



Student Judiciary

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Tenant Resource Center, Petitioner

v.

Student Services Finance Committee, Respondent.

2004 ASM SJ 17

ORDER ON JOINDER

Cite As: 2005 SJ Ord. 1

♦
Nathaniel Romano
Chief Justice

♦
Grant Collins
Vice-Chief Justice

♦
Timothy Leonard
Vice-Chair, Student
Election Commission

♦
Nicholas Fox
Associate Justice

♦
Yin-Chin Wang
Associate Justice

*Before Romano, CJ, Fox, and Leonard, S.JJ.
On Motion to Join Additional Parties.*

PER CURIAM. Petitioner Tenant Resource Center (TRC) moves this Court to amend their original complaint in this matter so as to join the ASM Student Council (Council) as an additional respondent. We must decide whether such motions are cognizant under ASM law and, if so, what standard will govern the decision in such motions.

I

This is an issue of first impression in this Court. Accordingly, we must determine if this motion can even be made. As a general rule, parties may move this Court for such motions as are relevant to their case. Rule 11(a), *Student Judiciary Rules of Procedure (SJRP)* (2004). In general, the Court may grant or deny motions by vote of a specified majority, unless otherwise barred by law. Rule 11(b), *SJRP*.

Joinder is a device of judicial economy used by courts to consolidate multiple related cases into one administrative entity. It has long existed both in Federal and Wisconsin state law. See, Rule 19, *Federal Rules of Civil Procedure*; Wis. Stat. § 803.06 (2003) ("Parties may be dropped or added by order of the Court on motion of any party or on its initiative at any stage of the action and on such terms as are just."). These rules predate the founding of ASM and are not expressly contradicted by ASM law, which merely provides that any group of members may file suit against any other group of members as of right. Rule 9(a), *SJRP*. Each claim, however, must arise under ASM law. ASM Const. Art. X, §3(c) (2004). Further, this Court has a history of allowing cases to be filed containing multiple claims and parties. See, e.g., *MEChA v. Patzner, et. al.*, 2002 ASM SJ 6.

Joinder is, in essence, the same principle, simply moving the addition of parties to after the original filing. Considering that this practice is long-established feature of American law, and considering that no ASM law affirmatively blocks the practice, we believe it is well within the Court's prerogative to adopt the principle of joinder as a part of the common law of ASM. *Legal Information Center v. Werner Appeal*, 2003 ASM SJ 18, at 4 (this Court has power to adopt legal norms that are not affirmatively blocked as part of the common law of ASM). Thus, the motion is in order.

II

Considering the merits of the motion, we must develop rules and standards to guide our decision. Simply because a motion is in order, it does not follow that it will be made. Any motion granted or denied should be based on logic and reason, following from established principles of law. Rule 5, *SJRP*.

Joinder is essentially the consolidation of multiple independent controversies into one judicial case. Whether it is done at the outset of the claim or by motion at a later date should be irrelevant to the inquiry. In any event, each individual party and claim to be joined must be part of an actual case or controversy under our jurisdiction. ASM Const. Art. X, §3(c).

This principle clearly establishes the standard by which this Court should decide joinder motions such as the one at bar. In order to join additional claims and parties, the party seeking joinder must set forth facts sufficient to show that the issues to be joined could stand as their own as independent cases and controversies under ASM law. *Id.* Our jurisdiction extends only to such cases and controversies; we are unable to hear anything that is not within our jurisdiction. *Id.*

III

Now, we must determine whether TRC's motion meets the standard law establishes for joinder. The original complaint was a viewpoint neutrality (VPN) appeal of a budget decision made by the Student Services Finance Committee (SSFC). TRC wishes to join the Council, arguing that in adopting the SSFC-approved budget without amendment, the Council was complicit in the VPN violation.

We are not convinced that this claim can stand on its own. The Court is concerned that any potential complain is barred by timeliness concerns. The rules establish an absolute ban on the acceptance of untimely complaints. Rule 9(b), *SJRP* ("The Student Judiciary shall dismiss any case submitted which fails to comply with the deadline and timeliness requirements found in the ASM By-laws.") The By-laws specifically require that all VPN appeals be brought within five school days of the alleged violation. ASM By-laws § 5.06(c)(ii)(1) (2004).

The Council's decision on the budget was made on December 8, 2004. Five school days would end on December 15, 2005. The motion under consideration was made on January 18, 2005. Even considering the tolling of deadlines over the Winter Break, any case against the Council expired well over a month before the joinder motion was made.

It is true that the original complaint was made on December 9, 2004, well within the deadline. However, the original complaint made absolutely no allegations about the Council. It focused exclusively on actions taken by the SSFC. In moving for joinder, TRC asserts that they intended that the Council's decisions be taken into account in their complaint; however, we must again point out that the complaint made absolutely no reference to any actions taken by the Council. This Court's rule in all cases is that the claim adjudicated is the one forwarded by a petitioner is his or her actual petition or complaint. See, e.g., *MCSC v. Otten, Denial of Dismissal*, 2004 SJ Ord. 8 at 2. Further, the rules specifically require a complaint to name each and every party, as well as the rule being violated. Rule 9(a), *SJRP*. Though we have never required this to be at an exacting degree of specificity, *MCSC v. Otten, Denial of Dismissal, supra*, at 2, for a claim to exist at the time a complaint is filed, it must actually be mentioned. Had the Council been mentioned in the original complaint, we could say that the claim was created, even if partially defective; this motion could then be allowed to cure the defect.

At this point, though, that is not the case. TRC's claim against the Council was not part of the original claim, and, at this point, would be barred by ASM law. As stated above, the timeliness requirements are absolute. Rule 9(b), *SJRP*. A petitioner cannot circumvent these petitions by moving to join new parties and claims after the fact; such would implicate concerns about "moving targets" in the Judiciary that we have been wary about in the past. *See, Heigel v. Evans II*, 2003 ASM SJ 14 at 2. Because of this timeliness issue, the alleged claim against the Council cannot be joined to the extant claim, for it is no longer an active case or controversy and is barred as a matter of law. ASM Const. Art. X, § 3(c); Rule 12(a)(3), *SJRP*.

Accordingly, for the reasons stated herein, the Motion to Join the Student Council to the case at bar is

DENIED

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Attest: /s/ NVR