

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

DANIEL BYNUM

Plaintiff,

v. Case No. 2020-CA-3

OFFICERS OF THE STUDENT
GOVERNMENT ASSOCIATION
LEGISLATIVE AND EXECUTIVE
BRANCHES

Defendants.

Ducey, C.J. delivered the opinion of the Court.

SYLLABUS

This case comes before this Court in an original jurisdiction complaint filed by Daniel Bynum (“Plaintiff”) on September 13, 2020, alleging a conflict between sections of the Student Body Statutes (“SBS”) and the Florida State University (“FSU”) Student Body Constitution regarding the appointment process of Student Government Association (“SGA”) positions which, as alleged, resulted in a violation of the Candidate Screening Process, as defined in SBS §304.3(C), when Plaintiff did not

receive an interview for an SGA position that he had properly filed an application for before the position was impermissibly filled by the Student Senate President according to the process outlined in SBS §400.2(C)-(E).

ISSUES

The issues presented in this case require this Court to determine whether Section 400.2(C)-(E) of the Student Body Statutes, regarding the appointment process for SGA Student Senate positions, is in conflict with other provisions of the Student Body Statutes, as well as the FSU Constitution and, if so, to determine the Constitutionally permissible process for filling such positions.

HOLDING

We unanimously hold that the process outlined in Chapter 304 of the Student Body Statutes is the Constitutionally permissible process for the appointment of the SGA positions defined therein and find that SBS §400.2(C)-(E) is unconstitutional, as appointment powers for positions

requiring Senate confirmation are granted solely to the Student Body President by the FSU Constitution. Furthermore, we order all positions that were filled through a statutorily impermissible process to be vacated, and the seats be filled according to the Constitutionally valid process outlined in SBS Chapter 304, so that Plaintiff may be properly considered.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The pertinent facts of the case are as follows. There is no dispute to the facts stated herein as they relate to the publicly available video recordings of SGA activities¹. On July 23, 2020, Plaintiff submitted a timely application for the position of Senate Parliamentarian. On July 23, 2020 Plaintiff received an email confirming the receipt of his application by SGA. On September 2, 2020, at a regularly scheduled Senate meeting, the Student Senate President made comments stating his intent to nominate a different candidate, not the Plaintiff, for

the position of Senate Parliamentarian. On September 9, 2020, the candidate was confirmed to the position of Senate Parliamentarian. Between July 23, 2020 and September 9, 2020, Plaintiff was never contacted regarding his application nor interviewed by the Student Senate President, Chief of Staff, or any other member of the Student Government Association.

On September 13, 2020, Plaintiff filed this complaint with the Supreme Court of Florida State University, alleging a violation of Student Body Statutes by SGA Officers in their failure to interview Plaintiff for the position of Senate Parliamentarian. Plaintiff contends that the provisions of the Student Body Statutes regarding appointments are in conflict with each other as well as with the FSU Constitution. Plaintiff requests that this Court strike SBS §400.2(C)-(E) as unconstitutional and seeks relief in the form of an order vacating the position of Senate Parliamentarian and ordering a new interview process to be conducted by the Chief of Staff in which Plaintiff can be

¹ A transcript and recording of all Senate Meetings mentioned in this opinion can be found in the 72nd Senate Minutes for the relevant dates,

available at SGA website:
<https://sga.fsu.edu/senate-documents.shtml>.

properly considered in accordance with the FSU Constitution.

This Court has jurisdiction over this complaint pursuant to Article IV, Section 3 of the FSU Constitution, as this case involves questions of the constitutionality of actions by student governing groups, organizations, and their representatives, as well violations of both the Study Body Constitution and Student Body Statutes. FSU Const. art. 4, §3, cl. 1-2.

OPINION

This case centers around provisions of the Student Body Statutes which Plaintiff alleges are in conflict with other SBS provisions, as well as the FSU Constitution. We agree that there indeed is a conflict that requires resolution.

The purpose of SBS Chapter 304, titled “Presidential Appointment and Dismissal Powers,” is “[t]o clarify and define the Student Body President’s constitutional powers of appointment.” SBS §304.1(B). Section 304.2 describes the candidate search, prohibiting any position requiring Senate confirmation from being filled until the position has been properly advertised, and further,

that all candidate searches are to be conducted by the Chief of Staff. SBS §304.2(A)-(B). This case however, centers around SBS §304.3, which provides, in relevant part:

Candidate Screening Process

A. Upon the receipt of applications for a vacant position in Student Government Association, a screening process shall be overseen by the Student Body President to determine the most qualified candidate.

C. The Candidate Screening Process, conducted by the Chief of Staff shall include the following:

1. The Chief of Staff shall interview all candidates.
 2. All candidates shall provide the appropriate application ...
 3. The interview shall be conducted in a standardized and professional form for all candidates.
 4. The interview shall consist of a basic questionnaire ...
 5. After all candidates have been interviewed, the Student Body President shall forward the candidate deemed most qualified to the Student Senate for confirmation ...
- E. It is the responsibility of the Student Body President and the Chief of Staff to ensure that this process is carried out in a fair and constitutional manner. SBS §304.3.

The Section of the statutes which is purported to conflict with SBS §304 is

contained in Section 400.2, which provides, in relevant part:

Senate Officers

C. There shall be a Parliamentarian, who shall be appointed by the Student Senate President, subject to confirmation by the Student Senate, from outside the membership of the Senate and who shall serve at Student Senate President's discretion.

D. There shall be a Senate Clerk, who shall be appointed by the Student Senate President, subject by the confirmation of the Student Senate who shall serve at the Student Senate President's discretion.

E. There shall be a Senate Press Secretary, who shall be appointed by the Student Senate President, subject to confirmation by the Student Senate, from outside the members of the Senate and who shall serve at the Student Senate President's discretion. SBS §400.2(C)-(E).

It is clear to this Court that there is a conflict between the measure prescribed in the above sections. Plaintiff contends that, because statutes are in conflict, the FSU Student Body Constitution should be consulted to resolve such conflict. We agree and look to the FSU Constitution, as well as other provisions of the Student Body Statutes for guidance.

Article II of the FSU Constitution defines the composition, powers, and duties of the SGA Legislature. The FSU Constitution grants sole power to the Senate to select Officers to fill positions in only two circumstances: "From this body the Senate shall select a Senate President and President Pro Tempore in the Fall Semester." FSU Const. art. II, §2(B). And Section 5 states that the "Senate shall... [c]onfirm appointments of the Student Body President by a two-thirds (2/3) vote for appointments to fill vacated offices, and by a majority vote for other appointments." FSU Const. art. II, §5(A)(4).

Article V of the FSU Constitution defines the elections and qualifications for SGA Officers. Section 7 provides that *all* vacancies in Student Body offices, "shall be filled by appointment by the Student Body President, with confirmation by a two-thirds (2/3) vote of the Senate. FSU Const. art. V, §7(B).

Finally, SBS Chapter 201 provides further guidance on the Student Body President's appointment powers in §201.3, which provides that, "[i]n all cases where an individual applies, or is forwarded for a

Student Government position, the Student Body President shall act in accordance with Chapter 304.3 of the Student Body Statutes.” SBS §201.3.

Here, this Court is yet again tasked with the duty of instructing the Student Senate to remain within the bounds of its Constitutionally afforded powers. “It is emphatically the province and duty of the Judiciary to say what the law is,” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 164 (1803). As this Court has stated previously, the Constitution, as the supreme law, is without qualification and is absolute, and the powers actually granted constitute paramount authority of the land. *Shelby County, Ala. v. Holder*, 570 U.S. 529. Out of respect for the democratic process and in recognition of the coequal status of each branch, certain checks and balances are put in place to ensure that no branch assumes too much power over the people subject to its authority. The separation of powers does not depend on the views of individual government officials, nor on whether the encroached-upon branch approves of the encroachment. *Free Enterprise Fund v. Public Co.*, 561 U.S. 477 (2010). And, “the

fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution.” *Bowsher v. Synar*, 478 U.S. 714, 736 (1986). (internal quotations omitted).

Plaintiff argues that, because the only appointment powers granted in the FSU Constitution are granted to the Student Body President, and not the Senate President, the appointment powers granted to the Senate President in SBS §400.2(C)-(E) are unconstitutional and should be stricken. This Court has addressed an issue similar to the one presented here in the case of *Ravelo v. Wilson*, where the Supreme Court answered the question: “If you do not follow the rules that govern a process, is the result of the process valid?” by stating that, “[i]t is clearly not.” *Ravelo v. Wilson*, FSU S.Ct. 2014-CA.

In *Ravelo*, the Petitioner, much like Plaintiff here, applied for an SGA position and was subsequently denied without receiving the interview required by §304 of the Student Body Statutes. *Id.* Since an interview was required by statute, and

that interview did not occur, the Supreme Court found that it would have been impossible for the Student Body President to forward the applicant deemed most qualified for confirmation, as required by §304.3(C). *Id.* Therefore, the Court held that, “the process by which the two senate seats were filled was statutorily impermissible.” *Id.*

It is clear to this Court from the plain language and meaning of the provisions of the FSU Constitution, that the power to appoint officers to positions within SGA vests solely within the Executive Branch, through the Student Body President and his Chief of Staff. Prior cases under this Court’s jurisdiction further support our holding that the statutorily mandated screening process defined in SBS §304 must be followed in order for any SGA appointment to be valid. “The statute defines the power– the power does not exist in a refined form unless the statute is followed.” *Ravelo*, FSU S.Ct. 2014-CA. Therefore, the Senate positions that were filled through a deficient manner and the seats should be refilled according to the method prescribed by SBS §304 and Articles II and V of the FSU Constitution.

CONCLUSION

Plaintiff names as Defendants, the relevant SGA Officers who were, or should have been, involved in the selection of the position of Senate Parliamentarian. These individuals include: the Student Body President, Jonathan Levin, and the Chief of Staff, Thomas Roca, whom Plaintiff contends had the authority to interview and appoint the Parliamentarian position; and the former Senate President, Ahmad Daraldik, who ultimately filled the position with another candidate during the September 9, 2020 Senate meeting. As we have concluded that the issues underlying this case resulted from a conflict in the Student Body Statutes, we hold that there was no violation for which this Court deems it necessary to impose a penalty on any of the named Defendants.

Instead, this order is directed to the Student Senate, to revise or eliminate SBS §400.2(C)-(E), as it unconstitutionally conflicts with other provisions of the Student Body Statutes, as well as the FSU Constitution; and to the Executive Branch Officers charged with conducting the Candidate Selection Process defined in

SBS §304, to conduct a new interview process according to those procedures, in which Plaintiff may be considered for the position.

We hereby strike SBS §400.2(C)-(E) as unconstitutional and hold that the FSU Constitution grants the power to appoint positions requiring Senate confirmation solely to the Student Body President. We affirm that the process outlined in SBS §304 is the Constitutionally permissible method of filling the SGA positions described therein.

Insofar as the Senate Parliamentarian position remains filled through a statutorily impermissible process, this order hereby requires the relevant SGA body, in this case, the Student Senate, to vacate the position so as to allow the Executive Branch to fill the seat in the proper manner outlined in SBS §304. As for the remaining seats defined in §400.2(D) and (E), the Senate Clerk and Senate Press Secretary, we are unsure whether these seats are currently filled. Insofar as students currently hold the position of Senate Clerk or Press Secretary, we do not find it necessary to require that these positions be vacated.

However, if these seats are currently, or at any time in the future, vacant, the Student Senate and the relevant Executive Branch Officers are required to conduct the candidate selection for the position according to the Constitutionally permissible process outlined in SBS §304 and supported by the FSU Constitution.

It is so ordered.