

SPRING TERM, 2012

Opinion of the Court

NOTICE: The following document represents the official Opinion of the Baylor University Student Court, and constitutes a binding decision on all parties concerned within the jurisdiction of the Court¹. This decision, and all concurring or dissenting opinions, will remain on the official record for seven (7) years in accordance with Article IV 3.5.A of the Student Body Constitution.

BAYLOR UNIVERSITY STUDENT COURT

CLARK *v.* BLAIR

Argued February 21, 2012 – Decided February 24, 2012

By Unanimous Decision

ON PETITION FOR SANCTION

PER CURIAM:

Christopher Clark brought charges against Student Senator Michael Blair for a number of alleged violations of the Student Senate Code of Ethics, the Student Body Constitution, and Baylor University's Student Disciplinary Procedures. On February 10, 2012, the Student Court granted a hearing in this case with the consent of the Vice President for Student Life. The case was presented on February 21, 2012.

BACKGROUND

Christopher Clark was appointed to the Student Body President's Cabinet in October 2011. During the Fall 2011 semester, Clark was not confirmed nor was he ever instructed to appear before the Student Senate for confirmation. Beginning in January of 2012, Student Senator Michael Blair informed Student Body President Zach Rogers that his cabinet appointments were not official until they received Senate confirmation. President Rogers informed Clark on January 9th that as a component of the confirmation process, he would be required to appear before the Senate Operations and Procedures Committee (hereinafter "O&P") on January 10th for preliminary

¹ The opinions of this Court are subject to official review, see Student Body Constitution Art. IV § 3.8.

review². Also on January 9th, Senator Blair launched what he called a “fact finding mission” in which he attempted to gather evidence to disqualify Clark from serving in Student Government. As a component of that effort, he enlisted Ellen Klitgaard to contact Sean Flynn (Clark, Klitgaard, and Flynn had all run for Freshman Class President in the fall). Klitgaard asked Flynn via text message for “any info that could be helpful as to why Clark should not be a representative,” instructing him to contact Blair if he did (see *Clark v. Klitgaard*). Flynn forwarded the messages to Clark on the belief that the Senate was investigating Clark’s appointment.

Blair, along with several other freshman members of the Senate, attended the January 10th O&P meeting. Several of those senators were not members of the O&P committee³. During that meeting, Blair asked Clark whether or not he had been involved with Student Government in the past, to which Clark simply replied, “No.” This is significant because Blair’s interest in Clark’s appointment had nothing to do with his question. In fact, after Clark had been dismissed from the meeting, Blair suggested that Clark’s character was not suitable for membership in student government. This assertion was based on a number of nebulous allegations regarding Clark’s conduct during the fall election season—particularly some hurtful comment directed at a friend of Blair’s named Ben Prado. Blair neither proved nor cogently articulated the content of these apparently injurious remarks.

Two days after the O&P meeting, Clark was to appear before the full Senate for confirmation. Clark missed that hearing as the result of a scheduling conflict. He also failed to inform President Rogers of his absence until four minutes after the Senate officially convened⁴. This “frustrated” Senator Blair, who believed Clark was intentionally “stalling.” On January 15 at 1:29 AM, Blair contacted Clark using facebook. That exchange began with Blair introducing himself and suggesting that they

² Clark was not the only appointee to the Rogers’ cabinet that had been serving for an extended period of time without having been confirmed.

³ The Senate apparently makes a regular practice of encouraging members to visit committees to which they are not assigned. In this case,

⁴ He had informed President Rogers that he may or may not be available at the scheduled time and took from Rogers the impression that his attendance was voluntary or of little significance.

"need[ed] to talk about a few things...related to Student government." Clark responded by referring Blair to his Baylor email account. This apparently exacerbated Blair's frustration with Clark, leading him to at one point say that if Clark refused to join him for coffee he would "vote no and encourage others to do the same." Clark asked that Blair cast his vote "based off of [Clark's] work and the interview [Clark] gave at the [O&P] committee hearing." Blair insisted that Clark was "going to be treated different [*sic*] because [he was] controversial," demanding that Clark needed to meet with him in order to allay his concerns.

The Senate rescheduled Clark's confirmation hearing for January 19th, but Clark decided not to attend after a conversation with President Rogers who informed him of the apparent fact that there was strong opposition to his confirmation and that he would likely not be confirmed⁵.

DISCUSSION

The Court finds jurisdiction in this case under Art. IV § 2 Par. 2.A.4(b) of the Student Body Constitution.

1. Student Disciplinary Procedures

We turn first to Clark's allegations arising under Art. III §§ C, G, O, and P of the Baylor University Student Disciplinary Procedures. Finding no facts in support of §§ G and P, those claims are dismissed. We now turn our discussion to §§ C, "[t]hreats, physical abuse, or harassment directed toward a member of the Baylor faculty, staff, or student body or toward a visitor to the campus," and O, "[c]ontemptuous or disrespectful behavior."

In our analysis, it is clear that Blair's fact finding mission was prompted by a misguided sense of allegiance to his friend Ben Prado. This effort was little more than a calculated vendetta leveled against Clark. At no point in his testimony, despite being prompted on several occasions, was Blair able to articulate what exactly Clark had said to

⁵ Because Clark was not confirmed, and because he never stood for a vote regarding his confirmation, we will not consider his request to be "reinstated" in Student Government. We cannot reinstate him to a position he never officially held.

offend Mr. Prado⁶. Furthermore, the apparently disqualifying acts that took place during an event for candidates in the fall elections appear to this Court to have been innocuous at worst. Blair's allegations here include an assertion that Clark had complained about the length of the meeting, a sentiment that Blair himself echoed.

With such a weak foundation, it is clear that Blair's actions toward Clark were not only contemptuous in nature, but were motivated singularly by contempt. We find room within the job description of a student senator for an individual senator to provide fact-based opposition to any nominee for appointed office. We do not, however, believe it to be within the permissible scope a senator's duties for a senator to require a nominee to meet with him individually or suffer the consequences—which in this case include a negative vote and a strong effort to persuade others to follow suit. As such, we find Blair to be in violation of both §§ C and O of Baylor's Student Disciplinary Procedures.

2. Senate Code of Ethics

Clark accuses Blair of having violated the following standards of proper behavior outlined by the Baylor University Senate Bylaws:

“... 2. As a member of Student Government, I recognize my responsibility to uphold Student Government's tradition of being an honorable and respectable organization.

3. As a member of Student Government, I will conduct myself in a manner that admirably displays the principles held dear by Baylor University in my interactions with administrators, faculty, staff, alumni, and students.

4. As a member of Student Government, I will refrain from engaging in any activity that may tarnish the integrity of either Baylor University or Baylor Student Government...

⁶ The facts could have easily been deciphered had Blair called Prado as a witness. Blair claims, however, that Prado was specifically advised not to appear. This is particularly frustrating in light of the apparently contradictory testimony that Prado endorsed Clark for his appointment to the president's cabinet after having been deeply offended by him.

7. As a member of Student Government, I am committed to respecting the rights and dignity of all persons.
8. As a member of Student Government, I will strive to be a moral and virtuous person.”

From the discussion above, it is clear that Blair has failed in his duty to uphold the high standard to which every member of student government is called. He acted out of spite, demonstrating severe disrespect and tarnished the reputation of Student Government in the process. We make no judgment as to his ability to represent his constituents generally, but in these narrow circumstances he has clearly violated the enumerated standards of conduct.

CONCLUSION

Having found Blair in violation of both the Student Senate Code of Ethics and Baylor’s Student Disciplinary Procedures, we turn now to the question of appropriate sanctions. Clark requests, among other things, the immediate removal of Blair from Student Government. We refuse to impose that sanction at this time. Instead, we will require Blair to appear in Court for the reading of a written reprimand (provided below). Furthermore, because the Office of Judicial Affairs is better suited to judge claims made under the Student Disciplinary Procedures, we now submit our findings to Judicial Affairs in the form of an official referral. Judicial Affairs will adjudicate those charges in accordance with university policy. All charges not addressed herein are dismissed.

It is so ordered.

LETTER OF REPRIMAND

The following letter of reprimand has been issued to Michael Blair for engaging in conduct unbecoming of a student senator. Further discussion of this matter may be found in the Student Court's opinion regarding the matter of *Clark v. Blair*.

Senator Blair,

The Student Court has unanimously determined that you are responsible for violating specific provisions of Baylor University's Student Disciplinary Procedures and the Student Senate Code of Ethics. Your responsibility in this matter is predicated on the series of interactions you had with—and relating to the confirmation of—Christopher Clark. As a student of this university, you are expected to comport yourself at all times in a manner that demonstrates a basic respect for your peers. That expectation is even greater given your role as a representative of the student body. You have not met that expectation here, and in failing to do so you have compromised the integrity of your position in Student Government.

The Court has consciously determined that removing you from office would not achieve a constructive outcome. We hope instead that this experience will guide your decision making as you continue to advocate on behalf of your constituents. You must hold yourself to a standard of character and behavior befitting your position, and in so doing you must never treat another student with the same disrespect that you have demonstrated toward Christopher Clark. You must recognize that your behavior in this case was unacceptable, and take from such recognition a determination to behave differently—more respectfully—in the future.

Issued by order of the Student Court