



SUPREME COURT OF THE STUDENT BODY



THE STUDENTS PARTY, APPELLANT VS. THE SWAMP PARTY, APELLEE

Heard and Decided: February 6, 2013

HACKER, J., delivered the opinion of the court, in which MICHEL, C.J., and ANDRADE, DIMATTEO, HALPERIN, AND SULLIVAN, J.J., joined. MASON, J. filed a special concurrence.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to hear appeals from "tribunals established by law." *Student Body Const. Art. V Sec. 3(b)(3)*.

The instant case stems from two separate fact patterns. In the Spring Semester of 2012 this Court ruled on the interpretation of the 700 codes specifically relating to temporal limits on the election cycle. ***See In Re: Election Cycle, 2 U.F.S. Ct. 9 (2012)***. During the summer legislative session, the legislatures sought to articulate a system congruous with that decision. The resulting amendments form the 700 codes relevant to this case.

The Election Cycle for the Spring 2013 semester began on January 22, 2013. On January 24, 2013, the Swamp Party and Christina Bonarrigo held an event in Turlington Plaza to announce Ms. Bonarrigo's candidacy for Student Body President. On January 25, 2013, the Student's Party filed a complaint against Ms. Bonarrigo and the Swamp Party for violating § 761.2 prohibiting "Campaigning" as defined in § 700.4(d). The Swamp Party argued that their event did not fall under the definition of "Campaigning" but rather the definition of "Campaign Activity" as defined in § 700.4(e). Campaign Activity is prohibited only before the start of the Election Cycle while Campaigning is prohibited before seven days prior to the first day of elections. ***See § 761.1***. The Election Commission found for the Swamp Party. The Student's Party appealed the decision but instead of seeking the relief sought from the Election Commission, the Student's Party sought a declaration by this Court that §§ 700.4(d), 700.4(e), 761.1, and 761.2 are unconstitutionally vague.

Looking at the plain language as the statutes, it is impossible for this Court to determine the difference between Campaigning and Campaign Activity. We believe this was an oversight in the legislative process and will interpret the set of statutes as such. Campaigning and Campaign Activity, as used throughout the 700 codes, will be interpreted as interchangeable



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and will be interpreted as having the full meaning ascribed in § 700.4(d). We hold that § 761.1 and § 761.2 are interpreted as if the legislature had struck § 761.2 during the amendment process to make way for the less restrictive § 761.1. This interpretation has the effect of allowing Campaigning and Campaign Activity during the term specified in § 761.2. Furthermore, this interpretation will prevent the statutes being used a sword or shield by either party and will allow the statute to remain in effect to serve its intent of allowing Campaigning and Campaign Activity while maintaining the academic integrity and educational mission of the University. Under this interpretation, we further hold that Ms. Bonarrigo and the Swamp Party did not commit the violations alleged by the Student's Party.

Ancillary to this holding are two matters of dicta. First, the announcement of an individual candidacy by an individual or a political party or the announcement by a political party of their support for an individual candidate falls within the meaning of Campaigning / Campaign Activity. Furthermore, the approximately four week temporal limitation of Campaigning / Campaign Activity would not violate the students' "right to vote in a fair Student Government election." **1 U.F.S. Ct. 86 (2011)**. Finally, this Court urges the Legislature to make updates to the 700 codes consistent with this decision and the spirit of fair elections.

The appellants claim is hereby DISMISSED. It is so ordered.



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BILLY VRANISH, APPELLANT VS. TJ VILLAMIL, IN HIS OFFICIAL CAPACITY AS STUDENT BODY PRESIDENT, APPELLEE

Heard and Decided: March 21, 2013

HACKER, J., delivered the opinion of the court, in which MASON A.C.J., and ANDRADE, DIMATTEO AND SULLIVAN, J.J., joined. HALPRIN, J. concurred in part and dissented in part. MICHEL C.J., took no part in the consideration of the case.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to "interpret any provision of the Constitution" *Student Body Const. Art. V Sec. 3(b)(1) and (2)*.

I. Facts and Procedural History

On January 27, 2013, the Student Body President, TJ Villamil, assembled the executive committee to, *inter alia*, remove the current External Affairs Director, Billy Vranish from his cabinet position under its authority granted in § 566.11 of the Student Body Statutes. The executive committee reached the required majority vote and Vranish was removed from his position. The meeting of the Executive Committee was properly noticed.

Vranish filed a petition with this Court to review his dismissal based on two grounds. Chief Justice Michel recused himself from the proceedings due to a prior relationship with Vranish. The court held a hearing on February 24, 2013. The Court, without all justices present could not reach a majority. Vranish petitioned the court for a rehearing *en banc* and this Court granted his petition.

Vranish first contended that he was not properly removed from his position because the Executive Committee did not report a finding of "malfeasance, misfeasance, or nonfeasance" as required by § 566.11.¹ Next Vranish contended that his removal was improper because the alleged reason for removal violated the

¹ In the time between the first hearing and the rehearing *en banc*, the Executive Committee reconvened and found malfeasance in Vranish's performance of his cabinet duties.



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anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

Villamil asserted several defenses to the removal of Vranish. First Villamil contends that § 566.11 is an unconstitutional limitation of his removal power granted in Art. IV § 5 of the Student Body Constitution. Additionally Villamil contends the removal was proper based on the subsequent finding of malfeasance. Finally Villamil argued that there is a lack of evidence for this Court to find the Executive Committee violated the anti-discrimination clause in the Student Body Constitution.

II. The President's and Executive Committee's Removal Power

We first address the issue of the presidents removal power. According to Art. IV § 5 of the Student Body Constitution, "Officers of the executive departments . . . shall be subject to removal by the Student Body President." Essentially, this provision gives the president unilateral authority to remove a cabinet director. At first glance, it may seem that § 566.11 is in conflict with Art IV § 5; however, upon closer inspection, the statute is operable within the confines of the constitution. While the legislative branch may not place limits or restrictions on the executive branch's authority, it may create procedures for the implementation of its own authority. In the case of § 566.11 the legislature has delegated additional removal authority to the Executive Committee. It is important to note that § 566.11 requires a simple majority of the executive committee, which can be reached without the vote of the Student Body President. We also caution that both removal procedures must comply with the anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

During oral arguments, this Court was also asked to modify the language granting the President's removal authority in Art. IV § 5 of the Student Body Constitution. While this Court is charged with the interpretation of the Student Body Constitution, we are not in a position to modify the rights and privileges of the Constitution itself. It would undermine the government as a whole for this Court to modify the very document from which it derives authority.

This Court also acknowledges Vranish's argument that it may not be in the best interest of the Student Body for the President to have unilateral removal authority for Executive Officer positions. We note that the Student Body does have



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remedies such as amending the Student Body Constitution or holding a recall election should they feel the President is improperly exercising his or her authority.

III. Vranish's Claim of Anti-Discrimination

Vranish also claimed that the Executive Committee violated the anti-discrimination clause in Art. I § 4 of the Student Body Constitution by removing Vranish for his political beliefs. The only evidence presented in regards to this claim was inadmissible hearsay. Due to a lack of evidence, the Court cannot evaluate this claim. We do note, however, that there is a fine line between removal for political beliefs or support and removal based on a disagreement over policy. While the former is in clear violation of the anti-discrimination policy, the latter is an example of a legitimate removal.

IV. Finding of Malfeasance, Misfeasance, or Nonfeasance

As a final argument, Vranish contends the Executive Committee did not meet its burden under § 556.11 of finding malfeasance, misfeasance, or nonfeasance as a grounds for removal. At the second Executive Committee meeting on March 20, 2013, the committee found malfeasance. This finding of fact by the Executive Committee can only be reviewed for clear error. This Court has a practice of not intervening into executive branch authority and does not find clear error in this instance.

V. CONCLUSION

We therefore hold the following:

1. the removal of Vranish by the Executive Committee was proper;
2. the Executive Committee did not violate the anti-discrimination clause in Art. I § 4 of the Student Body Constitution;
3. the finding of malfeasance by the Executive Committee was not clearly erroneous; and
4. under the current Student Body Constitution, the President has the unilateral authority to remove Executive Officers from their positions.

IT IS SO ORDERED.