



In The
District of Columbia Court of Appeals

Clerk of the Court
Received 06/21/2022 04:30 PM
Filed 06/21/2022 04:30 PM

**ZETA PHI BETA SORORITY, INC.,
INTERNATIONAL EXECUTIVE BOARD, *et al.*,**

Appellants,

v.

VALERIE HOLLINGSWORTH-BAKER,

Appellee.

ON APPEAL FROM THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA, CIVIL DIVISION
(Case No. CAB3737-21)

BRIEF OF APPELLANTS

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DISCLOSURE UNDER RULE 26.1

Pursuant to Rule 26.1 of the D.C. Court of Appeals, Defendant Zeta Phi Beta Sorority, Inc., International Executive Board hereby submits its Corporate Disclosure Statement and asserts as follows:

1. Defendant does not have any parent corporations.
2. There is no parent corporation or any publicly held corporation owning more than 10% of Defendant's stock.

All other Defendants have no corporation that holds any stock of either party or that is a parent corporation of a party to this proceeding.

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JURISDICTION

This is an appeal of a preliminary injunction for which the Court of Appeals has jurisdiction under D.C. Code § 11-721(a)(2)((A))

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The issue in this case is whether the Superior Court abused its discretion in granting an injunction which prevented the Appellant from performing its duties in accordance with the lawful Bylaws of the Zeta Phi Beta Sorority, Inc.

STATEMENT OF THE CASE

This case concerns the authority of a Board to discipline an officer of a nonprofit corporation for misconduct. Appellee, an unpaid, volunteer officer of Zeta Phi Beta Sorority, Incorporated (the “Sorority”) filed a Motion for Preliminary Injunction to invalidate a suspension that the International Executive Board (“Board”) of the Sorority believed that it had lawfully imposed based on Appellee’s misconduct. The Appellants argued that, as is generally true with most corporations, the Sorority’s governing documents confer ultimate and supreme authority to the Board to manage the affairs of the organization, including administrative personnel matters at all times except during certain meetings of the membership. Appellee argued that the Board had the power to remove an officer for misfeasance, malfeasance, or nonfeasance in office, but that the Board did not have authority to suspend, or otherwise discipline an officer.

The Superior Court granted the Appellee's Motion for Preliminary Injunction, but its Order improperly restricted the Board from imposing any further discipline whatsoever, which presumably included removal from office, on Appellee without the consent of the entire Sorority. The governing documents for the Sorority do not support this restriction, and the injunction improperly limits the Board from performing its lawful duties.

STATEMENT OF FACTS RELEVANT TO THE ISSUES

1. Appellee commenced this case on October 14, 2021 by filing a Complaint in Superior Court of the District of Columbia, Case No. 2021 CA 003737B. *See* Complaint ("Compl."), Appendix I, pp.7- 33.

2. Appellee is the International Grand Basileus¹ ("IGB") of Zeta Phi Beta Sorority, Inc. ("Zeta" or the "Sorority").

3. In September 2020, the International Executive Board ("Board") of Zeta, received multiple concerns and complaints about Appellee's performance of her duties as IGB, which included serious allegations of inappropriate and offensive conduct by Appellee, and violations of Zeta's policies and expectations.

4. Pursuant to its authority and responsibility to manage the administrative affairs of the organization, the Board engaged an independent investigator to review these serious allegations and render a determination. This extensive and thorough

¹ This is the organization's name for the president of the corporation.

investigation included interviews of 26 people including past and present paid staff associated with the organization.

5. The investigator rendered a determination on December 30, 2020. In its determination, the investigator concluded that the concerns and complaints raised about Appellee's treatment of Zeta personnel were largely substantiated. The investigator concluded that Appellee had engaged in unprofessional and disrespectful conduct that included yelling at, being rude to, and demeaning staff, which created a toxic work environment. Appellee's conduct was also found not to have been isolated. She had engaged in a pattern of inappropriate conduct with respect to at least four staff and former staff members that had been observed by multiple witnesses. The investigator concluded that Appellee's conduct violated Zeta's Constitution and Bylaws, Member Code of Conduct, and Standard Operating Procedures and recommended that the Board remove the President from office. *See* Exhibit M of Appellee's Memorandum of Support of its pending Opposed Motion for a Preliminary Injunction, Appendix I, p. 497.

6. Following the determination by the independent investigator, the Board held several meetings to establish a course of action with respect to the findings and to determine what further action may be necessary. Among the questions raised during these meetings was the extent of the Board's authority with respect to the range of discipline that it could impose.

7. Article V of the Zeta Bylaws establishes the Administrative Powers of the Board. Section 1a of Article V makes clear that “[t]he International Executive Board shall be the supreme authority of the Sorority during the interim of a Grand Boulé.”² (See Exhibit A of Appellee’s Memorandum of Support of its Opposed Motion for a Preliminary Injunction, Constitution and Bylaws (herein after “Bylaws”). See Appendix I, p. 98. Article V, Section 1b provides that “[t]he administrative powers of [Zeta] shall be vested in the International Executive Board. . . .” *Id.*

8. Neither the Constitution nor the Bylaws provide a clear definition of the powers of the chapters while assembled during a Boulé, beyond that the chapters are entitled to vote upon particular matters (including approving amendments to the Constitution and the Bylaws and electing officers and other Zeta-related positions). See Constitution, Articles VI (Appendix I, pp. 80-81) and XI (Appendix I, pp. 86-87), Bylaws, Article XX. Appendix I, p. 112.

9. The Bylaws explicitly indicate that the “administrative powers” of Zeta shall be vested in the Board. See Bylaws, Article V, Section 1(b). See Appendix I, p. 98. As a result, the Board is responsible for the administrative duties described in Article V, Section 2 of the Bylaws, including approving budgets, managing investments, hiring and overseeing Zeta’s executive director and support staff,

² A Boulé is a meeting held by Zeta every two years but can be more frequent as requested by 25 or more chapters or called by the Board. See Bylaws Article XII, Section 1. See Appendix I, p. 104.

supervising Zeta's International Headquarters, and – notably – removing officers for misfeasance, malfeasance or nonfeasance. *See* Bylaws, Article V, Section 2. Appendix I, pp. 98-99.

10. Article V, Section 2(e) of the Bylaws provides that the Board may remove an officer with the approval of least two-thirds (2/3) of the elected members of the Board. *See* Bylaws, Article V, Section 2. Appendix I, p. 99.

11. Article XV of the Bylaws concerning Suspensions provides at Section 2b that the Board “may recommend removal or suspension of any officer for just cause and proof thereof.” *See* Bylaws, Article V, Section 2. Appendix I, p. 106.

12. The Board determined that the Complaint and Discipline Policy did not sufficiently address the conflict situation where the International Grand Basileus was the subject of a complaint and investigation and was therefore charged with imposing discipline on herself. Accordingly, on March 9, 2021, an Ad Hoc committee was formed to explore the matter and on March 15, 2021, the Board voted to amend the Complaint and Discipline Policy to provide that to the extent a complaint involves the International Grand Basileus, all of the actions and responsibilities of the International Grand Basileus would be immediately taken up by the International First Anti-Basileus (effectively, the vice president). Appellee participated in this meeting and did not object to this change. This change was effective as of March 15, 2021. Appendix II, pp. 560-567.

13. The International Executive Board convened on March 28, 2021, to hear testimony and argument in the removal hearing of Appellee. The Board heard evidence from Appellee and the Sorority, deliberated, and determined that the charges against Appellee were substantiated. While the Board did not find that permanent removal of Appellee from her position was warranted, they did determine that sanctions under the Complaint and Discipline Policy were appropriate.

14. During the next two months, Appellee and the Board engaged in negotiations in an attempt to come to a mutual agreement as to the next steps. These informal negotiations failed, and ultimately, in accordance with her authority to act as and for the International Grand Basileus under the revised Complaint and Discipline Policy, the International First Anti-Basileus issued discipline to Appellee effective as of May 13, 2021, 5:00 p.m. EST, which was essentially a probationary, temporary removal from office. Appendix II, pp. 568-569.

15. According to the Notification of Decision, this probation was only entered with respect to the rights, duties, and privileges of Appellee in her capacity as the International Grand Basileus and does not affect her privileges as a member of Zeta. Appendix II, p. 569.

16. Thus, while the Board had authority to discipline Appellee directly, her discipline in this case was recommended by the Board, and imposed by the International First Anti-Basileus, lawfully acting in the capacity of the

International Grand Basileus for purposes of the complaint and investigation against Appellee.

17. A meeting of the Sorority was held on August 28, 2021, which the Board deemed not proper because the proper protocols and procedures were not followed, the meeting was not properly convened, and could not be recognized as a Special Boulè or any other official meeting recognized by the Sorority. Appendix II, pp. 571-577.

18. Although there is no authority in statute or the Sorority's governing documents for the membership to engage in any part of the disciplinary procedures reserved to the Board, Sorority members present at the August 28, 2021 meeting reportedly voted to fully reinstate Appellee with no continuing restrictions on her duties, and that the Sorority pay the expenses related to the special meeting.

19. The Board refused to recognize the actions taken by the Sorority members at the August 28, 2021 meeting.

20. Ultimately, the Board has taken the position that there has been no official action of the Sorority that in anyway changes the outcome of the Board's disciplinary determination and action concerning Appellee's misconduct.

21. Appellee commenced this case on October 14, 2021 by filing a Complaint in Superior Court of the District of Columbia, Case No. 2021 CA 003737B. *See* Complaint ("Compl."), Appendix I, pp.7- 33.

22. Appellee filed Motion for Preliminary Injunction on November 5, 2021. *See* (“*Compl.*”), Appendix I, pp. 40- 544.

23. Appellants Responded to Appellee’s Motion for Preliminary Injunction on November 19, 2021. *See* Appendix II, pp. 545- 578.

24. Appellee Filed her Reply to Appellants’ Opposition to Motion for Preliminary Injunction on November 29, 2021. *See* Appendix II, pp. 579-583.

25. At various times between December 15 and December 22, 2021, Appellants who had been served with the Complaint, filed Motions to Dismiss, or Alternatively, Compel Arbitration. *See* Appendix II, pp. 584-1331.

26. On December 30, 2021, Appellee filed her Opposition to Appellants’ Motions to Compel Arbitration and Dismiss or Stay Proceedings and Request for Hearing. *See* Appendix III, pp. 1332-1339.

27. On January 5, 2022, The Superior Court Granted Appellant’s Motion for Preliminary Injunction, denied Appellant’s Motion to Dismiss and Granted Appellant’s request to stay the proceedings and submit the dispute to binding arbitration. *See* Appendix III, pp. 1340-1351.

SUMMARY OF THE ARGUMENT

The principal issue in this appeal is that the trial judge issued an injunction Order that improperly imposed requirements on Appellants that are not authorized under the organizational documents under which Appellants perform their duties.

This Order is overly broad in its application and is not sufficiently supported by the record and represents an abuse of discretion.

ARGUMENT

The standard of review applicable to this matter is abuse of discretion. Where the trial court has issued a preliminary injunction, the Court of Appeals defers to the trial court's findings of fact so long as they are sufficiently supported by the record. *See District of Columbia v. Group Ins. Admin.*, 633 A.2d 2, 22 (D.C.1993) (quoting *Wieck*, 350 A.2d at 387). In general, “our role ... is not to resolve the merits of the underlying dispute between the litigants.” *Group Ins. Admin.*, 633 A.2d at 22. This general rule is subject to an exception: where “the action of the trial court turns on a question of law or statutory interpretation.” *Id.* As to those questions, Court of Appeals’ review is de novo. *See District of Columbia v. Sierra Club*, 670 A.2d 354, 361 (D.C.1996); *District Unemp’t Comp. Bd. v. Sec. Storage Co. of Wash.*, 365 A.2d 785, 787 (D.C.1976). This matter turns on the interpretation of Constitution and Bylaws of the Sorority, and governing documents under D.C. Code § 29-401.50.

The Superior Court properly noted on page 6 of its opinion, that

Zeta Phi Beta Bylaws Article V, Section 2(e) states that the IEP has limited authority to remove an officer for “misfeasance, malfeasance, or nonfeasance in office for conduct that will hold the Sorority up to ridicule or contempt or bring discredit upon the Sorority.”

The Superior Court, however, then incorrectly cited the same Article V, Section 2(e)(e), noting that the Board may recommend removal or suspension of any

officer for just cause and proof thereof, “but the Bylaws do not allow the Board to suspend all rights, responsibilities, and duties of an officer for the remainder of her term.” This limitation is not contained anywhere in Article V, Section (2)(e). The authority of the Board to “recommend removal or suspension of any officer for just cause and proof thereof” is found in Article XV, Section 2. concerning membership suspension.

28. Nothing in Article V, Section 2(e) or Article XV, Section 2(b) limit suspensions for the remainder of an officer’s term or require assent of the membership for action by the Board. Moreover, the issue in dispute is not whether the Board had authority to remove the Appellee, but whether it had authority to suspend her, or take other disciplinary action besides removing her from office. Appellee acknowledged in her Motion for Preliminary Injunction that the Board may remove the International President. Article V, Section 2(e) of the Bylaws provides that the Board may remove an officer with the approval of least two-thirds (2/3) of the elected members of the Board. *See* Appendix I, p. 47. Indeed, Article V, Section 2(e) makes clear that the Board may remove an officer with the approval of least two-thirds (2/3) of the elected members of the Board. Appendix I, p. 99.

Zeta Phi Beta is a member-governed organization and the Board’s authority is determined by the Constitution, Bylaws, and governing documents under D.C. Code § 29-401.50. The principal issue in this appeal is that the trial judge issued an

injunction that improperly imposed requirements on Appellants that are not authorized under the organizational documents under which Appellants perform their duties. The Superior Court granted Appellee's Motion for Preliminary Injunction, but in doing so, ordered Appellants' to "refrain from taking further disciplinary action against Appellee without the consent of Zeta Phi Beta membership." This order is overly broad in its application in that it would prevent the Board from removing Appellee from office as authorized in the Bylaws, and is not sufficiently supported by the record and represents an abuse of discretion. The Bylaws provide that the Board may remove an officer, even to the extent that such removal may be deemed discipline. Moreover, there is no authority in the Sorority's governing documents that require the membership to consent to the Board's removal of an officer.

CONCLUSION

The Superior Court's Preliminary Injunction should be vacated and any further injunctive order should clarify that the Board may remove the Appellee from office in accordance with the Bylaws of the Sorority, and that consent by the Sorority membership for such a removal is not required. There is no authority in the Sorority's governing documents that require the membership to consent to the Board's removal of an officer.

Respectfully submitted,

Dated: June 21, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June 2022, I will cause to have electronically filed the foregoing with the Clerk of Court using the CaseFileXpress system and a true and correct copy of the foregoing to be served electronically through the Court's electronic filing system.

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District of Columbia Court of Appeals

REDACTION CERTIFICATE DISCLOSURE FORM

Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a “CV” docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:

- An individual’s social-security number
- Taxpayer-identification number
- Driver’s license or non-driver’s’ license identification card number
- Birth date
- The name of an individual known to be a minor
- Financial account numbers, except that a party or nonparty making the filing may include the following:

(1) the acronym “SS#” where the individual’s social-security number would have been included;

(2) the acronym “TID#” where the individual’s

taxpayeridentification number would have been included;

(3) the acronym “DL#” or “NDL#” where the individual’s driver’s license or non-driver’s license identification card number would have been included;

(4) the year of the individual’s birth;

(5) the minor’s initials; and

(6) the last four digits of the financial-account number.

2. Any information revealing the identity of an individual receiving mental-health services.
3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.
4. Information about protection orders, restraining orders, and injunctions that “would be likely to publicly reveal the identity or location of the protected party,” 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining “protection order” to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).
5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.
6. Any other information required by law to be kept confidential or protected from public disclosure.

/s/ Robert P. Floyd, III

Signature

22-cv-0066

Case Number(s)

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