STATE OF NORTH CAROLINA DURHAM COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 25CV003480-310
RYAN SMITH and TRE'SHON DEVONES, Plaintiffs, v. NATIONAL COLLEGIATE ATHLETICS ASSOCIATION, Defendant.	**AMENDED ORDER ON PLAINTIFFS' AMENDED MOTION FOR PRELIMINARY INJUNCTION**

This matter is before the Court on Plaintiffs' Amended Motion for Preliminary Injunction. (Am. Mot. P.I., ECF No. 21).

Plaintiffs, both college football players, have exhausted their athletic eligibility under the NCAA's long-standing eligibility Bylaws but wish to continue playing college football. Accordingly, they seek (i) a declaration that the NCAA's enforcement of its eligibility Bylaws violates Chapter 75 of the North Carolina General Statutes and (ii) injunctive relief, both preliminary and permanent, preventing the NCAA from enforcing those Bylaws.

Having considered the motion, the verified complaint and affidavits, the competent evidence of record, the record proper, the written and oral arguments of counsel for the parties, and relevant case law, the Court in its discretion determines that Plaintiffs' motion should be, and hereby is, **DENIED**. The Court orally ruled from the bench at the conclusion of the hearing on 22 April 2025. In documenting its oral ruling, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

Relevant Procedural History

1. Plaintiffs filed their original verified complaint in Durham County Superior Court on 3 April 2025, asserting a claim against the NCAA for alleged antitrust violations of Chapter 75 of the North Carolina General Statutes and a "claim" seeking injunctive relief, both in the complaint and with a separate motion seeking a preliminary injunction. (*See generally* Compl., ECF No. 2; Mot. P.I., ECF No. 4). Plaintiffs contend that the NCAA and its member institutions have violated state law by restraining and suppressing competition and exercising monopsony power over the labor market, ultimately limiting student-athletes' ability to "fully complete four (4) full seasons of athletic competition after experiencing catastrophic or life-altering injuries" by arbitrarily applying the NCAA's waiver process. (Compl. ¶ 64; *see* Pls.' Mem. Supp. Mot. P.I. at 2, ECF No. 23 (addressing injunctive relief sought). This case was filed as a companion case to *Jones v. National Collegiate Athletics Association*, No. 25-CV003492-310 (Durham County Superior Court), in which two other plaintiffs raise substantially the same claims and arguments, differing in substance primarily with respect to the number of years each individual has been in college and played college football. The Court enters similar Orders in both cases.

2. On 15 April 2025, Plaintiffs filed an amended motion for a preliminary injunction requesting that the Court enjoin the NCAA from enforcing Bylaw 12.8.1 (generally requiring student-athletes to complete their four years of eligibility within five years after starting college) against Plaintiffs and 12.11.4.2 (providing for

enforcement action) against Plaintiffs and their respective universities. (*See generally* Am. Mot. P.I, ECF No. 21). The parties thereafter submitted their briefing and evidence concerning the motion. (ECF Nos. 21–21.3, 27–27.1, 34–34.2).[1]

3. In support of their motion, Plaintiffs submitted three affidavits—one from each Plaintiff and one from B. David Ridpath, Ed.D, a professor of sport business at Ohio University who purports to be "an expert witness in the field of institutional, NCAA & various athletic conference Compliance Bylaws/Rules & Regulations as applied to NCAA Division I Intercollegiate Athletics juxtaposed with the existing NCAA enforcement process, student athlete reinstatement process and the reliability of those procedures." (Aff. B. David Ridpath ("**Ridpath Aff.**") ¶ 4, ECF No. 21.3; *see generally* Aff. Tre'Shon Devones ("**Devones Aff.**"), ECF No. 21.2; Aff. Ryan Smith ("**Smith Aff.**"), ECF No. 21.1). Ridpath is not, and does not purport to be, an expert in economics. (*See generally* Ridpath Aff.).

4. In opposition to the motion, the NCAA submitted declarations from Jerry Vaughn, its Director of Academic and Membership Affairs, and Charles Murry, Ph.D., an Associate Professor of Economics at the University of Michigan and Research Associate at the National Bureau of Economic Research, who has a research specialty in antitrust economics and is an economics expert. (Decl. Jerry Vaughn ("**Vaughn**

[1] The Court notes that the reply contains many purported facts that do not appear in the competent evidence of record, including information about Plaintiffs' intentions with respect to their football careers, much of which points to their putative expert's general conclusions and opinions—but is speculative as to Plaintiffs and not competent evidence evincing the intentions of Plaintiffs themselves. (*E.g.*, Pls.' Reply Br. at 8–10, ECF No. 34)

Decl.") ¶¶ 1–3, ECF No. 27.1, Ex. A Decl. Charles Murry ("**Murry Decl.**") ¶¶ 1–6, ECF No. 27.1, Ex. B).

5. On 22 April 2025, the Court held a hearing on the amended motion, and all parties appeared at the hearing through counsel.

6. The Court notes at the outset that Plaintiffs' arguments in their briefing and at oral argument appear to differ in certain respects in both scope and application from the arguments advanced in their motion and complaint. In several instances, Plaintiffs' arguments focus more on alleged failures or shortcomings of their educational institutions than on failings of the NCAA, at times suggesting their claim is based on their educational institution's initial failure to submit a waiver request or their coaches' playing-time decisions; at other times suggesting their claim is based on the facial impropriety of the Bylaws; and at other times suggesting that the waiver process itself is arbitrary as applied to Plaintiffs because the NCAA had not yet granted waivers to Plaintiffs when the complaint was filed[2] (based primarily on evidence that a blanket waiver was granted during the COVID-19 pandemic—including to Plaintiffs—and that others have received waivers under other, unspecified circumstances).

Relevant Facts

7. The Court's findings of fact are made solely for purposes of the preliminary injunction motion and are not binding in any subsequent proceedings. *Lohrmann v. Iredell Mem'l Hosp., Inc.*, 174 N.C. App. 63, 75 (2005) ("It is well settled that findings

[2] The NCAA subsequently denied Plaintiffs' waiver requests around 21 April 2025, as counsel for the parties stipulated and informed the Court.

of fact made during a preliminary injunction proceeding are not binding upon a court at a trial on the merits.").

NCAA Eligibility Bylaws

8. The NCAA is a voluntary, unincorporated, self-governing association that regulates intercollegiate athletics among its member institutions across three "Divisions" of competition—Divisions I, II and III. (Compl. ¶ 8; Vaughn Decl. ¶¶ 4–5).[3] Approximately 350 of its nearly 1,100 members, including Duke University, participate in athletics at the Division I (or "D-I") level. (Compl. ¶ 8; Vaughn Decl. ¶¶ 4–7).

9. For more than a century, the NCAA has promulgated Bylaws and other eligibility rules for intercollegiate athletics among its member institutions. (Vaughn Decl. ¶¶ 7–9). Its Bylaws "determine who competes, against whom they compete, and under what circumstances they compete at the Division I level." (Vaughn Decl. ¶ 12).

10. The Bylaws are designed to align with the time reasonably expected for a student-athlete to obtain an undergraduate degree following full-time college enrollment, (Vaughn Decl. ¶ 17), and are intended to "promote collegiate athletics and advance the fundamental purposes of the educational institutions where the student-athletes attend"—i.e., NCAA member institutions, (Vaughn Decl. ¶ 10).

11. Among those Bylaws, Plaintiffs take issue with only one set in their complaint—Bylaw 12.8 and its related subparts such as Bylaw 12.8.1, which together

[3] For purposes of efficiency and ease of reading, the Court cites only a limited subset of the competent evidence in the record, particularly where the parties agree on many of the underlying facts. However, in reaching its decision, the Court considered all competent evidence in the record, regardless of whether it is specifically cited in this Order.

limit student-athletes to four seasons of NCAA eligibility within a five-year period, generally commencing with the semester or quarter in which the student-athlete first enrolls in a full-time college or university. (Compl. ¶¶ 12–18, 59–74 & Prayer for Relief ¶ 1; Vaughn Decl. ¶¶ 13–17).

12. With certain exceptions not relevant here, Bylaw 12.8.1 (commonly known as the "**Five-Year Rule**") requires a student-athlete to "complete the student-athlete's seasons of participation within five calendar years from the beginning of the semester or quarter in which the student-athlete first registered for a minimum full-time program of studies in a collegiate institution," such as accredited universities. (Vaughn Decl. ¶¶ 14–16; *see also* Compl. ¶ 12).

13. There are numerous exceptions to, or opportunities for waivers of, parts of the Five-Year Rule. For example, a player may take a "redshirt" year, playing in up to four football games in a season without having that season count against the player's eligibility. Other exceptions exist to extend a student-athlete's eligibility for circumstances "beyond the control of the student-athlete," such as "incapacitating physical or mental circumstances" and instances of "extraordinary or extreme hardship." (Compl. ¶¶ 12–18). In prior seasons, other players have at various times received waivers granting additional years, up to nine years total in at least one instance, though the specific circumstances of those waivers are not detailed in the record. (Ridpath Aff. ¶ 31).

14. Similarly, Bylaws 12.8.6 and 12.8.6.2 permit a request for an additional season of competition if a "student-athlete participated in a limited amount of

competition while eligible due to a coach's documented misunderstanding of the legislation or other extenuating circumstances," such as life-threatening injury or illness by immediate family members, extreme financial difficulties arising from specific events, or a school's decision to discontinue a sports program. (Vaughn Decl. ¶ 29).

15. During or shortly after the COVID-19 pandemic, the NCAA implemented a one-time COVID-19 waiver, granting spring 2020 and fall 2020 (and a limited number of spring 2021) student-athletes an additional season of eligibility, or otherwise not counting those seasons against their eligibility, even if they participated in contests during those seasons. (Vaughn Decl. ¶¶ 18–19; Ridpath Aff. ¶¶ 19–21).

16. Though unmentioned in the complaint, Plaintiffs also take issue in their motion and briefing with Bylaw 12.11.4.2, which the parties fail to address in substance with their supporting affidavits or other verified evidence and which is largely ancillary to the other Bylaws at issue, as Plaintiffs' counsel acknowledged during the hearing. According to the language quoted in Plaintiffs' briefing, however, the Bylaw—also known as the Rule of Restitution—allows the NCAA to impose against a member "institution" certain sanctions, such as loss of records, award forfeiture, postseason bans, and financial penalties, if an otherwise ineligible student-athlete is permitted to participate in NCAA-sanctioned competition by way of court order. (Pls.' Mem. Supp. Mot. P.I. at 10–11); *see also Ohio v. Nat'l Collegiate Athletic Ass'n*, 706 F. Supp. 3d 583, 600 (N.D.W. Va. 2023) (quoting Bylaw 12.11.4.2, which provides for sanctions against and restitution from "the *institution* attended by such student-athlete" (emphasis added)). While they made various arguments at the

hearing concerning potential alleged harm, Plaintiffs have not provided evidence of how they are or would be personally sanctioned or affected (if at all) if the Bylaw were enforced, whether by paying the institution's fines, forfeiting records, or otherwise.

17. Though federal courts in other cases have recently taken issue with other of the NCAA's bylaws, such as those governing junior college transfers, the eligibility Bylaws at issue in this case, in one form or another, have been in place for years—long before Plaintiffs enrolled at and began playing football for their respective institutions and then throughout their enrollment. (Vaughn Decl. ¶¶ 7–9 (history of Bylaws); Devones Aff. ¶¶ 7, 9 (discussing possibility of redshirting to preserve eligibility in 2022 and "early 2024"); Smith Aff. ¶¶ 7 (discussing possibility of redshirting to preserve eligibility in 2021)); *Pugh v. Nat'l Collegiate Athletic Ass'n*, 2016 WL 5394408, at *5 (S.D. Ind. Sept. 27, 2016) (discussing application of Five-Year Rule and Bylaws 12.8 and 12.8.1 in 2016); *Deppe v. Nat'l Collegiate Athletic Ass'n*, 893 F.3d 498, 500 (7th Cir. 2018) (same in 2018); *Livers v. Nat'l Collegiate Athletic Ass'n*, 2018 WL 2291027, at *5 (E.D. Pa. May 17, 2018) (same).

18. In addition to aligning with the educational timeline, promoting college athletics, and advancing the interests of the NCAA's member institutions, (Vaughn Decl. ¶¶ 10, 17), the Bylaws expand roster opportunities for incoming students, ensuring annual roster turnover and prompting renewed competition for those spots. (Murry Decl. ¶¶ 15, 17–21). Further, the eligibility Bylaws help differentiate NCAA-regulated sports from professional sports that generally do not otherwise have such limited eligibility requirements and that employ players that generally have a

different (more advanced) level of skill. Without such eligibility requirements, incentives would exist for football players to play more than four seasons, with institutions incentivized to recruit them in lieu of less-experienced players, depriving those players of opportunities. (Murry Decl. ¶¶ 18–24). Though the parties' putative experts disagree as to whether there are procompetitive justifications for, or effects of, the Bylaws, (*compare* Ridpath Aff. ¶ 29, *with* Murry Decl. ¶¶ 13–24), the Court at this stage finds the evidence of procompetitive effects proffered by Murry more persuasive given the putative experts' areas of expertise and the competent evidence of record. (Murry Decl. ¶¶ 17–24).

19. The NCAA retains discretion to accept or deny waiver requests if they "do not meet the specific waiver criteria listed" in the Bylaws. (Ridpath Aff. ¶ 16). The NCAA employs an internal review process for such requests, with a case manager conducting an initial review of the evidence submitted in support of the waiver and considering applicable Bylaws, legislation, guidelines, policies, procedures, and precedent. (Vaughn Decl. ¶ 29). This is followed by a written decision, frequently denying the request because the "great majority" do not meet one of the bases for a waiver. (Vaughn Decl. ¶ 29).

Plaintiffs' Exhaustion of Eligibility and Requests for Waivers

20. In this case, Plaintiffs are both college football players and students at Duke University, which is a member of the NCAA. (Compl. ¶¶ 1, 6–8).

21. Plaintiff Smith enrolled at Duke in the summer of 2020, while Plaintiff Devones enrolled at Duke in 2024 after beginning his collegiate athletic career at Rice

University in 2019, and both participated in four seasons of football competition in which they played in more than four games counting towards their eligibility under the Five-Year Rule. (Compl. ¶¶ 18, 33; Smith Aff. ¶ 4; Devones Aff. ¶¶ 4–5).

22. Smith arrived at Duke in the summer of 2020 with the expectation that he would begin playing football promptly, and he did so, playing sixty-seven snaps during the fall 2020 season. Though he received subpar grades (a 1.466 GPA for the fall of 2020) and experienced the death of a family member and various mental and physical health issues during the season, the season did not count against Smith's eligibility under the NCAA Bylaws as part of the blanket waiver provided to student-athletes due to COVID-19—regardless of the number of games played. (Compl. ¶¶ 21–26; Vaughn Decl. ¶ 21).

23. For the 2021-2022 season, Smith played in a sufficient number of games (i.e., more than four countable games) to have those games count as his first year of eligibility, and, while he suggests that it affected his "focus," the death of Smith's grandfather did not prevent him from playing nearly twice as many snaps—111—as in 2021. (Smith Aff. ¶ 7; Vaughn Decl. ¶ 22).[4] Though Smith suggests that he wanted to redshirt during the 2021-2022 season so that it would not count against his eligibility, he vaguely asserts only that he "was prevented from doing so." (Compl. ¶ 28).

24. Smith's playing time then increased substantially during the fall of 2022

[4] Plaintiffs' complaint ("11 total snaps") conflicts with Smith's affidavit ("111 total snaps") and Ridpath's affidavit (111 also). Based on the record, the Court finds that the number is 111 total snaps. *Compare* Compl. ¶ 27, *with* Smith Aff. ¶ 7, and Ridpath Aff. ¶ 23.

(369 snaps), 2023 (469 snaps), and 2024 (645 snaps) seasons. Though neither party appears to specify the exact number of games in which Smith played, in his sophomore (2022), junior (2023), and senior (2024) seasons, Smith appeared in more than four collegiate games that were counted against his eligibility each season. (Vaughn Decl. ¶¶ 20–27; Compl. ¶ 30–32; Smith Aff. ¶ 8).

25. Ultimately, though he experienced injuries at various times, the death of his grandfather, and (like all of his teammates) certain coaching transitions, Smith participated in enough games over the course of the fall 2021, 2022, 2023, and 2024 seasons to exhaust his eligibility under the Bylaws, even excluding the games that were not counted in 2020 due to the COVID waiver. (Compl. ¶¶ 18–27; Smith Aff. ¶¶ 6–8; Vaughn Decl. ¶¶ 20–24).

26. Smith was aware of the NCAA's Bylaws and the Five-Year Rule at least as early as the 2021-2022 football season, (Compl. ¶ 28), and knew for his "entire career" that he was playing against certain individuals who were "older and stronger" because they had received extra years (i.e., waivers) from the NCAA, (Smith Aff. ¶ 13). Yet there is no indication that Smith sought a waiver from the NCAA for an additional year of eligibility until March 2025, when his attorneys directly submitted a waiver request to the NCAA. (Smith Aff. ¶ 15 & Ex. A).

27. Thereafter, because waiver requests must be submitted by member institutions rather than individual players, the NCAA guided Smith through the process of having Duke properly make the submission, which Duke did in early April 2025. (Devones Aff. Ex. A; Ridpath Aff. ¶ 17; Vaughn ¶ 29).

28. With his lawsuit, Smith now seeks an additional year of eligibility so that he may take advantage of compensation offers of up to $150,000.00, "prove [him]self," and "finish [his] collegiate career on [his] terms." (Smith Aff. ¶¶ 12–14).

29. Plaintiff Devones followed a longer and more circuitous route in exhausting his eligibility as a college football player. (*See generally* Devones Aff.). Devones began his college football career at Rice University in 2019, six football seasons ago. (Compl. ¶¶ 33–34). During his freshman season at Rice in the fall of 2019, Devones participated in all twelve of his team's games, starting three of them. (Compl. ¶ 25; Devones Aff. ¶ 5; Vaughn Decl. ¶ 26).

30. During his second (sophomore) season in 2020, Devones played in only three games, but, as with Smith, neither the 2020 season nor the games in which he played that year were counted against Devones' ultimate eligibility under the Bylaws. (Compl. ¶ 37; Devones Aff. ¶ 5; Vaughn Decl. ¶ 26). Thereafter, Devones suffered an injury that kept him from playing in any games during the fall 2021 season, such that it also did not count against his eligibility, and he received an autoimmune diagnosis in late 2021. (Devones Aff. ¶ 6; Vaughn Decl. ¶ 26).

31. Months later, Devones was able to participate in his team's fall 2022 season, having sufficiently recovered that there were "high expectations" for his playing abilities that season. (Devones Aff. ¶ 7). Devones claims he was "[p]retending [he] was okay" and "pretend[ing] things were 'normal,'" yet he continued to play, ultimately pulling a hamstring. (Devones Aff. ¶ 7). While he was initially given and sought to take advantage of the opportunity to redshirt, Devones was eventually

needed to participate as a member of the team due to injuries and poor team performance, after which he participated in enough games to "definitively push[] [his] playing time over the redshirt limit" of four games for the 2022 season. (Devones Aff. ¶ 7; *see also* Vaughn Decl. ¶ 26). This counted as Devones's second season of eligibility for purposes of the Bylaws. (Vaughn Decl. ¶ 26.)

32. Thereafter, Devones participated in the "full season" in 2023 with Rice, thereby exceeding the four-game threshold, and he elected to transfer to Duke after the season. The fall 2023 season thus counted as Devones's third season of eligibility for purposes of the Bylaws. (Devones Aff. ¶ 8; Vaughn Decl. ¶ 26).

33. For the fall 2024 season, Devones played in a substantial portion of Duke's football games, playing various snaps in five games before playing on special teams in other games for "the remainder of the season" and thus participating in his fourth year of eligibility. (Compl. ¶¶ 50–51; Devones Aff. ¶ 9; Vaughn Decl. ¶ 27).

34. Over the course of his six years in college athletics, Devones experienced various injuries and mental health crises that affected his playing time, but he insists that he has been a "model student athlete"—which the Court does not doubt. (Devones Aff. ¶¶ 5–11).

35. Though Devones casts substantial blame on the integrity and motives of his coaches at both Rice and Duke[5] and claims that he initially wanted to use his redshirt year in 2024, he ultimately received six years under the Bylaws to complete his four seasons of eligibility and participated in more than four games in four of those

[5] *See, e.g.*, Devones Aff. ¶ 13 (asserting that he is "being denied" compensation because his "eligibility was squandered" by limited playing time in 2022 and 2024).

seasons, exhausting his eligibility with the 2024 season. (Devones Aff. ¶¶ 5–9; Vaughn Decl. ¶ 27).

36. Devones was familiar with the NCAA's Bylaws and the Five-Year Rule at least as early as 2022, when he knew that playing in a fifth game would burn his redshirt year, as reiterated in 2024 (his final year of eligibility) when he again discussed taking a redshirt year with his coaches. (Devones ¶¶ 7, 9). He knew that any season in which he played in more than four games could affect his ability to redshirt and would count as one of his four seasons of eligibility under the NCAA's Bylaws, thereby potentially necessitating a waiver . (Devones Aff. ¶ 7 (discussing burning redshirt), ¶ 9 (discussing desire to redshirt)).

37. Nonetheless, it does not appear that Devones sought any waiver (other than the blanket COVID waiver that all eligible student-athletes received) until March 2025, when he hired legal counsel and had them (rather than Duke) submit a waiver request to the NCAA. (Devones Aff. ¶ 15; Vaughn Decl. ¶ 28).

38. As it did with Smith, the NCAA then guided Devones through the process of having Duke submit the waiver, which Duke did in early April 2025. (Devones Aff. ¶ 15; Vaughn Decl. ¶ 28).

39. Devones now seeks an additional year of eligibility so that he may take advantage of compensation opportunities of up to $150,000.00, "prove [him]self," and "finish [his] collegiate career on [his] terms." (Compl. ¶ 52; Devones Aff. ¶¶ 13–16).

40. Though Plaintiffs' putative expert suggests that market and power dynamics with coaches mean that student-athletes "ha[ve] no say in" redshirting and

that Plaintiffs were effectively voiceless in the process (*e.g.*, Ridpath Aff. ¶¶ 14, 27),[6] the testimony does not substantively explain how these purported coaching issues necessarily mean that (or explain how) the NCAA is applying its eligibility Bylaws in an arbitrary manner that would violate North Carolina law.

41. Regardless, Plaintiffs commenced this action in April 2025, requesting a declaration that the NCAA's enforcement of its eligibility Bylaws violates North Carolina's antitrust laws. In their complaint, Plaintiffs contend that "markets for athletic competition in men's and women's Division I sports" are the relevant markets for their antitrust allegations, (Compl. ¶ 65), though they attempt in their briefing to expand the market to "consumers of collegiate athletics," (Pls.' Mem. Supp. Mot. P.I. at 19).

42. While Plaintiffs contend in their briefing and argued at the hearing that they need injunctive relief because of the impending NFL draft (24 to 26 April 2025), neither Plaintiff has indicated—as part of the competent evidence in the record—evidence of an intent to participate in the 2025 NFL draft or surrounding events. Instead, Plaintiffs merely note with identical phrasing that they eventually "aspire to play football professionally," are "technically NFL draft eligible," and might at

---

[6] Ridpath also supplements these statements with various legal conclusions, including opinions and conclusions that Plaintiffs have "several actionable causes of action in this civil case," that "the relief requested by the plaintiffs in the original complaint should be granted," and that he "see[s] no possible way that the plaintiffs did not meet and/or exceed the criteria of several of the waiver bylaws and that they should have had their waivers easily approved." (Ridpath Aff. ¶¶ 28, 33). As the fact finder for purposes of the preliminary injunction motion, the Court finds Ridpath's affidavit overly sensational in several respects. (Ridpath Aff. ¶¶ 14-15, 27, 32; *id.* ¶ 25 (asserting that the NCAA's waiver review process is "mind bogglingly different" from precedent and by athlete)); *Fungaroli v. Fungaroli*, 51 N.C. App. 363, 367 (1981).

some point "prematurely enter the NFL draft with a low likelihood of success." (Devones Aff. ¶ 12; Smith Aff. ¶ 11; Compl. ¶ 76).[7]

43. In early April 2025, Duke ultimately submitted "Season of Competition" – rather than "Hardship" – waiver requests, seeking an additional year of eligibility for Plaintiffs under the Five-Year Rule. (Vaughn Decl. ¶ 31). Among other things, Plaintiffs and their putative expert variously contend that it is "grossly unfair" or "profoundly unfair" that other student-athletes have (under other, largely undescribed circumstances) received hardship waivers; that certain student-athletes (including Plaintiffs) received an additional year of eligibility in light of COVID; and that courts have required the NCAA to grant other waivers, while Plaintiffs have exhausted their eligibility and are not eligible for additional years based on their purported hardships. (Ridpath Aff. ¶¶ 17, 20; Smith Aff. ¶ 13).

44. Though the waiver requests were pending at the time of briefing in this action, (Vaughn Decl. ¶ 31), as the parties informed the Court and stipulated at the hearing, around 21 April 2025, the NCAA denied Plaintiffs' waiver requests submitted via Duke. Thus, both players remain ineligible to participate in further D-I football competition under the existing NCAA Bylaws and acknowledge that any offers they have received for name, image, and likeness ("**NIL**") compensation apply only if they "become eligible this coming fall." (Compl. ¶¶ 32, 52).

---

[7] Though Plaintiffs focus heavily on the NFL draft and other purported harms in their reply briefing and did so in their oral arguments as well, much of the information included in the reply brief and oral arguments is simply not included in or even supported by the competent evidence of record. For example, the reply claims Plaintiffs have engaged in substantial evaluations, pro days, and similar preparatory work. (Pls.' Reply at 10). However, there are no affidavits, declarations, or verifications that support these statements.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Court makes the following conclusions of law:

45. While Plaintiffs might well eventually present adequate evidence to demonstrate that the NCAA's enforcement of Bylaws 12.8.1 and 12.11.4.2 is arbitrary and otherwise violates Chapter 75, based on the limited facts in evidence at this stage of the case and after careful balancing of the equities, the Court concludes that Plaintiffs have not yet shown a reasonable *likelihood* that they will do so or that they will be irreparably harmed if the NCAA is not restrained from enforcing those long-standing Bylaws. Plaintiffs have failed to develop an adequate evidentiary record, even for preliminary injunctive relief. Accordingly, in its discretion, the Court concludes that Plaintiffs are not entitled to the extraordinary remedy of a preliminary injunction upsetting the status quo—one in which the Bylaws are in effect and in which Plaintiffs have exhausted their eligibility.

46. The purpose of immediate injunctive relief "is ordinarily to preserve the *status quo* . . . [and i]ts issuance is a matter of discretion to be exercised by the hearing judge after a careful balancing of the equities." *A.E.P. Indus., Inc. v. McClure*, 308 N.C. 393, 400 (1983) (quoting *State ex rel. Edmisten v. Fayetteville St. Christian Sch.*, 299 N.C. 351, 357 (1980)).

47. Both preliminary injunctions and temporary restraining orders are extraordinary remedies. *La Mack v. Obeid*, 2014 NCBC LEXIS 38, at *1–3, *1 n.2 (N.C. Super. Ct. Aug. 29, 2014) (denying motion for temporary restraining order;

noting drastic nature of such relief even in instances where the nonmovant has notice). "The burden is on the plaintiffs to establish their right to a preliminary injunction." *Pruitt v. Williams*, 288 N.C. 368, 372 (1975).

48. However, injunctive relief may be appropriate:

> (1) if a plaintiff is able to show *likelihood* of success on the merits of his case and (2) if a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the Court, issuance is necessary for the protection of a plaintiff's rights during the course of litigation.

A.E.P. Indus., 308 N.C. at 401 (emphasis in original) (citations omitted). On the other hand, "[w]here there is a full, complete and adequate remedy at law, the equitable remedy of injunction will not lie." *Bd. of Light & Water Comm'rs v. Parkwood Sanitary Dist.*, 49 N.C. App. 421, 423 (1980) (citations omitted).

49. A likelihood of success on the merits means a "reasonable likelihood." *See A.E.P. Indus.*, 308 N.C. at 404.

50. Further, an "irreparable injury" is not necessarily "beyond the possibility of repair or possible compensation in damages, but . . . is one to which the complainant should not be required to submit or the other party permitted to inflict, and is of such continuous and frequent recurrence that no reasonable redress can be had in a court of law." *Barrier v. Troutman*, 231 N.C. 47, 50 (1949).

51. Ultimately, "[a] court of equity must weigh all relevant facts before resorting to the extraordinary remedy of an injunction," *Travenol Lab'ys, Inc. v. Turner*, 30 N.C. App. 686, 694 (1976), but, "[i]f irreparable injury is not shown, the preliminary

injunction will be denied," *Unimin Corp. v. Gallo*, 2014 NCBC LEXIS 44, at *17 (N.C. Super. Ct. Sept. 4, 2014) (citations omitted).

52. Generally, courts should not go further than preserving the status quo and should not "determine the final rights of the parties which must be reserved for the final trial of the action." *United Tel. Co. of the Carolinas v. Universal Plastics, Inc.*, 287 N.C. 232, 235 (1975) (citation omitted); *Seaboard Air Line R.R. v. Atl. Coast Line R.R.*, 237 N.C. 88, 96 (1953) (injunction is improper if it effectively "would determine by an interlocutory order the ultimate relief sought in this action in accordance with the prayer in plaintiff's complaint").

Likelihood of Success on the Merits

53. As to Bylaw 12.11.4.2, which concerns sanctions against, Plaintiffs have not demonstrated a reasonable likelihood of success on this claim under Chapter 75. Plaintiffs are not the "institutions" potentially subject to the sanctions, and they have identified no competent evidence of likely harm to Plaintiffs even if the NCAA were to enforce this Bylaw against their respective institutions. *See* N.C. Gen. Stat. § 75-16 (providing for private right of action only to the "person, firm or corporation so injured"); *id.* §§ 1-253 *et seq.* (contemplating declaratory relief standing for a "person interested" or "whose rights, status or other legal relations are affected"); *see generally Whittaker v. Furniture Factory Outlet Shops*, 145 N.C. App. 169 (2001) (affirming dismissal for lack of standing, which is appropriately raised sua sponte by the Court). For example, there is no evidence that they have been or will be required

to make payments, that they will have personal records forfeited, or that they will experience other personal harm if the Bylaw is enforced.

54. Further, though referenced in Plaintiffs' amended motion, Bylaw 12.11.4.2 is not substantively addressed in Plaintiffs' complaint, and there is no substantive discussion in the complaint, motion, or briefing about *why* a declaratory judgment as to that Bylaw should be granted. Indeed, even in their briefing, Plaintiffs' discussion of the Bylaw is limited to a single block quote of the Bylaw, with a citation, and a request that the Court enjoin its enforcement against Plaintiffs and their institutions. (Pls.' Mem. Supp. Mot. P.I. at 11, 27); *cf. Londry v. Stream Realty Partners*, 2023 NCBC LEXIS 174, at *10–11 (N.C. Super. Ct. Dec. 28, 2023) (no preliminary injunction where there are no underlying claims supporting the relief requested in the motion); *Ford v. Jurgens*, 2020 NCBC LEXIS 157, at *1 (N.C. Super. Ct. April 24, 2020) (no injunction for ancillary conduct).

55. As to Bylaws 12.8 and 12.8.1, based on the limited scope of evidence before the Court, while Plaintiffs have presented some evidence to suggest there is a *possibility* of success on the merits, the Court is not persuaded that Plaintiffs have shown a reasonable likelihood of such success.

56. "Chapter 75 is primarily directed at non-ancillary restraints of trade, such as price fixing, exclusive territorial arrangements, exclusive dealing, refusals to deal, monopolization, attempts to monopolize, combinations and conspiracies to monopolize, unfair methods of competition, and unfair trade practices." *United*

Roasters Inc. v. Colgate-Palmolive Co., 485 F. Supp. 1041, 1048 n.2 (E.D.N.C. 1979) (citation omitted).

57. "To establish a claim for restraint of trade under North Carolina law, a party must plead '(1) a contract, combination, or conspiracy; (2) that imposed an unreasonable restraint of trade.'" *Davis v. HCA Healthcare, Inc.*, 2022 NCBC LEXIS 108, at *22 (N.C. Super. Ct. Sept. 19, 2022) (citations omitted) (addressing monopoly claims as well); *see* N.C. Gen. Stat. § 75-1 ("Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce in the State of North Carolina is hereby declared to be illegal."), § 75-2 ("Any act, contract, combination in the form of trust, or conspiracy in restraint of trade or commerce which violates the principles of the common law" is a violation of § 75-1), § 75-1.1 (unfair or deceptive acts and practices declared unlawful), & § 75-2.1 (monopolies declared unlawful).[8]

58. The parties agree that review of the eligibility Bylaws for purposes of antitrust compliance is governed by the rule of reason, a three-step test requiring (i) plaintiffs to meet the initial burden of showing that the defendant's conduct adversely affects competition in the relevant market, (ii) the defendant to, in turn, provide evidence of the conduct's procompetitive effects, and (iii) the plaintiffs to demonstrate

[8] Though Plaintiffs cite each statute in their complaint and label their claim as being one for "Violation of North Carolina's Monopolies, Trusts, and Consumer Protection Act, N.C. Gen. Stat. § *75-1.1*," suggesting an emphasis on unfair or deceptive acts or practices, (Compl. at 9 (emphasis added)), they only substantively brief the restraint-of-trade issue under §§ 75-1 and 75-2 and conceded at the hearing that their claims rest upon that issue. Accordingly, the Court analyzes the arguments and issues as presented, consistent with Rule 7.2 of the Business Court Rules.

that "any legitimate competitive benefits could have been achieved by less restrictive means." *Dicesare v. Charlotte-Mecklenburg Hosp. Auth.*, 2017 NCBC LEXIS 33, at *46 (N.C. Super. Ct. Apr. 11, 2017) (citations omitted).

59. Initially, though the recent case law cited by the NCAA is equally, if not more, compelling in the federal antitrust context, which North Carolina law closely tracks, Plaintiffs have shown at least a reasonable likelihood that the NCAA's eligibility Bylaws are commercial in nature such that they could be governed by Chapter 75. *Compare Goldstein v. Nat'l Collegiate Athletic Ass'n*, 2025 WL 662809, at *3 (M.D. Ga. Feb. 28, 2025) (determining that Bylaws 12.8 and 12.8.1 are "non-commercial, eligibility rules that are not subject to" antitrust scrutiny), *and Osuna v. Nat'l Collegiate Athletic Ass'n*, 2025 WL 684271, at *3–4 (E.D. Tenn. Mar. 3, 2025) (denying preliminary injunction; declining to determine whether junior college transfer/eligibility rule was commercial and merely "assum[ing]" it to be for purposes of argument), *with Pavia v. Nat'l Collegiate Athletic Ass'n*, 2024 WL 5159888, at *6 (M.D. Tenn. Dec. 18, 2024) (subject to regulation as commercial), *and Brantmeier v. Nat'l Collegiate Athletic Ass'n*, 2024 WL 4433307, at *2 (M.D.N.C. Oct. 7, 2024); (*see also* Def.'s Br. Opp'n at 17, ECF No. 27 (acknowledging certain commercial conduct)).[9]

[9] The Court emphasizes that it makes no determination at this stage that the Bylaws at issue are or are not commercial—merely that Plaintiffs have at least made a showing of a reasonable likelihood of success as to that discrete issue for purposes of a preliminary injunction. *See United Roasters Inc.*, 485 F. Supp. at 1048 n.2 ("Chapter 75 is primarily directed at non-ancillary restraints of trade…").

60. Nonetheless, given their limited supporting evidence, Plaintiffs have not yet made a sufficient showing that they are likely to prevail on the merits of their claims, as, among other things:

a. Plaintiffs have not shown a reasonable likelihood that the challenged eligibility Bylaws are an *unreasonable* restraint of trade, particularly where the NCAA has provided substantial evidence of procompetitive effects. (Murry Decl. ¶¶ 13-24); *see Goldstein*, 2025 WL 662809, at *6 (minimally developed record "undoubtedly prevent[ed] the Court from granting" an injunction after plaintiff "tendered no expert report, no economic analysis, or even a single exhibit that would allow the Court to conduct its required rule-of-reason analysis."); *Arbolida*, 2025 WL 579830, at *3–5 (denying motion on similarly undeveloped record); *Osuna*, 2025 WL 684271, at *3–5 (same); *see also Nat'l Collegiate Athletic Ass'n v. Bd. of Regents of Univ. of Okla.*, 468 U.S. 85, 117 (1984) ("It is reasonable to assume that most of the regulatory controls of the NCAA are justifiable means of fostering competition among amateur athletic teams and therefore procompetitive because they enhance public interest in intercollegiate athletics."); *Davis*, 2022 NCBC LEXIS 108, at *23 (noting requirement that there be both "trade" and an "unreasonable" restraint);

b. Plaintiffs have made a minimal, if any, evidentiary showing that "legitimate competitive benefits could have been achieved by less restrictive means," *Dicesare*, 2017 WL 1359599, at *15, seeking instead to have the Court infer facts by pointing to case law from other jurisdictions and in other contexts suggesting that other, less restrictive means (such as simply granting everyone another year of

eligibility) might be available primarily because the NCAA has made changes to its Bylaws in light of court orders—without an economics expert or even fact-based evidence or explanation as to how or why such less restrictive means would be appropriate in light of the NCAA's mission and market. (Pls.' Mem. Supp. Mot. P.I. at 19–22);[10] and

c. Inasmuch as they contend that the issue is the NCAA's case-by-case enforcement of the eligibility Bylaws, Plaintiffs have not made a sufficient evidentiary showing that the NCAA enforces the Bylaws arbitrarily in general or that it has done so as to Plaintiffs, as the primary examples of deviations offered by Plaintiffs are (i) a blanket waiver offered to student-athletes, including both Plaintiffs, during the heart of a worldwide COVID-19 pandemic, and (ii) vague references to other student-athletes receiving additional years of eligibility via waivers, with little-to-no factual background as to the circumstances under which those waivers were obtained. (*E.g.*, Smith Aff. ¶ 13; Ridpath Aff. ¶ 31).

61. Thus, based on the current record, the Court concludes that Plaintiffs have not met their burden to show a reasonable likelihood of success on the merits of their claims.[11] This determination is sufficient to end the Court's inquiry and support

[10] To the extent Plaintiffs imply that the issuance of a one-time COVID-19 waiver or case-by-case issuance of additional years necessarily means that the blanket application of a fifth year of competitive eligibility would be an appropriate alternative, there is no substantive analysis explaining why that would be the case.

[11] "Injunctive relief, often sought through a preliminary injunction, 'is an ancillary remedy, not an independent cause of action.' It is well-settled that 'injunctive relief is not a standalone claim[.]'" *BIOMILQ, Inc. v. Guiliano*, 2024 NCBC LEXIS 58, at *26 (N.C. Super. Ct. Apr. 19, 2024) (alteration in original) (citations omitted). Accordingly, Plaintiffs' second "claim" for injunctive relief is not an independent basis on which to grant the very injunction they seek.

the denial of Plaintiffs' motion, but, as further and alternative bases justifying denial of the motion, the Court also addresses the issues of alleged irreparable harm and balancing of the equities.

Irreparable Harm

62. The Court further concludes that Plaintiffs have failed to demonstrate that they face a threat of an irreparable injury or loss that "is real and immediate" or that issuance of an injunction is otherwise necessary to protect their rights during the course of litigation. *United Tel. Co.*, 287 N.C. at 235; *see also A.E.P. Indus.*, 308 N.C. at 401.

63. Plaintiffs have played under the Bylaws, including the Five-Year Rule, their entire careers, and the blanket waivers granted to spring and fall 2020 student-athletes (including Plaintiffs) for an additional year of eligibility have been in place for years. (Vaughn Decl. ¶¶ 18–19; Ridpath Aff. ¶¶ 19–21). As a result, Plaintiffs have considered attempting to redshirt, on and off, for years, knowing that their eligibility would be exhausted if they played too many games and did not otherwise sit out. (Devones Aff. ¶¶ 7, 9 (discussing possibility of redshirting to preserve eligibility in 2022 and "early 2024"); Smith Aff. ¶ 7 (discussing possibility of redshirting to preserve eligibility in 2021)). Plaintiffs have apparently known for years that, to gain an additional year of eligibility like the bigger, older student athletes against whom they played, they would need waivers of, or exceptions to, the Bylaws that they now (*E.g.*, Smith Aff. ¶ 13).

64. Yet, the evidence indicates that Plaintiffs waited until early March 2025 to seek eligibility waivers before filing suit in April 2025. (Compl. ¶¶ 53–58; Devones Aff. ¶ 15; Smith Aff. 15).

65. These lengthy delays counsel heavily against a finding of irreparable harm. *Glob. Textile All., Inc. v. TDI Worldwide, LLC*, 2017 NCBC LEXIS 108, at *11 (N.C. Super. Ct. Nov. 21, 2017) ("One significant measure of . . . immediate and irreparable harm is the haste with which the moving party seeks injunctive relief." (citations omitted)); *see also N. Iredell Neighbors for Rural Life v. Iredell Cnty.*, 196 N.C. App. 68, 79 (2009) (affirming denial of injunction pending appeal where "some two months" passed "without any contention by plaintiffs of an urgent threat of irreparable harm"); *W&W Partners, Inc. v. Ferrell Land Co.*, 2018 NCBC LEXIS 210, at *12 (N.C. Super. Ct. Mar. 8, 2018) (plaintiffs waited eight months after learning of underlying dispute before filing suit); *Am. Air Filter Co. v. Price*, 2017 NCBC LEXIS 9, at *13–15 (N.C. Super. Ct. Feb. 3, 2017) (denying preliminary injunction after four-month delay).

66. As in other cases where motions for restraining orders and preliminary injunctions have been denied, much of the alleged irreparable harm of which Plaintiffs complain—a quickly approaching decision deadline concerning the NFL draft and an inability to play football in the fall of 2025—was avoidable, or at least could have been mitigated, had Plaintiffs acted sooner. *E.g.*, *Arbolida v. Nat'l Collegiate Athletic Ass'n*, 2025 WL 579830, at *4 (D. Kan. Feb. 21, 2025) (denying motion when plaintiff's alleged injury was "due in part to [p]laintiff's own actions in

waiting to file the present suit" until "the day of his team's first game"); *Ciulla-Hall v. Nat'l Collegiate Athletic Ass'n*, 2025 WL 438707, at *3 (D. Mass. Feb. 7, 2025) (denying motion where "emergency circumstances . . . appear[ed] at least in part attributable to [the plaintiff's] delay in seeking injunctive relief").

67. Indeed, though an inability to continue one's college athletic career might amount to irreparable harm in other circumstances, based on the facts and the minimally developed record in this case, Plaintiffs' argument does not compel a determination of irreparable harm, and, considering Plaintiffs' delay and the equities of the case, the Court concludes the current circumstances do not warrant injunctive relief. *E.g.*, *Equity in Athletics, Inc. v. Dep't of Educ.*, 504 F. Supp. 2d 88, 100–01 (W.D. Va. 2007) (denying preliminary injunction despite "compelling" evidence of harm where plaintiffs delayed for months, even though plaintiffs would "be unable to complete their intercollegiate athletic careers at JMU, the school of their choice"), *aff'd sub nom. Equity in Athletics, Inc. v. U.S. Dep't of Educ.*, 291 F. App'x 517 (4th Cir. 2008); *Miller v. Univ. of Cincinnati*, 2007 WL 2783674, at *11 (S.D. Ohio Sept. 21, 2007) (no irreparable harm from termination of program where rowers would continue to receive scholarships or would be able to transfer to another school); *Gonyo v. Drake Univ.*, 837 F. Supp. 989, 994 (S.D. Iowa 1993) (no irreparable harm to wrestlers with shutdown of wrestling program); *cf. Cohen v. Brown Univ.*, 991 F.2d 888, 905 (1st Cir. 1993) (noting that a record in which the disbanding of a college gymnastics team would prevent participation in competition "supports, even though it *does not compel*" a finding of irreparable harm (emphasis added)); *but see Ohio v.*

Nat'l Collegiate Athletic Ass'n, 706 F. Supp. 3d 583, 597 (N.D.W. Va. 2023) (collecting cases suggesting irreparable harm), *and Pavia v. Nat'l Collegiate Athletic Ass'n*, 2024 WL 5159888, at *13 (M.D. Tenn. Dec. 18, 2024).

68. Similarly, the potential loss of compensation from proposed NIL agreements is a monetary harm that can be remedied by monetary damages if appropriate. *See Parkwood Sanitary Dist.*, 49 N.C. App. at 423–24. Though Plaintiffs contend that recent case law favors a determination of irreparable harm in light of the Supreme Court's decision in *Nat'l Collegiate Athletic Ass'n v. Alston*, 594 U.S. 69 (2021), the quasi-professionalization of college athletics, with student-athletes now compensated via NIL deals, suggests a largely quantifiable and compensable scope of harm in this respect.

69. Accordingly, the Court concludes that Plaintiffs have failed to meet their burden to show irreparable harm or otherwise that protection of their rights requires issuance of an injunction at this stage. *See Barrier*, 231 N.C. at 50.

Equitable Balancing and Considerations

70. Further, considering the filings, the competent evidence of record, and the arguments of counsel, the Court has balanced and weighed the potential harm to Plaintiffs if an injunction is not issued against the potential harm to the NCAA if an injunction is granted and has otherwise considered the equitable circumstances surrounding this action and Plaintiffs' motion. *See, e.g.*, *Williams v. Greene*, 36 N.C. App. 80, 86 (1978) (vacating injunction and noting that, in the balancing process, "the harm alleged by the plaintiff must satisfy a standard of relative substantiality as well

as irreparability."). The Court has also considered the merits, the parties' course of conduct, Plaintiffs' delays in seeking injunctive relief, the unique nature of the subject matter at issue, the intended use of injunctive relief to maintain the status quo where possible, and the public policy considerations at issue.

71. Having done so, the Court concludes in its discretion that Plaintiffs have failed to meet their burden to demonstrate that issuance of an injunction is necessary or appropriate and that applicable standards, equitable considerations, and the parties' course of conduct to this point weigh in favor of denying Plaintiffs' motion.

72. The Court also determines that Plaintiffs' request for a preliminary injunction at this stage—when their eligibility to compete in future years has been exhausted under the existing Five-Year Rule and when there is no dispute that they are not currently eligible unless the Bylaws are invalidated, a waiver is approved, or the Court otherwise grants relief—is a request would unnecessarily upset the status quo if granted. *United Tel. Co.*, 287 N.C. at 235.[12] Further, though not a determinative factor, as Plaintiffs seek a final declaration that the NCAA's enforcement of the Bylaws violates state law, their request would in some respects prematurely "determine by an interlocutory order the ultimate relief sought in this action in accordance with the prayer in plaintiff[s'] complaint" by enjoining the NCAA from enforcing those very Bylaws. *Seaboard Air Line R.R.*, 237 N.C. at 96.

[12] Despite the NCAA's contention to the contrary in briefing, however, the Court does not view the requested relief as a mandatory injunction where Plaintiffs seek to prohibit the NCAA from enforcing the eligibility Bylaws at issue.

73. The Court's review of the motion has been fact intensive, and, as in other recent cases addressing similar issues, such as *Goldstein*, *Osuna, Ciulla-Hall*, and *Arbolida*, Plaintiffs' ability to make the requisite showing has been undercut in part by Plaintiffs' broad-brush arguments and minimal development of the evidentiary record.

74. Ultimately, while the Court is cognizant of the circumstances under which Plaintiffs exhausted their four years of eligibility under the Five-Year Rule and understands Plaintiffs' frustration over not simply getting "one more year" as they request, the Court concludes that preliminary injunctive relief is not warranted at this time and that Plaintiffs' motion is appropriately denied.

CONCLUSION

Accordingly, in the exercise of its discretion and based upon the foregoing findings of fact and conclusions of law, the Court **DENIES** Plaintiffs' amended motion for a preliminary injunction.

SO ORDERED, this 25th day of April 2025.[13]

/s/ Matthew T. Houston
Matthew T. Houston
Special Superior Court Judge
for Complex Business Cases

[13] The Court enters this Amended Order to correct a citation error with respect to the *Osuna* parenthetical in its original Order filed 24 April 2025. (ECF No. 36). Neither the substance of the Court's Order nor its determinations are in any way affected.