

## OPINION AND JUDGMENT

A complaint of an honor code violation was filed on April 28, 1989 and the Executive Committee of the Student Bar Association has issued a finding of probable cause to support that complaint. The matter has been referred to me "for consideration and adjudication" pursuant to Article IV, Section 5 because "the alleged violation [was] reported within two months . . . [of] the [anticipated] graduation of the accused." My decision is that the complaint was not a violation of the honor code.

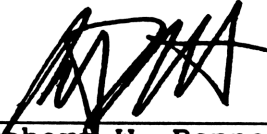
The violation alleged is of Article IV, Section 2(i), prohibiting, inter alia, the divulging of "official school information . . . that a reasonable student knows or should know is properly kept confidential." The accused is charged with having divulged that the complainant was a defendant in a prior honor code proceeding in which no review was available or sought (because the complaint was dismissed). According to the present complaint, the divulging took the form of an implied accusation rather than of an explicit statement that the complainant had been an honor code defendant.

Without considering whether such inexplicit divulging might suffice, I find that the honor code does not with sufficient clarity protect the confidentiality of the identity of the defendants in honor code proceedings after, as here, "all review procedures have been exhausted." The honor code evinces great concern with confidentiality, very much including the identity of honor code defendants, but Article VI, Section 6, entitled "Confidentiality" provides that "all matters relating to actions under the honor code shall be confidential until all review procedures have been exhausted." The fairest reading of this provision in isolation is that the obligation to keep matters confidential ends when "all review procedures have been exhausted." I am thus compelled to find that there was no honor code violation in this instance.

In finding probable cause, the Executive Committee found that this confidentiality section is "against the spirit of the honor code." I do not disagree with that characterization, but I cannot base a finding of an honor code violation on an obligation that seems rather explicitly to be excluded under language of the code.

This matter has suggested some obvious, and some not so obvious, ways in which the honor code is inartfully drafted. It also suggests that increased attention needs to be paid to an obligation of confidentiality with regard to honor code matters, whether or not specifically required by the honor code. If the defendant in this matter did divulge the identity of a former honor code defendant, she must have learned of that identity from another, who would then also have been guilty of a divulging offense. It has been suggested, moreover, that the identity of honor code defendants routinely becomes a matter of common knowledge. If this is so, we should attend to the confidentiality of honor code matters whether or not the honor code itself is employed as the enforcement mechanism.

Complaint dismissed.

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Robert W. Bennett  
Dean

Dated: May 11, 1989