

Opinion of the Court

**THE JUDICIAL BRANCH OF THE STUDENT
GOVERNMENT ASSOCIATION OF THE
UNIVERSITY OF TENNESSEE-KNOXVILLE**

Case No. 2017-1

MARIA AMALLA, SEAN FISHKIND, ELIZABETH HAMILTON, OMAR MITOUBSI, &
THOMAS TRAN, PLAINTIFF v. MCKINSEY PATTERSON & MORGAN HARTGROVE,
DEFENDANT

Argued 03 November 2016 – Decided 04 November 2016

I

This case arises out of the plaintiffs' [Undergraduate Student Senators Maria Amalla, Sean Fishkind, Elizabeth Hamilton, Thomas Tran and Omar Mitoubsi] grievance regarding the decision the defendants [President of Senate, McKinsey Patterson and Senate Chair, Morgan Hartgrove] made regarding not calling a Special Senate Session in the Undergraduate Student Senate. The plaintiffs requested a Special Senate Session on November 1st, 2016 be called following a series of events. These events were accurately laid out by the plaintiffs in their Judicial Hearing Request, and therefore in the interest of ensuring accuracy, we have chosen to use their description of the events:

“On October 20th, 2016, the UT Knoxville Daily Beacon newspaper published a Letter to the Editor, titled “They’re not all like that”. This Letter to the Editor included divisive language that inappropriately and intentionally targeted the Muslim community, both in this country as well as across our campus...this article was published under the name “Johnson Smith”, who is not a student at the University of Tennessee, Knoxville. This was further confirmed when the Editor of the Daily Beacon, Brad Musil, published his own response to the reactions to the Letter to the Editor, stating “we will be revising our Letter to the Editor policy...The new policy will impose certain restrictions upon the format of submissions and require additional information about the author.” This article can also be found on the hate-website “Barenaked Islam”, published October 19th, 2016 a website whose tagline is “it isn’t islamophobia when they really are trying to kill you.”

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The plaintiffs originally sought to submit a resolution to be presented at the November 1st, 2016 Undergraduate Student Senate stating that:

“Be it hereby resolved, the 2016 Student Government Association Undergraduate Senate views the Daily Beacon’s decision to publish a Letter to the Editor with fabricated statistics and unjustified claims, especially those that contribute to hate speech, as both irresponsible and unprofessional, and Be it hereby resolved, the 2016 Student Government Association Undergraduate Senate condemns the hate speech presented in “They’re not all like that.”

However, they missed the October 22nd 5:00pm legislation submission deadline for the Undergraduate Student Senate, therefore Senate Chair, Morgan Hartgrove was forced to reject the submission as outlined in the bylaws Article IV Section 7:

“All legislation to be presented to the Student Senate, whether originally written by the actual sponsor, or written by a third party or entity and only sponsored by a regular voting member of the Senate, must be submitted to the SGA office by five PM ten days preceding the Tuesday on which a Senate session will take place. The legislation must be distributed to the senate at least seven days preceding the Tuesday on which a Senate session will take place. Extensions will not be permitted with the exception of a special senate session as defined in Article IV.”

Because the plaintiffs were unable to submit the legislation on time and because their resolution would not be on the docket for another three weeks, they asked the defendants if a Special Senate Session could be called to address the incident that occurred with the Daily Beacon article. This request was submitted multiple times, by multiple senators, via email and text communications as found in the examples from submitted evidence below:

October 23, 2016 [Text Message from Sean Fishkind to McKinsey Patterson]

“I wanted to know if you would be willing to consider calling a special session immediately following our scheduled session so we could present our resolution...”

October 24, 2016 [Email From Thomas Tran to McKinsey Patterson]

“I was wondering if you could call for a special senate session immediately after our regular session, especially considering how our regular session would be short. I understand that although our bill was submitted late, it is important to consider how recent of an event that Beacon article was.”

October 26, 2016 [Email From Thomas Tran, Sean Fishkind, Omar Mitoubsi, Maria Amalla, and Elizabeth Hamilton to Morgan Hartgrove]

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“We thank you for taking the time to consider our request that a Special Senate Session be called in response to the October 20th Daily Beacon Letter to the Editor.”

October 27, 2016 [Email from Omar Mitoubsi to McKinsey Patterson and Morgan Hartgrove]

“It IS a pressing issue, and if you two feel opposed to the legislation, even though your stance shouldn’t be portrayed, then you should allow this to go through a special session and have the senate body decide.”

In response, the Defendants denied the request to call a Special Session and stated not wanting to condemn the Daily Beacon as their primary rationale for denying the request as portrayed in the evidentiary examples below:

October 23, 2016 [Text Message from McKinsey Patterson to Sean Fishkind]

“I don’t find it appropriate to condemn and use inflammatory language when there are many good people at the Beacon and there have been several opportunities for the paper as a body to understand how our campus feels about this issue. I hope you can use this as a way of understanding why a special session won’t be called”

October 25, 2016 [Email from McKinsey Patterson to the Plaintiffs]

“Condemnation and shaming a campus partner is not the role of legislation, and I hope you'll understand that this is my primary reason for not calling a special session to hurry up and do so.”

October 26, 2016 [Email from Morgan Hartgrove to Thomas Tran]

“I will not call a special session so we can condemn the Beacon, even if that means we can offer our written support.”

The Defendants instead offered to release a statement formulated by the Senate Executive Committee in support of the community of Muslim students who were deeply affected by the Daily Beacon article. The Plaintiffs did not view this as an acceptable alternative to calling a Special Senate Session, and have thus brought this case before the Court to argue the defendants acted outside of the Bylaws in their decision to not call a Special Session by misinterpreting portions of the Bylaws. The Plaintiffs requested the Judicial Branch Justices rule in favor of their interpretation, and request that the defendants recognize their error and declare a Special Senate Session to take place no later than November 10th, 2016.

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II

The Court finds the rationale given by the President of Senate and Senate Chair regarding not calling a Special Senate Session to be troublesome. The defendants list several reasons for not calling a Special Senate Session. The court believes the President of Senate and Senate Chair should not have listed the content of a piece of legislation as reasoning for not calling a Special Senate Session. The bylaws clearly state that legislation would be accepted 48 hours before a Special Senate Session. The defendants also argued that their reasoning behind not calling a Special Senate Session lied in the fact that they intended to issue a statement through the Senate Executive Committee and exercise the power listed in Article II Section 2 Subsection a of the Senate Bylaws,

“The Senate Executive Committee shall have the duty and responsibility to act for the Student Senate when there is not time for a regular or special senate session, as deemed necessary by President of the Student Body, and report such actions, which are subject to approval by the Senate, at the next scheduled Senate session.”

This issuance of a statement by the Senate Executive Committee through acting for Senate under this clause is still unclear as to its constitutionality, but is irrelevant to this case. Additionally, the Court believes this issue should have warranted a Special Senate Session because it clearly qualifies as a pressing campus issue [as described in Article VI Section 2 of the Senate bylaws] due to the hostile, targeting nature of the article. The article utilizes language that clearly attacks Muslims using inaccurate, hateful, and hurtful statements that have deeply affected the students on campus who identify with this community.

III

However, it is important to recognize, that the Judicial Branch of the Student Government Association does not possess the authority to call a Special Senate Session. Therefore, it would be inappropriate for the Court to do so despite our strong belief that a Special Senate Session should have been called.

Additionally, while we do not agree with the Defendants’ decision to not call a Special Senate Session in response to the publishing of “They’re Not All Like That” in the Daily Beacon on October 20th, 2016, we ultimately stand with the interpretation of Article VI Section 1 of the Senate bylaws, “A Special Senate Session shall be convened to address special topics or emergencies as deemed necessary by the President of the Senate or the Senate Chair,” as meaning up to the discretion of the President of Senate or the Senate Chair. We ultimately reject the interpretation presented by the plaintiffs that the “as deemed necessary” clause is subsidiary to the previous clauses. This authority to call a Special Senate Session is furthered in the duties

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of the President of Senate in Article II, Section 1 of the Senate Bylaws stating, “The President of the Senate shall have the duty and responsibility to have the authority to call special sessions of the Student Senate”, and more importantly in the Student Government Association Constitution in Article II Section 4 Subsection F, “the Vice President of the Student Body shall have the duty to call a special meeting of the Student Senate” which is supreme to the bylaws.

* * *

THEREFORE, the Court hereby rules that the defendants were not acting unconstitutionally nor against the Student Senate bylaws by deciding not to call a Special Senate Session. Additionally, the Judicial Branch does not possess the authority to request the defendants to declare a Special Senate Session.

It is so ordered.

HOWELL and THOMAS delivered the opinion of the Court, in which FRANCIS, GORE, MORGAN and WRIGHT joined.