SUPREME COURT

FOR THE STUDENT GOVERNMENT ASSOCIATION OF THE UNIVERSITY OF LOUISVILLE

LIAM GALLAGHER, PETITIONER on behalf of DORIAN BROWN and KATIE HAYDEN

ON PETITION TO RECONSIDER

[April 14, 2022]

On April 9, 2022, Liam Gallagher, counsel of Dorian Brown and Katie Hayden, petitioned the Student Government Association (SGA) Supreme Court to reconsider the decision/relief granted in *Sydney Finley and Paighton Brooks v. Dorian Brown and Katie Hayden.*

Issue:

In accordance with the Student Government Association General Election Rules (SGAGER) Chapter 203, Section 4c:

> *"Students associated with the University in an official capacity may not endorse a candidate in their official capacity. An official capacity will be considered to be someone involved with student government, athletics, or University departments, including but not limited to faculty, staff, and administration. This list is exemplary, not exhaustive.*
>
> - *Students associated with the University in an official capacity may endorse candidates in their personal capacity but are required to differentiate between posts made in their official capacity versus posts in their personal capacity."*

Throughout the campaigning period the official Brown/Hayden Instagram page made twelve posts detailing "personal endorsements". Seven of these twelve posts contained graphics that explicitly noted various titles within University RSOs, including SGA and University entities. Titles from RSOs indicate positions within the University, therefore, no differentiation

can be made between a personal and an official endorsement when their official positions are explicitly listed.

The Court determined a 3% vote sanction per violation to be calculated through the total number of votes cast in the race, as outlined in SGAGER Chapter 602, Section 2a. This percentage was deliberated on between the Justices as being a fair and equitable penalty, which resulted in 423 votes deducted from Mr. Brown's total in the SGA Presidential Race, and 415 votes deducted from Ms. Hayden's total in the Executive Vice Presidential Race.

The Plaintiff petitioned that this initial ruling be "thrown out on its face" and the initial complaint, filed by Sydney Finley and Paighton Brooks, be dismissed on the grounds that:

1. By not allowing Dorian Brown and Katie Hayden 14 days between the time of service for a pretrial conference and oral arguments the supreme court violated 5.7.6 of the SGA Constitution, ergo, their decision should be null and void.
2. By not keeping an active file of previous court decisions and making it available online to all students the Supreme Court violated 5.7.8 of the SGA Constitution. This allowed the Finley Brooks campaign to cite precedent that they had access to, leaving an unfair advantage on their part. Seeing this the decision of the court in Finley and Brooks V. Brown and Hayden should be null and void.
3. The Court found our clients guilty of 7 different violations of the SGAGER. Of these only two were argued in court. The claims that Dayla Johnson and Emily Gornik's endorsement post were not personal endorsements. 5/7 of the other guilty verdicts were not originated by the petitioner, but instead by the court. Even though they claimed a violation of this section in the original petition the Finley Brown campaign would have had to "clearly and accurately state the action or actions that are disputed by the petitioner or petitioners, including the time, place and manner of said action or actions, to the best of the petitioners' knowledge"; as is required by 5.7.4 © of the SGA Constitution. We did not have the ability to defend ourselves against these claims, which is our right under 5.7.6 of the SGA Constitution. Seeing that we were not given the ability to respond to these claims, and that these claims originated in the court and not from the petitioner. Which violates every judicial practice in the United States, violates the United States Constitution and every single state constitution, because claims must

originate from the petitioner and are not allowed to originate from the court, we move that the decision be reconsidered, and become null and void.

4. Section 1.2 of the SGA Constitution requires members of the court and SGA in general to follow the US Constitution. Seeing that 5/7 people who endorsed us in their official capacities worked for private organizations and not the public entity that is UofL, the court violated their first amendment freedom of speech rights. For example, Nate York was cited as the VP of IFC, IFC is a private non-profit organization. This court has 0 authority over what its members can and cannot do, because they are not a university affiliate. Noticing these actions, we believe the court should reconsider their previous decision and invalidate it.

On April 11, 2022, an updated petition to reconsider was submitted to the Court, adding the fifth claim listed below.

5. 5.5.6 of the SGA Constitution requires a justice to recuse themselves from a case if their relationship with a member of that case casts doubt on their ability to decide the case in an unbiased manner. Noting the recent Louisville Political Review article and a trend of tweets between SGA President and witness in this case Ugonna Okorie and Chief Justice Gesser going all the way back to the end of last year and possibly longer. It is our belief that Gesser should have recused herself at the onset of this case or immediately when she noticed her friend Ugonna was a named witness. She went on though to write the opinion knowing about her friendship with a party to the case. One tweet will be linked below that was sent and responded to on 3/8/22 which shows their friendship, but also Twitter handles so that the court may go and look at the long trend of tweets. It is our belief that her lack of recusal throws her entire opinion into a state of doubt. It should immediately be thrown out.

a. 

Opinion of The Court:

First, it must be noted that all proceedings/discussions on the matters at hand were between the five Associate Justices. Chief Justice Gesser was not present as she had recused herself from the situation.

In claim one, the Petitioners argue that the Court did not give them enough time (14 days) between the time of service for a pretrial conference and oral arguments. In their response to the suit brought by Finley/Brooks, this issue was alluded to but cited incorrectly. It was stated; “The SGA constitution is clear in 5.7.6 that we must be given at least 14 days to respond once we are served.” This is incorrect, forty-eight (48) hours is the allotted amount of time for a response. While the argument currently being made is correct (and seemingly updated), we feel that this is a continuation of antiquated sentiment. At the time, the Court deemed it necessary to move along swiftly with suits, allowing enough time for run-off elections to take place in line with the dates originally outdated in the SGAGER. Seeing as though the current run-off elections are on-hold and were supposed to commence on March 28, 2022, we stand with our previous decision.

In claim two, the Petitioners state that the Finley Brooks campaign had access to previous SGA Court decisions, giving them an unfair advantage in the proceedings. The Court does acknowledge the fact that there is no active file of previous court decisions currently accessible to the public. This is not by design, allowing us Justices to conspire and “rig” this year's election. The Court has been unable to locate a master file of past court rulings throughout the duration of the suit. We have made decisions to the best of our understanding and acted to the best of our abilities. We have extensively searched for these past precedents, trying to find either a physical or digital file, with no success.

In claim three, the Petitioners argue that they were unable to defend themselves against the five claims, regarding Personal Endorsement, found by the Court. We would like to point to the idea of “sua sponte”. The Court took notice of the issue on its own motion, without proposal or suggestion from either party. If the claims were either novel or questionable, it might be appropriate for the court to solicit additional briefs. However, it is the responsibility of the Court to decide cases in accordance with the SGAGER and SGA Constitution, and that responsibility is not to be diluted by one counsel’s oversights, lack of research, or failure to specify issues.

In claim four, the Petitioners argue that five of the seven individuals who offered personal endorsements work for private entities that are not the University of Louisville. Chapter 203.4c defines an individual with official capacity as anyone involved with student government, athletics, or University departments. Seeing that this list is "exemplary, not exhaustive" and includes the RSO of the Student Government Association, other RSOs can be applied to this section. The Court is not responsible for designating only a certain number of RSOs (i.e. SGA as mentioned by name in the section), but treat every RSO and their officers equally with regard to RSO endorsement and personal, individual endorsements. Using these RSO titles on a "personal" endorsement reflects the power associated with these positions and thus reflects an official endorsement rather than a personal one.

In claim five, the Petitioners point out that the SGA Constitution requires Justices to recuse themself if their relationship with a member of that case casts doubt on their ability to decide the case in an unbiased manner (pointing out Chief Justice Gesser's friendship with Student Body President Okorie). As previously stated, Ms. Gesser has voluntarily recused herself from the situation. However, it must be noted that the Chief Justice's friendship does not cast bias amongst the other Justices or the Court as a whole. The Chief Justice's vote is only ever needed in the case of a tiebreaker among the Associate Justices. At no point throughout the entirety of the Finley/Brooks v. Brown/Hayden suit was a tie-breaking vote needed.

Held:

On April 7, 2022, the Court found Dorian Brown and Katie Hayden in violation of the SGAGER. This violation resulted in a 3% vote sanction, per violation, to be calculated through the total number of votes cast in the race. Upon deliberation and consideration of the Petition, the Court stands with this prior decision and will not reverse/reduce/reconsider/etc the sanctions delivered.

However, the Court recognizes the unprecedented waters in which this suit has transfigured. We hear the convictions of the Student Body and acknowledge their frustrations. Taking all things into consideration, the Court is allowing a run-off election for Student Body President to take place (alongside the EVP and AVP run-offs that have been postponed). This run-off election will be limited to Dorian Brown and Sydney Finley. We strongly encourage

students of the University of Louisville to participate, electing that whom they believe best fit to serve such a position.

Frakes, J. delivered the opinion of the Court, in which Gupta, Bhutto, Lamar, and Atkins joined.

Jacob "Tyler" Frakes
SGA Supreme Court Associate Justice
College of Business