

MOOREHEAD

v.

RIDDAUGH

Published: October 12, 2015

J. DUBOSAR writing for the majority.

Opinion

On April 14th 2015, Defendant Andrew Riddaugh submitted an application for the position of Director of the Office of Governmental Affairs (OGA) within the Student Government Association (SGA). While no signature was included on the paper application, its acceptance by the SGA secretary, Mattie Durham, is indicated as per her signature affixed with a correct date. Her signature thereby certified that Defendant's application fee was paid and Defendant's G.P.A. was confirmed as acceptable.

The Student Body President, Jean Tabares, then interviewed defendant on April 16th, 2015. Mr. Tabares's interview notes were submitted for review by the court. Mr. Tabares determined that Defendant was the candidate he wanted to fulfill the position of OGA director and forwarded Defendant for confirmation by the Internal Affairs Committee of the Student Senate. Following that confirmation, Defendant was brought before the Student Senate for confirmation.

At his final Senate confirmation hearing, Defendant explained that his work at Lewis, Longman and Walker, P.A. included "lobbying experience," and other variations of that basic assertion. At the time that Defendant submitted his application and subsequently made these assertions, Defendant held the position of Senior Class Vice President within the SGA.

After what sounded like a lengthy, arduous and effective confirmation hearing by the Student Senate, Defendant was failed as the candidate for OGA director.

On his application, Defendant included a resume which stated that Defendant was a member of the Board of Directors for OGA in the 2015 year. Under this position heading, Defendant's submitted resume listed that Defendant "Provide[d] FSU students with representation and advocacy within the University community and at all levels of government. Special emphasis is placed on monitoring the Florida legislative process, from which the University receives a majority of its funding." Immediately following this work experience, Defendant's resume stated that Defendant was a "Legislative Aide" for Lewis, Longman and Walker, P.A. for the 2015 year. Under that position heading, Defendant's submitted resume listed that Defendant "Work[ed] as a legislative aide for a legislative lobbying and governmental affairs law firm. Duties include bill research on bill amendments and establishing how amendments will affect clients."

Jurisdiction

The Supreme Court has jurisdiction to hear this case. The Supreme Court will have jurisdiction "over violations of the Student Body Constitution and Statutes." S.G.A. Const. art. IV, § 3(C)(2). This case directly involves the Student Body Statutes, specifically Student Body Statutes, § 205.3(E) Fraud in Student Government.

Issues

To decide this case, the Supreme Court was presented with the following issues. First, the Court must determine whether at any point throughout his application and confirmation process, Defendant was acting in his official capacity as Senior Class Vice President. Second,

whether Defendant was an officer or employee who provided false information, thus violating the Fraud in Student Government Statute.

Holding

The Court holds that Defendant was not acting in his official capacity at any point during the application and confirmation process. The court also holds that Defendant was an officer who provided false or misleading documentation, and thus violated Student Body Statutes, § 205.3(E)(2), and further, committed Fraud in Student Government. The Court places a one-year moratorium on Defendant Andrew Riddaugh from applying or holding the position of Director of the Office of Governmental Affairs, effective immediately.

Reasoning

PART 1

There were two issues that the Court evaluated to determine whether Defendant committed fraud in Student Government. First, whether Defendant violated, Student Body Statutes, § 205.3(E)(2) and “withhold (sic) information or documentation when mandated or provide false or misleading information or documentation.” In order to determine this, the Court sought to determine whether the word “provide” required some form of intent element.

This issue arose when Defendant turned in his application for Director of Governmental Affairs and stated on his resume that he was a member of the OGA Board of Directors for 2015. Defendant stipulated that he was in fact not a member of that board. Defendant could not offer an explanation of how that got on his resume. Throughout the trial, Defendant attempted to convey to the court that he did not know it was on his resume and that there was a possibility someone had added it on to his

resume. If that were the case, first, it is incredibly irresponsible of Mr. Riddaugh to pass his application around like a fumbled University of Florida football and then not check it prior to submitting it. Second, and more importantly, the definition of “provide” becomes important.

If “provide” were to have an intent requirement, then it would require a preponderance of evidence showing that Defendant intended to give this fraudulent resume. However, the court determined that there was no intent requirement associated with “provide,” thus making this statute a strict liability statute. Looking at the set of statutes, § 205.3(E)(1) includes the word “willfully,” and intentional and actionable word that has some intent element associated with it. However, § 205.3(E)(2) does not. Additionally, the Court placed importance on the accepted definition of “provide.” The definition that the court accepted, from the dictionary, is to make something available for use. The majority did not see an intent requirement in any of those words. Often courts will look to the dictionary for the most precise definition of a word. The United States Supreme Court has often adopted this Textualist approach, where the court will turn to the plain meaning of a word rather than proffer an interpretation. This is of course to prevent judicial activism. The Court gave great weight to the combination of those two arguments and determined that there was no intent requirement and § 205.3(E)(2), making it a strict liability provision.

Following that determination, the court then broke down the statute to evaluate whether Defendant violated it. The statute states, “No officer or employee will withhold information or documentation when mandated or provide false or misleading information or documentation.” S.B.S. § 205.3(E)(2). At the time, Defendant was an officer of SGA and did

turn in an application with a falsified and fabricated resume. The second that Defendant turned in this application, Defendant violated the statute at hand and thus committed fraud in student government.

PART 2

Second, whether Defendant violated, Student Body Statutes, § 205.3(E)(1) and “willfully misrepresent[ed] themselves (sic) while acting in an official capacity.” In order to determine this, the Court first sought to determine whether Defendant was acting in his official capacity as Senior Class Vice President, an officer of Student Government, while testifying before the Senate regarding his application for Director of Governmental Affairs.

Lines are often blurred for the student leader regarding his or her official capacity. Student leaders transition numerous times throughout their short college career. As with any appointed position under the Executive, students will often have a confirmation hearing or interview in front of the Senate. The court looked at whether a student officer is acting in his or her official capacity while being interviewed for another position. The court unanimously determined that a student interviewing for another position is not in his or her official capacity of another position during that interview, and thus, Defendant was not acting in his official capacity. This debate among the Court was somewhat based on fundamental fairness and a standard of objective reasonableness. Its just simply not fair to hold Defendant in his official capacity of Senior Class Vice President whilst interviewing for Director of the Office of Governmental Affairs.

After making this unanimous determination, whether Defendant lied about being a lobbyist or anything else became a moot point.

Holding

The Supreme Court finds that Defendant, Andrew Riddaugh, did commit 1 count of Fraud in Student Government and places a one-year moratorium on Defendant Andrew Riddaugh from applying or holding the position of Director of the Office of Governmental Affairs, effective immediately.

J. Thompson Dissenting in Part; Joined by the Chief Justice

I write this opinion dissenting in part with the majority over the issue of whether Mr. Riddaugh violated 205.3(E)(2) of the Student Body Statutes when he submitted his application for Director of the Office of Governmental Affairs. This application was submitted without a signature and contained a false position on Mr. Riddaugh’s resume. The statute states that “No officer or employee will withhold information or documentation when mandated or provide false or misleading information or documentation.” The court unanimously agreed that Mr. Riddaugh would fall under an officer or employee.

The majority looked to section 205.3(E)(1) which contains the specific intent that the officer or employee “willfully misrepresent” themselves. Absent this specific intent listed in 205.3(E)(2), the majority concluded that this subsection was a strict liability offense thereby not requiring an intent. I disagree in part. If the legislature intended to make this offense with no intent requirement whatsoever the statute could have read “or submit any documentation which contains false or misleading information.” Instead the statute uses the term provide. I do not mean to suggest that the intent should be construed as willful as is the case in the above provision. Instead I believe that to be in violation of this statute, Mr. Riddaugh would have to have had knowledge that the position was on his

resume. If someone else placed the position on Mr. Riddaugh's resume without his knowledge then he would not be the one to provide the false or misleading information. This is a question of fact which was in dispute in the case. Mr. Riddaugh claims that he did not write the position on his resume and that he had no knowledge of its existence. Mr. Riddaugh further asserted that fifteen or more people helped him with his application.

This concern of discerning who provided the information is strengthened by the fact that the application was submitted without a signature. The President himself testified that the application should not have gone through without a signature and that the signature serves the purpose of authenticating that everything contained in the packet is attributable to the signer. I do not believe that the lack of a signature frees the defendant from liability under any scenario. However due to this lack of a signature it may be necessary to look into the actions of Mr. Riddaugh to determine whether he was indeed the one to place the false position on his resume.

During this application process, Mr. Riddaugh had to go through an interview with the president then two more interviews in front of the senate for over an hour and a half. In these interviews he never brought up the false position orally and once it was discovered he apologized for the discrepancy and took it off of his resume immediately. He never tried to say that he held this position and knew that the people that he would have to interview with would have full knowledge of whether he held the position or not. These circumstances would suggest that Mr. Riddaugh may be sincere in the fact that he did not have the knowledge that the position was on his resume.

There was no conclusive evidence at the hearing to show that Mr. Riddaugh was the one to place this position on his resume.

We have his word versus the mere existence of the false position on a resume with no signature. Additionally Mr. Riddaugh's actions do not show an attempt to mislead others by claiming this position as his own. For these reasons I respectfully dissent with the majority opinion that Mr. Riddaugh violated section 205.3(E)(2) merely by the existence of the false position within the unsigned application.