

Assoc Students of Madison Student Judiciary
McCabe v. Blair et al.

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Heard 11/21/02

Published 12/02/02

Before Becklin, Janis, Kraschewski
Unanimous Opinion delivered PER CURIAM.

PER CURIAM. On Oct. 3, 2002 a meeting of the SC was scheduled. A lack of quorum, however, prevented any official business from transpiring. Mr. McCabe believed that this mass un-attendance was the product of a conspiracy to prevent the approval of new Student Justices because a SC member who was present, Rep. Dogs, reported that he had been approached and asked not to attend. Mr. McCabe investigated absent SC members and questioned the approved excuses of Reps. Blair, Clark, Helmrick, Horn, Lankford, Nichols, and Weiss, all of which were also subpoenaed to testify in this matter at the trial. Secretary Evans represented the defense, saying that each had presented an excuse which was approved by the Secretary and later by the SC. Discussion ASM Bylaws Part 1, Art. IV, Sec. 2 (b) offers a list of seven valid reasons to be excused from a SC meeting. These reasons include class commitments, un-resolvable work conflicts, previous commitments to other organizations, religious observances, and more. Each of the defendants had presented such a reason to Sec. Evans. Art Blair testified that he attended the kick-off meeting for Collegians for a Constructive Tomorrow meeting at the time of the SC meeting and requested his excuse in a timely matter. This was upheld by Mr. N. Pongratz, one of CFACT's leaders, who testified that Blair, Clark, Helmrick, Nichols, and Weiss were all at said meeting. Tom Clark had both a chemistry exam and another organizational meeting at the time of SC. He was able to move the organic chemistry exam to an earlier time so that he could also attend CFACT's meeting. Jaqueline Helmrick listed her reasons for not attending as a prior organizational meeting, a study session, and a desire to study for an upcoming Spanish test. She was seen at the CFACT meeting. Ryan Nichols had three prior commitments to organizations other than SC including CFACT and one of which could be considered a religious observance. Steve Weiss had a discussion session for part of the SC meeting and was seen attending the CFACT meeting. He was not present at the hearing due to a class commitment. Co-executive Director of CFACT Pongratz testified that it was not entirely necessary that the SC members miss SC to attend the CFACT meeting. This leads to the question of commitment to each organization held by the SC members. Mr. McCabe argued that these students were elected to represent other students and that should be their highest commitment. Regardless of the normative views held by Mr. McCabe, attending another meeting is a valid excuse to miss a SC meeting. Nick Lankford had a work meeting that conflicted with the SC meeting and made a timely request to Sec. Evans. Drew Horn submitted a timely request to Sec. Evans indicating that he had class during the SC meeting. He was not in attendance at the CFACT meeting and did not provide information regarding which class it was nor what time the class was. In addition, he was not present at the trial to defend himself, though subpoenaed. Because he was unavailable for questioning, there is no way to know whether his excuse was fabricated or not. When an SC member presents an excuse to Sec. Evans, it is not his job to investigate the validity of such an excuse. He either approves or denies the request, referring to the above stated Bylaw. If a representative is excused for a part of the meeting, they are excused for all of the meeting. Then the SC

approves these requests at the next meeting. It is not the job of the SC to investigate these requests, nor is it the SC's fault if they are lied to in the making of such requests.

Contempt of Court Issues

Under the ASM Bylaws Part 4, Art. II, Section 1(a), the SJ has authority over controversies arising in all RSOs and parts of ASM, including the SC. Under ASM Bylaws Part 4, Art. V, Sect. 4(a), the SJ shall have the ability to compel testimony. This comes in the form of a subpoena. All individuals subpoenaed for this trial attending except for Rep. Weiss and Rep. Horn. Rep. Horn did not reply to his subpoena in any way. This is a breach of the previously stated Bylaw. Article 2 of the ASM Constitution reads that the purpose of ASM is to “selflessly pursue the ideals of all” and to be “responsive without being repressive or restrictive”. In correspondence with the CJ regarding this matter, Rep. Weiss was repeatedly repressive to the workings of the Court. He then broke his Oath of Office (in which he affirmed to uphold the ASM Constitution—of which the authority of the SJ is part) by denying the authority of the Court. To act in a Constitutional manner, we must uphold the Constitution, which Rep. Weiss violated. In his comments he also violated Chapter 2, Sect. 1 (a) of the SJ Code of Conduct for Others Participating in Official Proceedings of the Student Judiciary in that he did not “Maintain a cordial and respectful demeanor”.

Order

1. Representatives Blair, Clark, Helmrick, Nichols, and Weiss were legitimately excused from the Oct. 3, 2002 meeting of the SC for prior commitments including organizational meetings and class conflicts.
2. Rep. Lankford was legitimately excused from said meeting due to an irresolvable work conflict.
3. Rep. Horn was excused from said meeting. His excused absence stands due to the fact that it was not challenged in Court. For ignoring a subpoena and therefore violating ASM Bylaw Part 4, Art. , Sect. 4(a) he is fined \$25 or must serve 5 hours of SJ approved community service before his vote will count at a SC meeting.
4. Rep. Weiss is fined \$50 or must serve 10 hours of SJ approved community service for breaking his Oath of Office by his failure to comply with the ASM Constitution and the SJ Code of Conduct. His votes at any SC meeting before his full compliance with this order shall not count.
5. The Secretary is ordered to not include the votes of Reps. Horn and Weiss in any vote counts until instructed to do so by the CJ or by the VCJ. By the Court, it is SO

ORDERED.

Justice Becklin

Justice Janis

Chief Justice Kraschnewski