

JUDICIARY of the DUKE STUDENT GOVERNMENT

Hyde House v. Duke Student Government Senate



Office of the Justices

Docket No. 00024

Case No. 24

Filed on

October 28, 2018

Heard on

November 1, 2018

Decided on

November 8, 2018

Overview

On October 28, Hyde House President Lindsey Lovitt filed a petition with the Judiciary alleging that the DSG Senate failed to adhere to its own procedures during the DSG Senate hearing on September 26, 2018, for the DSG to officially recognize Hyde House, a “selective social group”; 23 senators had voted in opposition to the recognition of Hyde House, and 19 senators had voted in affirmation. The petitioner challenged the proceedings of the hearing on the basis that there was no explicit set of standards put forth by the DSG in making a determination of whether an organization fits the standards of officially recognized groups as per Title III, Section 2 of the SOFC By-Laws, constituting the decision of the Senate not to recognize Hyde House arbitrary and in violation of Article IX, Section 7 of the DSG Constitution. Lovitt requested a “fair hearing” from the DSG Senate with an explicit set of standards pursuant to Title III, Section 2 of the SOFC By-Laws.

Parties

Parties of the Petitioner

Lindsey Lovitt, *Petitioner*

Tyjair Sadler, *Advocate*

Parties of the Respondent

DSG Senate, Respondent, Avery Boltwood, *Senate President Pro Tempore*

Held

The DSG Senate did not violate Article IX, Section 7 of the DSG Constitution in its hearing on the recognition of Hyde House, and is not obligated to create explicit standards relevant to Title III, Section 2 of the SOFC By-laws,

nor is obligated to provide another recognition hearing to Hyde House or provide further explanation as to why Hyde House did not receive funding.

OPINION of the COURT

Associate Justice Achilles J. Dabrowski delivered the opinion of the
Judiciary.

Joined by

Chief Justice Analese M. Bridges
Associate Justice Michael R. Brunetti
Associate Justice Alex C. Murphy
Associate Justice Anjali Kunapaneni

Note: Associate Chief Justice Ross J. Winston and Associate Justice William
C. Brodner recused themselves.

Facts of the Case

In September of 2018, SOFC voted 4-3 to approve Hyde House for chartering, with SOFC chairman Ben Hubsch voting affirmatively to break the 3-3 tie. On September 6, the DSG Senate debated legislation that would charter Hyde House in the interest of determining whether Hyde House met the qualifications of an officially recognized group as per Title III, Section 2 of the SOFC By-Laws. The legislation was tabled until September 19 so that at-large Senators seated after September 6th could participate in the proceedings. On September 26, the Senate again debated legislation that would charter Hyde House and heard testimony from Hyde House president Lindsey Lovitt as well as Hyde House Vice President Peter Candelora and Hyde House Social Chair Heeya Sen on the merits of the group entitled a “selective social group” by its leadership. In a vote of 19-23, the Senate declined to officially recognize and fund Hyde House.

Questions Raised

1. Did the DSG Senate violate Article IX, Section 7 of the DSG Constitution in declining to recognize Hyde House without an explicit set of standards that elaborate on the qualifications for groups funded by DSG outlined in Title III, Section II of the SOFC By-Laws?

Decision

1. Application of the Powers of the Judiciary.

The DSG Judiciary is authorized to rule in this case pursuant to Article V, Section 5, Clause A: “The Judiciary shall decide cases in which the DSG or an officer of the DSG in an official capacity is a party...” because the DSG Senate was the respondent in this case.

2. On the Proposal of Additional Standards to the SOFC Qualifications.

The petitioner’s contention that the set of explicit standards elaborating on the qualifications set forth by Title III, Section 2 of the SOFC By-Laws for the purpose of reducing the Senate’s DSG discretionary power and prevent violations of the “due process clause” - Article IX, Section 7 of the DSG Bill of Rights - is cemented in the false premise that crafting standards, rules, and other such regulations requires no human judgement. To craft such stipulations would require the DSG Senate to use its *own* discretion to at least some extent by virtue of the fact that these standards would be based on the Senate’s collective *opinion* of what does and does not “add or subtract to the quality of life in the Duke and Durham Communities, has resources available to support its existence, and has significant interest from the student body.”

3. On the Discretionary Power of the Senate.

In the petitioner’s oral contention that the Senate may not have any discretionary powers, it is hardly surprising that the petitioners omitted the portion of Article IV, Section 1 of the DSG Constitution that states that “[t]he Senate’s legislative purview includes, but is not limited to: states of student opinion...” This portion of the text granting the Senate the ability to present its own opinion, which is borne out of its own discretion, belies the petitioner’s argument that the Senate utilize even a veneer of discretion in policy making. To not allow the Senate to not use its own discretion is to not allow a writer to use a writing utensil to write his own works.

4. On Choices Made in the Senate.

The petitioner compared itself to funded selective living groups (SLGs) in attempt to demonstrate that it met the qualifications to receive funding listed in Title III, Section II of the SOFC By-Laws. Ironically, Hyde House used its *own* discretion to come to the conclusion that it fulfilled these qualifications based on a comparison of itself to funded groups. In addition, the petitioner argued that the discussion of a rumor containing derogatory information and perhaps misinformation about Hyde House meant that the decisions of the at least some DSG Senators to vote against funding for Hyde House were arbitrary. This statement cannot be proven because it is impossible to comprehend every factor in each Senator's decision to vote in a certain way and pinpoint which factor was more influential than others for every Senator's decision.

Conclusion

The DSG Senate did not violate Article IX, Section 7 of the DSG Constitution in declining to recognize Hyde House without an explicit set of standards that elaborate on the qualifications for groups funded by DSG outlined in Title III, Section II of the SOFC By-Laws. The request by the petitioner to be afforded a second recognition hearing before the DSG Senate is respectfully denied.

It is so ordered.