

JUDICIARY of the DUKE STUDENT GOVERNMENT
Kojo Abudu v. Student Organization Finance Committee

Docket No. 17-002

Case No. 20

Filed on
August 31, 2017

Heard on
September 13, 2017

Decided on
September 13, 2017

Overview

On August 31st, 2017, Kojo Abudu filed a Petition with the Judiciary contesting the SOFC's denial of funding for FORM Magazine for the academic year 2017-2018. FORM Magazine did not meet SOFC's deadline for submitting their annual budget so SOFC did not fund them for the year. SOFC also denied FORM Magazine the opportunity to restore themselves to good standing as permitted by SOFC by-laws. The Petitioner argued that SOFC illegally sanctioned FORM Magazine and violated Title X §7, Title X §8, and Title X §9 of SOFC's by-laws.

Parties

Parties of the Petitioner

Kojo Abudu, Petitioner

Jacob Chasan, Advocate

Parties of the Respondent

Luke Farrell, Respondent, Chair of SOFC

Held

SOFC breached their own by-laws in sanctioning FORM Magazine. They must hold a budget hearing for FORM Magazine as their procedure states.

Chief Justice Devavrat V. Dabke delivered the opinion for a unanimous Judiciary.

OPINION of the COURT

Delivered by
Chief Justice Devavrat V. Dabke

Joined by
Associate Chief Justice J. Ross Winston
Associate Justice Michael Brunetti
Associate Justice Barak Biblin
Associate Justice Hunter McGhee

Note: Associate Justice Analese Bridge was recused and
Associate Justice Dean Ischiropoulos abstained.

Facts

Residing-Chair of the SOFC, Alexa Soren, requested that online forms pertaining to the annual budget be filed. After a deadline determined by Ms. Soren passed, the online forms became inaccessible. For the 2017-2018 academic year, FORM Magazine failed to file their annual budget by this deadline. As a result, FORM lost their status as a chartered organization and received no funding for the previously stated academic year.

Editor-in-chief of FORM Magazine, Gabrielle Weiss, contacted Ms. Soren to resolve the matter by requesting to access the budgetary forms. Ms. Soren denied this request.

Luke Farrell, Current-Chair of the SOFC, testified that SOFC denied FORM Magazine's budgetary submissions as a result of missing the specified deadline. Max Bernell, a member of both SOFC and FORM in the 2016-2017 academic year, stated that FORM was aware of the deadline.

FORM Magazine argued that according to SOFC by-laws, the power of auditing is reserved to the Vice Chair of Auditing and that Ms. Soren acted in violation of these by-laws through her unilateral action. In addition, FORM argued that the deadline set by Ms. Soren was unjust and that the inaccessibility of the online forms after said deadline denied FORM an ability to return to good standing. In summation, FORM asserted that SOFC acted unjustly and in excess.

Questions Raised

The principal question raised is: Did SOFC violate their own by-laws by not following codified procedures in the sanctioning process on FORM Magazine? Two specific questions about by-law violations can be explored:

1. Did SOFC violate their auditing and filing procedures as stated by Title X §8 and Title X §3 and does SOFC's denial of a budgetary submission qualify as a sanction?
2. Did Ms. Soren act on behalf of SOFC without group approval and were her actions part of her delegated powers according to Title II §2?

DECISION

SOFC Auditing and Filing procedure

According to SOFC Title X §7, annual filings for chartered or recognized groups are required by reasonable deadlines and other predetermined stipulations. As a result, SOFC set a deadline and a stipulation that the budgetary forms be filled out using the online tool Qualtrics. FORM Magazine and SOFC both acknowledge that FORM was made aware of the set deadline and thus, SOFC had basis to apply its financial suspension procedure according to Title X §3 and Title X §8 within its own by-laws. This section states that financial suspension is a measure used to place an organization on notice in order to enforce compliance. In essence, it is a temporary measure that should be used to an end and should be lifted as soon as the issue in question has been resolved.

However, SOFC stripped FORM Magazine of their status as a chartered group and denied them a budget by not allowing a submission of the budgetary forms. This denial of a budget consequently led to FORM losing the privilege to appeal the SOFC decision and infringed upon FORM's ability to return itself to good standing and its due process rights.

In Title X §9, the SOFC by-laws maintain that a group/organization has the right to return itself to good standing in cases such as overdue budgetary forms through immediate action and resolution of the overdue forms. When SOFC denied the submission of the forms entirely, rather than denying funds and issuing budget, they effectively denied FORM the ability to perform actions necessary to re-obtain good standing. As a result, SOFC violated their own by-laws and sanctioning procedure in regards to punishment and restoration processes.

Due process is defined as a safeguard against the denial of life, liberty, and property without the proper channels of justice being adhered to. In this context, due process was the ability of FORM to protect and defend their actions through an appeal process involving the submission of oral and written defense briefs. While this point was moot in the Judiciary's decision, due process is a constitutionally protected right afforded to organizations and individuals involved on campus as stated by the fifth and fourteenth amendments in the U.S. Constitution.

SOFC Denial of Budget as a Sanction

Luke Farrell, Chair of the SOFC, testified at the hearing of this case that FORM Magazine did not receive funding solely because of the missed deadline. Had they followed the deadline, they would have received some level of funding, hence classifying the action taken by SOFC as a sanction. It is important to note that no other form of sanctioning, as defined by Title XI of the SOFC by-laws, was applied.

SOFC acted in neglect of its by-laws by sanctioning FORM Magazine through denial of budgetary form submissions. This action violates the previously mentioned **Title X §3** and **Title X §8**, which outline the qualifications and forms of sanction which are acceptable in the case of a missed deadline. In this case, temporary financial suspension with an ability to return to good standing after the violate has been resolved would be a proper form of punishment. In reality, SOFC utilized the denial of the ability to submit budgetary forms as a sanction and as a result, FORM Magazine was denied a variety of appeal rights and restoration privileges. The Judiciary ruled that this action was not a proper form of sanction and that SOFC should follow **Title X §3** and **Title X §8** when applying financial suspension due to missed deadlines.

Actions of Ms. Soren

Alexa Soren, Residing-Chair of the SOFC at the time of the FORM sanction, acted without properly notifying the other members of SOFC. This unilateral action may or may not have been in violation of SOFC by-laws and in addition to the question of the viability of the unilateral action, Ms. Soren may have acted out of the explicitly delegated powers granted her to by Title II §2. The Judiciary issued a ruling that made both of these questions moot yet they are important in terms of the context of the case.

Conclusion

Though SOFC has the authority to require annual filings, they are required to place organizations late to funding on Financial Suspension and provide them a path to restoration of good standing, which was not the case with FORM Magazine. As SOFC violated Title X §9 of their by-laws, the Judiciary mandates that SOFC accepts FORM Magazine's budget proposal and hold a fair hearing for their annual budget, which would have occurred had they submitted the necessary forms on time. This hearing must take place no more than 168 hours after the submission of the annual auditing and budgeting documents by the Editor-in-Chief of FORM. After the conclusion of the hearing, SOFC should procure allocated funds from any of their legally authorized sources of money or by request of the Senate of the Duke Student Government.

While important, the Judiciary declines to answer the question whether Ms. Soren acted unilaterally or the Constitutional question. We decline to reach these questions since the Judiciary had already arrived at a decision through the earlier questions.

As noted earlier, FORM Magazine should have been placed on Financial Suspension as per Title X §8 and Title X §3 of the SOFC by-laws, and failure to do so is in clear violation of their own policies.

We strongly urge SOFC to follow Title X §3, Title X §7, Title X §8, and Title X §9 for all issues pertaining to filings and filing rules.