

Clemson & The “Wheels Of Justice”

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By Dr. John C. Bednar

The lawsuit between former executive secretary Eugene Troutman and Clemson University has been at a mysterious standstill for more than five months now. The last deadline for submission of briefs on just one of the many points being litigated was April 28, 2009.

That point is of singular importance to both parties. Briefly stated, it poses the question of whether or not Clemson University is an “arm of the State.”

Troutman’s lawyer, Joel Collins, argued that Clemson is *not* an arm of the State. Clemson argued that it is. Collins presented evidence that Clemson has repeatedly stated, in previous litigation, the contrary of what it is stating now (i.e. that it is *not* an arm of the State). Clemson is now seeking confirmation by a federal judge that it is, because such a ruling would provide the umbrella of protection that all State agencies enjoy. If Clemson prevails, the lawsuit returns to State courts. If Troutman prevails, the case continues toward trial in the federal court system.

What many people may not know, is that *if* Clemson prevails, it will be in violation of the Constitution of the State of South Carolina, which clearly states that no government officials can be appointed for life. And *seven* (a majority) of the thirteen members of the Board of Trustees of Clemson University are life trustees. So a ruling that Clemson is an arm of the State would be tantamount to a ruling voiding the life status of those seven trustees and removing the autonomy and

independence which Clemson's board has enjoyed since its conception ... with far-reaching implications and consequences for Clemson.

So Judge Perry has, indeed, a very weighty and serious ruling to make in so far as Clemson University and its future are concerned. But Judge Perry has an equally weighty and serious responsibility as far as Eugene Troutman is concerned. Mr. Troutman's lawsuit has been deliberately dragged out by Clemson's lawyers (another point argued by Joel Collins). This is a frequently-used tactic by large and powerful entities when they are defendants in law suits filed by individuals. They hope that time and their superior resources will be on their side and that the individual will eventually run out of money and abandon the search for justice. As of last spring, Clemson had spent over \$700,000 on lawyers' fees. Today it must be close to a million. Few individuals have those kinds of resources.

In the meantime, Eugene Troutman has not found employment and is waiting to try and clear his name in a court of law.

At this point, Judge Perry, who is arguably the most respected judge in South Carolina and certainly one of the most highly respected in the entire federal system, should render his decision. By delaying it any further in time, he himself becomes an unwitting partner to Clemson's tactic of dragging things out in the court system; and his responsibilities to provide justice for Mr. Troutman will appear to be increasingly neglected. More than five months is ample time for a wise and balanced decision.

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