

BRANDON K. DUMAS

DOCKET: 660375 SECT.: D

v.

19<sup>TH</sup> JUDICIAL DISTRICT COURT

BOARD OF SUPERVISORS OF  
SOUTHERN UNIVERSITY AND  
AGRICULTURAL AND MECHANICAL  
COLLEGE

PARISH OF EAST BATON ROUGE

COST OK Amt. 500

✓ # 2562

STATE OF LOUISIANA

AUG 10 2017

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PETITION FOR THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER,  
PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

NOW INTO COURT, through undersigned counsel, comes Brandon K. Dumas,

Ph.D. who files this Petition and respectfully represents:

I. PARTIES AND VENUE

Petitioner, Brandon K. Dumas, Ph.D. (hereinafter sometimes "Dr. Dumas") is a person of the full age of majority and domiciled in Ascension Parish, Louisiana.

2. Made Defendant herein is the Board of Supervisors of Southern University and Agricultural and Mechanical College System (hereinafter sometimes "Southern University") a body corporate that was created by Article VIII, Section 7 of the Louisiana Constitution which pursuant to La. R.S. 17:3219 is domiciled in East Baton Rouge Parish.

3. This Court is the proper venue for this action because the Defendant is domiciled in this Parish and because the action sought to be enjoined and restrained will occur in East Baton Rouge Parish.

II. FACTUAL ALLEGATIONS

4. At the time of the filing of this Petition, Dr. Dumas is employed and serves Southern University's Baton Rouge Campus as the Vice Chancellor for Student Affairs and Enrollment Management. Throughout the course of his employment, Dr. Dumas has served Southern University with honor and integrity. Indeed, as of April 21, 2017, Dr. Ray Belton, the President-Chancellor of Southern University, endorsed Dr. Dumas' candidacy for the president of Paine College in a letter which praised Dr. Dumas as having "served the University well in various capacities" and with "distinction."

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5. Nevertheless, Dr. Belton gave written notice to Dr. Dumas that he would be terminated by Southern University effective at the close of business on August 10, 2017. As discussed in more detail below, the written notice of termination, without being acted upon or approved by the Southern University Board of Supervisors, is not a final termination of employment.

6. In regards to nonacademic staff like Dr. Dumas, the Bylaws and Regulations of the Southern University and Agricultural and Mechanical College specifically state that “...*personnel actions for unclassified employees shall be recommended to the Board by the President.*” (See Part III, Chapter II, Section 2-3. Personnel Actions for Nonacademic Staff.) Further, the bylaws state that “*Unclassified employees hold their positions at the pleasure of the Board.*” (See Part III, Chapter II, Section 2-4. Terms of Employment for Nonacademic Staff. B.) That provision continues that “...*any termination of appointment shall be final when reported to and acted upon by the Board.*” (Id.)

7. Further, the Southern University System Policies and Procedures (Revised February 17, 2017) is instructive about the Board’s responsibility to terminate employees. Indeed, the “*purpose of this policy is to create uniform personnel procedures . . .*” and “*to delineate the specific and express delegations of authority by the Board to the System President and Chancellors to execute certain types of personnel actions.*” (See Part II. Purpose.) According to Part IV. A of that policy, entitled “Personnel Actions Requiring Board Approval,” any personnel actions regarding the termination of the President, all Chancellor or equivalents, and all positions of Dean or equivalent or above, “**shall require approval by the SUS Board of Supervisors,**” unless otherwise provided in the appointment documents. (See Part IV., Section A. 8.)

8. Thus, the President-Chancellor is not authorized to terminate Dr. Dumas as Vice Chancellor of Student Affairs and Enrollment Management unilaterally. Such termination requires the Board’s final approval. But such approval was not done in the case of Dr. Dumas.

9. Indeed, the Board of Supervisors had the opportunity to act upon or approve Dr. Belton’s decision at a July 21, 2017 meeting but failed to do so.

10. After returning from executive session in to an open forum at the meeting, the Defendant's Chairperson asked, "*At this time, is there a motion to grant Dr. Dumas' Appeal?*" No motion was made.

11. The Board of Supervisor's Chairperson then asked, "*Is there a motion to deny Dr. Dumas' Appeal?*" She again asked, "May I have a motion?" Still, no motion was made.

12. Having received no motions, Winston DeCuir, Jr., the Board's attorney, stated: "The matter dies for a lack of a motion. The decision made by the President will remain."

13. But President Belton is not authorized to terminate Dr. Dumas unilaterally --- he can merely make a recommendation for the Board to act upon. (See Section 2-3 of Bylaws and Regulations of the Southern University and Agricultural and Mechanical College.)

14. Unclassified employees, like Dr. Dumas, "*hold their positions at the pleasure of the Board*" and any recommended "*termination of appointment shall be final when reported to and acted upon the Board.*" (Id., Section 2-4 B.) Thus, while Dr. Belton can "recommend" Dr. Dumas' termination, his recommendation has no effect without express action (being "*acted upon*" or "*approved*") by the Board of Supervisors. Most importantly, there was no motion made to "act upon" Dr. Belton's recommendation, and no "approval" of that recommendation.

15. A subsequent motion by Board Member Clayton was ineffective for the purpose of the Board "acting upon" or "approving" Dr. Belton's recommendation, as it is required to do when an employee, like Dr. Dumas, is recommended for termination. As stated when calling for the vote:

A vote yea would be a vote to pass Board Member Clayton's motion and reverse the president's decision and bring it back in 60 days after an investigation. A nay vote would be a vote against Board Member Clayton's motion and the president's decision would stand.

16. Such a motion, while perhaps commendable so that the truth could actually be obtained, is not the same as an affirmative action by the Board, as required by the University's own bylaws, regulations, policies, and procedures, to "act upon" or "approve" President Belton's recommendation. Further, the motion's requirement for a

60 day investigation placed an extra layer of complexity on the straightforward obligation of the Board to “act upon” or “approve” Dr. Belton’s recommendation.

17. In summary, then, the “recommendation” of President Belton to terminate Dr. Dumas was never before the Board for its approval. Moreover, even if the matter were before the Board, an affirmative vote of the Board to approve the termination of Dr. Dumas was required. That was not done. In short, allowing Dr. Belton’s unilateral action to stand is violative of the Board’s own Bylaws and Regulations and Policies and Procedures, as noted above, as well as Dr. Dumas constitutional rights to due process before being deprived of property.

### III. THIS ACTION

18. Plaintiff is entitled to and desires the issuance of a temporary restraining order, and thereafter a preliminary injunction and permanent injunction precluding Defendant from terminating his employment based on Dr. Belton’s unilateral action.

19. Defendant’s failure to follow its own bylaws and regulations deprives Plaintiff of his constitutional guarantee to the right of access to the court as governed by Article 1, Section 22 of the Louisiana Constitution because his purported termination is not final. As a result, he cannot seek redress for his wrongful termination because his employer’s action is not final. Further, Defendant’s failure to follow its own bylaws and regulations deprives Plaintiff of substantive due process, as guaranteed by the Louisiana Constitution. Finally, allowing the unilateral action of Dr. Belton to stand will serve as a termination of Dr. Dumas’ employment, thus further injuring his reputation.

20. Plaintiff is therefore entitled to injunctive relief, without the requisite showing of irreparable injury, because the conduct sought to be restrained or enjoined constitutes a violation of his constitutionally protected rights. A petitioner is entitled to injunctive relief without the requisite showing of irreparable injury when the conduct sought to be restrained is unconstitutional or unlawful, i.e., when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or a violation of a constitutional right. *South Cent. Bell Tel. Co. v. Louisiana Pub. Serv. Comm’n*, 555 So.2d 1370 (La. 1990). Once a plaintiff has made a prima facie showing that the conduct to be enjoined

is reprobated by law, plaintiff is entitled to injunctive relief without the necessity of showing that no other adequate legal remedy exists. *Ouachita Parish Police Jury v. American Waste & Pollution Control*, 606 So.2d 1341 [749 So.2d 600] (La. App. 2 Cir.), writ denied, 609 So.2d 234 (La. 1992), cert. denied, 508 U.S. 113 S.Ct. 2339, 124 L.Ed.2d. 249 (1993). A showing of irreparable injury is not necessary when the act sought to be enjoined is unlawful, or a deprivation of a constitutional right is involved. *Maynard Batture Venture v. Parish of Jefferson*, 96-649, p.4 (La. App. 5 Cir. 12/30/96), 694 So.2d 391. Such a showing has been made here so an injunction should issue.

21. Because Defendant violated its own bylaws and regulations by failing to act upon or approve Dr. Belton's recommendation to terminate Dr. Dumas, Plaintiff has no other legal remedy to take before his purported termination on August 10, 2017. Accordingly, a temporary restraining order should be issued immediately and without the opportunity for the Defendant to be heard.

22. Upon information and belief, Defendant's next opportunity to act upon or approve Dr. Belton's recommendation is on August 18, 2017 at a regularly scheduled board meeting. Thus, it is necessary for Plaintiff to file this Petition before August 10, 2017 so that the Board may "act upon" or "approve" Dr. Belton's recommendation.

23. Plaintiff suggests to the Court that security should be dispensed with or set at a nominal amount as Defendant's potential costs and damages from August 10, 2017 through August 18, 2017 are *de minimus*.

24. Despite such urgency, Plaintiff has given notice to Defendant, through its attorney, of Dr. Dumas' intent to seek the relief requested herein.

#### IV. PRAYER FOR RELIEF

WHEREFORE, Brandon K. Dumas, Ph.D. prays that this Honorable Court:

A. Order the issuance of a temporary restraining order at a nominal security, directed to Defendant, Board of Supervisors of Southern University and Agricultural and Mechanical College, retaining, enjoining and prohibiting it and/or its officers, employees, agents, counsel or any

other person claiming to act on its behalf, from terminating Brandon K. Dumas without express action being taken by the Board;

B. Order the issuance of a *rule nisi* directed to Defendant to show cause why a preliminary writ of injunction in the form and substance of the above temporary restraining order should not issue herein;

C. In due course, order the issuance of a permanent injunction in the form and substance of the temporary restraining order;

D. Set the security in this matter at a nominal amount; and

E. For all other general and equitable relief allowed by law.

Respectfully submitted,

**WHALEY LAW FIRM**



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**Please serve:**

BOARD OF SUPERVISORS OF SOUTHERN UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
through its Chairperson, Honorable Ann A. Smith  
Office of the Board of Supervisors  
J.S. Clark Administration Building, 4th Floor  
Baton Rouge, Louisiana 70813



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19<sup>TH</sup> JUDICIAL DISTRICT COURT

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COLLEGE

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

ORDER

Considering the above and foregoing Petition for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction,

IT IS HEREBY ORDERED that a Temporary Restraining Order issue herein, directed to defendant, Southern University and Agricultural and Mechanical College System, restraining, enjoining and prohibiting it from terminating Brandon K. Dumas until the Southern University Board of Supervisors acts on or approves the recommendation made by Dr. Ray Belton as set forth by the Bylaws and Regulations of the Southern University and Agricultural and Mechanical College.

IT IS FURTHER ORDERED that this Temporary Restraining Order expires at the end of ten days from this date, unless extended by this Honorable Court prior to the expiration for good cause shown.

IT IS FURTHER ORDERED that Defendant, show cause on the \_\_\_\_\_ day of \_\_\_\_\_, 2017 at \_\_\_\_\_ o'clock \_\_\_\_m. why a Preliminary Injunction should not be issued in the form and substance of the Temporary Restraining Order.

IT IS FURTHER ORDERED that security in the security matter be and is hereby set in the amount of \_\_\_\_\_.

THUS DONE AND SIGNED in Baton Rouge, Louisiana, this \_\_\_\_\_ day of August 2017.

\_\_\_\_\_  
Judge, 19<sup>th</sup> Judicial District Court





**Please serve:**

BOARD OF SUPERVISORS OF SOUTHERN UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
through its Chairperson, Honorable Ann A. Smith  
Office of the Board of Supervisors  
J.S. Clark Administration Building, 4th Floor  
Baton Rouge, Louisiana 70813

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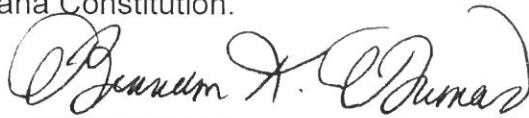
STATE OF LOUISIANA

VERIFICATION PURSUANT TO La. C. C. P. Art. 3603

BEFORE ME, the undersigned authority duly commissioned and qualified in the above stated Parish and State, did personally appear Brandon K. Dumas, a person of the full age of majority, domiciled in Ascension Parish, Louisiana, who, after being duly sworn did depose and state that:

All of the allegations contained in the Petition for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and they are true and correct except those expressly made on information and belief and that as to these he believes them to be true.

If a Temporary Restraining Order is not issued, I will be terminated from my employment as Vice Chancellor of Student Affairs and Enrollment Management as of August 10, 2017 without the opportunity to access the courts as guaranteed by Article 1 Section 22 of the Louisiana Constitution.



BRANDON K. DUMAS

Sworn to in Baton Rouge, Louisiana, before me, on this 9<sup>th</sup> day of August, 2017.

  
NOTARY PUBLIC

Print Name: BENJAMIN H. DAMPF

Notary Identification No. 32416

My Commission Expires at Death



EBR4205395