IN THE STUDENT SUPREME COURT
IN AND FOR THE FLORIDA STATE UNIVERSITY

JOHN E. WALKER Case No. 2018-2

Petitioner

v.

SUPERVISOR OF ELECTIONS

Respondent

_____/

J. Moorhead writing for the Court.

ORDER OF DISMISSAL ON PETITION FOR WRIT OF MANDAMUS

Jurisdiction
Pursuant to Article IV, Section 3(C)(4), of the Student Body Constitution, this Court has jurisdiction to "issue writs of mandamus, prohibition, and quo warranto when a Student Body officer is named as a respondent, or such other writs necessary and proper to complete exercise of its jurisdiction."

Factual and Procedural Background
On February 2, 2018 a Florida State University Student, John E. Walker, petitioned this Court for a Writ of Mandamus to compel the Supervisor of Elections (SOE) to make public: party registration documents, candidate filing forms, submitted violations, campaign materials sent to SOE for approval, and campaign materials sent to SOE following their distribution. As a brief background to his petition, Petitioner made the following claims. On Tuesday, January 30, 2018, Petitioner emailed a request for these documents to SOE, and after forty-eight (48) hours without a response, sent a follow up email, copying the faculty advisor to the Student Government Association. A response was received shortly thereafter from SOE stating she was in the process of compiling the documents for production. Petitioner admits, "[o]f the documents that I requested on a rolling basis, the Supervisor could have only had in her custody Party Registration Documents and Submitted Violations, as filing and campaign material submission forms had not yet been released." *Pet.*, at Response 1 ¶ 4. Petitioner then instituted this petition for a Writ of Mandamus on the grounds that the three day period, which began before SOE's office hours (albeit by forty-five minutes), over which SOE failed to produce the requested documents constituted a violation of the "reasonable time" requirement found in Section 204.1(A), Student Body Statutes (2018).

Holding
We hereby dismiss the petition without prejudice, on the request of the Petitioner. Fla. R. Civ. P. 1.420(a)(1); Fed. R. Civ. P. 41(a)(1).

Reasoning

On February 6, 2018, Petitioner sent this Court an email stating "the [SOE] is cooperating with me at this time, I wish to withdraw my request for a Writ of Mandamus." Email from John E. Walker, to Peter Donnelly, Chief Justice, Student Supreme Court (Feb. 6, 2018, 13:09 EST) (on file with Court). The email also contained additional concerns, which the Court notified the Petitioner were unrelated to this Petition and would not be considered with it, since in the Court's opinion they constituted what could be considered as a separate claim. We do not address that potential separate claim at this time, nor include any facts regarding it here.

This email is clearly a voluntary withdrawal of the Petitioner's petition. However, the Court notes that a rule providing for voluntary dismissal of actions is found nowhere in the Constitution, Student Body Statutes, or Supreme Court Rules of Procedure. That cannot be, and that is the problem. "When the statute [or rule] is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent." *Daniels v. Fla. Dept. of Health*, 898 So.2d 61, 64 (Fla. 2005). However, here there is an actual lack of statue or rule. The closest thing to a rule governing the voluntary dismissal of actions is found in Rule 1, Supreme Court Rules of Procedure, "[these rules] shall be construed and administered to secure the just, speedy, and inexpensive determination of every action." Our rule almost directly models that found in the both the Florida Rules of Civil Procedure, and Federal Rules of Civil Procedure. *See* Fla. R. Civ. P. 1.010. *See also* Fed. R. Civ. P. 1. Moreover, this Court is not without the power to dismiss, that authority has been inherently given to us within our own rules. *Ney v. Supervisor of Elections*, Fla. St. Univ. Rep. 2018-1. The question then becomes, is the lack of a statute or rule allowing for voluntary dismissal an absurd result? *See generally United States Nat'l Bank of Oregon v. Independent Ins. Agents*, 508 U.S. 439, 462 (1993). We think it is, since without that power, this Court would be required to act against the interests of its complainants, and petitioners, when those parties are no longer willing participants in litigation.

When reading statutes, and here specifically our rules, this Court may read those which deal with similarly related subjects *in pari materia* in order to understand the purpose they seek to achieve, when the text of the statute itself is ambiguous, or in this case does not exist. *State v. Fuchs*, 769 So. 2d 1006, 09. In this case, Rules 1 and 3.2 are read together giving the Court the power to dismiss actions, not only for failure to prosecute, but those reasons necessary to secure a just determination. *See e.g. Ney, supra* (dismissal for failure to respond within time allowance proper under Rule 3.2, Supreme Court Rules of Procedure). Additionally, the ability to dismiss actions in this manner is consistent with both the Florida Rules of Civil Procedure and Federal Rules of Civil Procedure, 1.420 and 41, respectively. Without this ability, the Court would be forced to continue litigation even when the claimants, or petitioners, no longer seek to prosecute their matter before the Court. The Court then would be exercising a power which it has not been delegated in the Student Body Statutes or Constitution, and that exercise of power would be the absurd result, had the Court not dismissed the action as requested by its own claimant. Therefore, we see a need to read our rules *in pari materia* and allow the petition at bar to be dismissed without prejudice, as would a petition withdrawn in the same manner in other Florida court. *See generally* Fla. R. Civ. P. 1.420.

Conclusion

Reading Rules 1 and 3.2 of the Supreme Court Rules of Procedure together, the Court finds that the ability to dismiss actions at the request of claimants, or petitioners, is necessary to carry out its primary function found in Rule 1. In support of its determination, the Court notes both Florida and Federal rules allowing for similar dismissals. Fla R. Civ. P. 1.420(a)(1); Fed. R. Civ. P. 41(a)(1). The request for a Writ of Mandamus, having been withdrawn accordingly calls for the voluntary dismissal of the petition at bar.

The Petition for Writ of Mandamus is hereby DIMISSED WITHOUT PREJUDICE.

DONE AND ORDERED, this the 6th Day of February, 2018, Tallahassee, Florida.