

**Andrew BAHLMANN, Petitioner**  
**v.**  
**SPIRIT RED: Improve Parking, Improve Mental Health, Improve Textbook Prices.**

**No. 2017-001**

Feb. 25, 2017

**OPINION**

Petition for writ of certiorari denied. Though the Court reached a consensus and found slight merit only in claim 1, it was tenuous at best. Accordingly, and by discretion of the Chief Justice, the Court shall convene *sua sponte* on Monday February 27th 2017, and issue a limited explanatory opinion regarding the denial of this writ particularly with respect to claim 1.

It is so ORDERED. Sullivan, C.J.

**Chris ROSENBERGER, Kyle Johnston,**  
**Plaintiffs**  
**v.**  
**University of Houston Student Government Association ELECTION COMMISSION, Austin L. Turman,**  
**Defendants.**

**No. 2017-002**

Feb. 26, 2017

**ORDER OF DISMISSAL**

Plaintiffs, Chris Rosenberger, and Kyle Johnston, has filed a complaint against Defendants Austin L. Turman, Chief Election Commissioner, and The University of Houston Student Government Association Election Commission. The facts underlying

the complaint have been accepted by this Court and, as a matter of law, constitute nonfeasance by the Election Commission for failure to faithfully administer Article 5 of the Election Code.

A.

Assuming the facts presented to this Court as true, we find that the Plaintiffs’ allegations, as to all claims detailed in their complaint, have merit. On claim I, it is sufficiently clear that the Election Commission has failed to publish the polling locations on the SGA Website in accordance with Article 5, Section 3, Clause 3 of the election code. On Claim II, it is sufficiently clear that the Election Commission has failed to publish the final ballot consistent with Article 5, Section 4, Clause 5 of the election code.

B.

We are of the opinion that, in order to remedy this nonfeasance, the Court must grant all relief requested by plaintiffs. However, given the timing of this complaint, and restrictions within the election code, that would be improper. Any relief must necessarily be predicated upon the rescheduling of the Election. At this point in time such a proposition is impracticable as any further delay of the Election would potentially bring about further violations of the Election Code impossible to remedy. This Court is without power to issue orders which mandate action inconsistent with the laws of the Student Government Association.

Alternatively, this claim is viewed as arising under the Election Code. As such, the complaint should have first been brought before the Attorney General in accordance with Article 7 of that code. An exception to

this clear standard may apply in equity given extraordinary circumstances. No such circumstance exists here.

C.

It is hereby ORDERED that the complaint be DISMISSED for lack of an available judicial remedy. Alternatively, this complaint is dismissed for failure to exhaust all administrative remedies as specified in the Election Code. Accordingly, Plaintiff is free to file an appropriate complaint with the Attorney General against the Election Commission. This opinion shall not constitute a basis for any such complaint.

D.

It is the primary duty of the Election Commission to faithfully execute the duties and responsibilities entrusted to them, and to protect, preserve, and enforce the Election Code. With respect to the complaint brought by Plaintiffs, the Commission has fallen short of their obligations applied to themselves and should immediately take all necessary steps to remedy any actual or perceived nonfeasance. Although we find merit in each of the plaintiffs' claims, we must dismiss for the reasons stated above.

It is so ORDERED, Sullivan, C.J.

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**In re Complaint filed by Kyle Johnston  
against the Attorney General.**

**No. 2017-002**

Feb. 27, 2017

Complaint e-mailed to this Court at 8:15PM on February 27, 2017, against the Attorney

General by Kyle Johnston for what can only be cognized as nonfeasance for failure to respond to a complaint he e-mailed the Attorney General at 4:05PM on February 27, 2017, is hereby DISMISSED for failure to state a claim upon which relief can be granted.

A.

Article 7, Section 1 of the Election Code states in relevant part the following:

An official complaint must first be filed with the Student Government Association Attorney General. The Attorney General will then investigate said complaint and decide its merit. The Attorney General must review the complaint carefully to determine validity before proceeding. A written review by the Attorney General must submit written documentation of review to the Election Commission no more than one day (24 hours) after the Attorney General receives the complaint.

Clause 2. And then must proceed to:

...decide within one (1) class day whether a complaint has merit.

Clause 4.

B.

A mere 4 hours has elapsed. Thus it is impossible for there to be any nonfeasance at this point in time. Accordingly, since there is no claim cognizable under the laws of the Student Government Association, there is no claim underlying this complaint. This Court has the power to review claims which arise under the laws of the Student Government Association. Those laws in no way cognize the complaint brought by Mr. Johnston. It must therefore be dismissed.

C.

It is hereby ORDERED that this complaint is DISMISSED without prejudice to allow for the proper procedure laid out in the Election Code to run its course. Except in cases of ambiguity, this Court is obligated to follow the strict interpretation of the laws of the Student Government Association. Those laws make it clear the procedure that is to be followed by the Attorney General, as well as complainants who wish to properly seize the Court of a matter.

It is so Ordered. Sullivan, C.J.