appeared on briefs.

Andrew Gary served as Counsel for the defendant.

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SUPREME COURT OF THE STUDENT BODY

No. 23–002

T.J. EDWARDS *v.* BOARD OF ELECTIONS

ORIGINAL

[February 19, 2024.]

CHIEF JUSTICE SHUE delivered the opinion of the Court.

This case has evolved significantly since the complaint was first filed. The question before the Court has changed. The relevance of particular matters of fact has varied. The first chapter of the Student Constitution has been entirely rewritten. And yet, the basic grievance remains the same. It is a fundamentally novel one in the history of the University’s student government. Never before has the Court been forced to grapple with the meaning of split government. Since the Student Constitution of 2017 entered into effect, each constituency has maintained its own government.¹ Graduate and professional students and undergraduate students alike now possess executive and legislative branches charged with overseeing their own affairs. Constituency governments operate with a degree of independence unprecedented in University history, linked by only a few joint offices, some shared entities, and a common interest in the welfare of our students. Now, we consider an issue that necessitates we

¹ See https://tarheels.live/uncstudentsupremecourt/wp-content/uploads/sites/2892/2024/02/Const_Feb-2021.pdf. This version incorporates a 2021 amendment renaming the Graduate and Professional Student Federation to the Graduate and Professional Student Government, in addition to an unrelated 2020 amendment.

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speak to the powers of constituencies, the limits on the supremacy of joint governing documents, and the rights reserved for individual students.

I

T.J. Edwards, Chair of the Carolina Union Board of Directors, seeks to stand for election to executive office in their personal capacity. Edwards is a student currently in the last year of their undergraduate career who has accepted an offer of admission into the Master of Public Policy Program at the University of North Carolina at Chapel Hill for the coming academic semester.

On January 20th, 2024, Edwards submitted a complaint in which they alleged the defendant, the Board of Elections, signaled it would not recognize Edwards’s candidacy for Undergraduate Student Government President, Student Body President, or Graduate and Professional Student Government (GPSG) President. Edwards provided documentation to support these claims, which the defendant did not dispute in their answer. At time of the complaint, Edwards asked the Court to recognize and protect their right to seek the latter two offices “concurrently with other future Student Body President candidates,” arguing they qualified under the broad qualifications for office listed in what was then Student Const. ch. 1 art. II §1. This provision then stated that “[t]he Student Body President shall be enrolled as a fee-paying student at the University of North Carolina at Chapel Hill.” They interpreted this clause as establishing an exhaustive list of qualifications. Edwards noted that the Board previously cited Student Const. ch. 3 art. I §1(2), which reads “[t]he GPSG President shall be enrolled as a fee-paying graduate or professional student at the University of North Carolina at Chapel Hill.” On January 29th, pursuant to a Court order requesting further information, Edwards stated they are now only seeking the office of GPSG President. See Plaintiff’s Response to Court Order. They claimed to have filed to register as a candidate for GPSG President, but to have been denied a link to submit ballot petition signatures. The defendant did not deny this claim. The

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following day, the plaintiff provided the Board of Elections and this Court with a document containing ballot petition signatures.

The question of whether a student in Edwards's position may seek the office of Student Body President is therefore moot. Beyond needing to fulfill the requirement that the Student Body President concurrently be president of one of the two constituency governments, it is not immediately clear whether a person who transitions from undergraduate to graduate or professional study during the summer intersession period would be continuously considered a student. Is such a period more significant than an undergraduate transitioning from one year to another? It is an open question whether the Student Body President's ex officio position on the Board of Trustees might necessitate a different legal approach. In the event such a person cannot be considered a student for a brief period, could they hold office under the Student Constitution, University policy, or North Carolina General Statutes? The mootness of this issue now spares the Court the thorny challenge of navigating the the latter two bodies of policy, which it is generally not empowered to interpret, but which could be directly relevant to this question of student law.

On January 24th, the Board of Elections filed its answer. Therein, it stood by its decision to prevent Edwards from running for any of the three offices in which they had expressed interest. It conceded the Court's jurisdiction but challenged the plaintiff's standing, arguing that the "Court should not establish that there exists a material right or privilege to seek the office of Student Body President or any office of profit, honor, or trust" in accordance with III J.C.S.G. §540 and R. 21. See Defendant's Answer ¶16. The Board pointed to II J.C.S.G. §201(B), which states that "[r]egulations in this Title shall be used for elections or ballot measures concerning only the whole student body." They argued II J.C.S.G. §201(B) renders II J.C.S.G. §601, which enumerates qualifications for office, irrelevant to the question of whether one can stand for election as a representative of one particular constituency. We accept the defendant's interpretation of II J.C.S.G. without significant comment. It is impossible to reasonably interpret either of these two provisions in isolation.

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The Court also needs not wrestle with practical effects of changes in relevant law. With the passage of a constitutional referendum, first passed by the Joint Governance Council and becoming effective after approval by the student body on February 14th, Student Const. ch. 1 has been rewritten almost in its entirety. This could have required the Court to apply the Savings Clause, which dictates that “[w]hen provisions of this Constitution or The Instrument of Student Judicial Governance are changed, cases and controversies that are pending at the time the change becomes effective shall be tried under the later provisions except when such a change has the effect of creating new penalties or new violations of law.” See Const. ch. 1 art. VII §12. This could potentially lead us to decide a case on significantly different grounds than those on which either party argued. However, no provisions of either the unamended or amended version of that chapter substantially relate to the qualifications of the GPSG President. Some provisions are clearer, but none alter the basic legal reasoning upon which this case relies.

II

The core constitutional provision in this case is, as the Board of Elections initially recognized, Student Const. ch. 3 art. I §1(2), which states that “[t]he GPSG President shall be enrolled as a fee-paying graduate or professional student at the University of North Carolina at Chapel Hill.” We recognize this to be somewhat ambiguous. II J.C.S.G. §601(A)(3), which establishes that “candidate[s] shall be a constituent of the office for which they are candidates on the first day of the fall semester after the spring general election is held,” only applies to joint offices. However, it does establish a precedent for interpreting constituency membership for electoral purposes in terms of a student’s expected status the subsequent academic term. It is not unreasonable to interpret ch. 3 art. 1 §1(2) as potentially expansive. Nonetheless, this provision neglects to characterize the qualifications it establishes for officeholders as exhaustive.

While the Joint Code of the Student Government is silent on the specific qualifications of the GPSG President, the Code of the

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GPSG is not. VII GPSG Code 4.002 states “[a]ll candidates must be a constituent of the office for which they desire to run,” while VII GPSG Code 4.002(a) specifies that “[c]andidates for the office of President must be a graduate or professional student.” This language is notably more targeted than that in Student Const. ch. 3 art. I §1(2). Rather than framing the issue in terms of the qualifications necessary for one to hold office, it speaks to the qualifications necessary for one to stand as a candidate. In doing so, it leaves little room for interpretation; it is clear the GPSG Code intends to bar from the election anyone not presently a graduate or professional student. This is entirely consistent with the sentiment with which the Constitution of 2017 and the GPSG Code were created. Representatives of Graduate and Professional students long felt their interests were disregarded prior to the Constitution of 2017. Undergraduates then consistently held more institutional power, in large part because of their greater total numbers. See Student Const. (2016) generally and RE: Response to January 6th Memo entitled Future of Student Governance (2017) generally.²

We must then ask if the GPSG Code is able to impose additional qualifications on candidates or officeholders. This Court believes the answer to this question to be affirmative and unequivocal. At risk of hyperbole, the new constitutional order established in 2017 and reimagined now in 2024 relies on constituencies empowered to regulate their own affairs in manners consistent with the supreme power of the constitution itself. This was the case before the Student Const. ch. 1 was rewritten, but it is all the more explicit now. Student Const. ch. 1 art. IV §2 mandates that “exercise and discharge of governmental powers and functions as it relates to just one (1) Constituency is a matter for each Constituency” See also Student Const. ch. 1 art. IV §3.

Constituencies may not make or enforce laws delegated to joint government actors as outlined by the constitution, nor trespass on any rights reserved for individual students or any other entities.

² See <https://tarheels.live/uncstudentsupremecourt/wp-content/uploads/sites/2892/2024/02/Memorandum-RE-Response-to-January-6th-Memo-entitled-Future-of-Student.pdf>.

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These restrictions are serious and numerous, standing to prevent a plethora of injustices and usurpations. See Student Const. ch. 1 art. II generally. But otherwise, elected representatives must have reasonably broad discretion when engaging in legitimate policymaking. The GPSG Code is therefore binding. It prevents Edwards from standing as a candidate for GPSG President.

III

Nevertheless, we firmly reject the defendant's assertion that "there is no material right or privilege to run for any office of honor, profit, or trust of the student body because there exist qualifications for office." This legal theory, apparently grounded in nothing but the absence of existing precedent on the matter, has truly troubling implications.³ It is objectionable on several levels. Its philosophical underpinnings are especially concerning. The existence of some restrictions cannot possibly be supposed to mean all restrictions are permissible. This theory is fundamentally contrary to the notion of democratic governance upon which our student government is built. See Student Const. ch. 1 art. I §4. The ability to seek office can never be a privilege enjoyed by only by a select few.

Moreover, a tightening of qualifications for seeking office has the potential to violate the Constitution's non-discrimination

³ We recognize the defendant cited *Whittemore v. Ruffin*, 1 S.S.C. 2 (1970) as an authority on this question. This case is inapplicable for several reasons. It was built upon a radically different constitution, in no small part because governance was not then divided by constituencies. It spoke specifically to an undergraduate seeking election to an undergraduate office. In addition, much of the reasoning in *Whittemore v. Ruffin* relied upon the interpretation of the constitutional provisions then in effect as "contain[ing] no equal protection clause." It is difficult to conceive how Student Const. ch. 1 (2017) could be read so as to not guarantee equal protection, particularly in light of its Non-Discrimination Policy. See *id.*, at 1. Now, Student Const. ch. 1 art. II §2 leaves no doubt whatsoever, stating "[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law."

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provisions, which staunchly forbid discrimination by governing entities “on the basis of actual or perceived age, gender, race, color, national or social origin, religion (including religious dress and practices), creed, political or other opinion, political affiliation, immigration status, language, caste, socio-economic status, physical or mental disability, medical condition, marital status, military or veteran status, sex, sexual orientation, gender identity, ancestry, gender expression, or genetic information.” See Const. ch. 1 art. II §1. This is a critical exception to the power of governing bodies, be they joint or of one constituency. The broad right students maintain to never be subject to such discrimination is one explicitly codified in Student Const. ch. 1 art. II generally and implicitly woven throughout chapters 1, 2, and 3. Although some requirements to hold office must exist — and despite historical precedent for a range of more stringent restrictions, particularly on the basis of academic achievement — such restrictions must pass strict scrutiny. The restriction laid out in VII GPSG Code 4.002(a) is one of very few which are obviously permissible. Constituencies have a considerable and straightforward interest in ensuring they are at all times represented by their own members. Edwards, while committed to becoming a graduate student within a matter of months, would have yet to complete their undergraduate career both at the time of running and of assuming office. The Court recognizes the applicability and legality of the GPSG Code’s restriction.

It is so ordered.