

Friday, July 06, 2001

Dear Colleagues,

This year, three faculty members in our department, when commenting on my Application for Tenure & Promotion, expressed their belief that the fact that I am essentially an out-of-the-closet Christian is unconstitutional at WSU, since this is a state institution.¹ This led to correspondence between Tess Kruger, Jordan Lorence of the Northstar Legal Foundation in Fairfax, VA, and me. It also took me away from important classwork that I needed to attend to. But aside from this minor annoyance, I am disturbed by the fact that so many people seem to have an inaccurate understanding of our very critical First Amendment. Their misunderstandings not only chill open discussion by discouraging people from speaking their mind on issues that are controversial, but they also encourage people to discriminate against their colleagues, believing that such discrimination is allowed and even encouraged and applauded by the First Amendment. No doubt many students and faculty here at WSU have been bullied into keeping quiet about their beliefs and ideas because of this misunderstanding.

Many people erroneously believe that the purpose of the First Amendment, rather than to guarantee free speech, is to censor religious speech in the public forum, particularly in an academic setting of a state institution---effectively creating a freedom *from* religion, or a “religion-free” zone where people can come to be “safe” from religion. Muslims on campus have experienced even harsher anti-religious discrimination than most other individuals. At an institution that supposedly prides itself on being a marketplace of “diverse ideas” and one which embraces “tolerance,” this hypocritical stance, which amounts to anti-religious bigotry, is completely unacceptable. If controversial or currently unpopular ideas may not be expressed and discussed in academia, then where, pray-tell, may they be discussed?

One faculty member even approached me with the argument that my forthrightness about being a follower of Christ might make uncomfortable those who have a fear of religion, for whatever reason. Yet, this person failed to see how that same argument might be applied to silence atheistic points of view. After all, Stalin was an avowed atheist, and Communist Russia was officially declared an atheistic state, and many atrocities were committed there. Hence, I might have a fear of professing atheists. Should they then all be silenced for my sake? This same case might be made against Germans, or homosexuals, or any other group. As Jay Sekulow of the American Center for Law and Justice said, “we emphasize, too, that fear alone, even fear of discrimination or other illegal activity, is not enough to justify...a mobilization of governmental force against [an employee]...A phobia of religion, for instance, no matter how real subjectively, will not do. As Justice Brandeis said, ‘Men feared witches, [but they] burnt women.’” And again, the United States Supreme Court has said in this regard: “The Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities.” Indeed, “[P]rivate religious speech, far from being a First Amendment orphan, is

¹ In fact, their inference that my beliefs should have a bearing on my promotion is illegal, since, according to the ACLJ, “Religious discrimination includes, but is not limited to, the following: firing an employee because of that employees’ Christian beliefs; loss of promotion due to one’s Christian witness at work;...”

as fully protected under the Free Speech Clause as secular private expression,” *Capitol Sq. Review Bd. v. Pinette*, 115 S.Ct. 2448 (1995).

Hence, I offer the following short excerpts from *Guidelines on Religious Exercise and Religious Expression in the Federal Workplace*, issued by President Clinton in 1997, which direct federal agencies to “permit personal religious expression by federal employees to the greatest extent possible.” While we are not a federal institution, these guidelines, which are based on court precedent, set a standard for interpreting the First Amendment. It is my hope that these statements will help clarify the purpose of the First Amendment. If any of you wishes to have the entire document, it can be obtained from the American Center for Law and Justice web site at www.aclj.org.

Section 1.A.1.b: “An agency may restrict all posters, or posters of a certain size, in private work areas, or require that such posters be displayed facing the employee, and not on common walls; but the employer typically cannot single out religious or anti-religious posters for harsher or preferential treatment.”

Section 1.A.2.a: “In informal settings, such as cafeterias and hallways, employees are entitled to discuss their religious views with one another, subject only to the same rules of order as apply to other employee expression. If an agency permits unrestricted nonreligious expression of a controversial nature, it must likewise permit equally controversial religious expression.”

Section 1.B.3, Paragraph 1: “...a hostile environment is not created by the bare expression of speech with which some employees might disagree. In a country where freedom of speech and religion are guaranteed, citizens should expect to be exposed to ideas with which they disagree.”

Section 2.A, Paragraph 2: “Many religions strongly encourage their adherents to spread the faith by persuasion and example at every opportunity, a duty that can extend to the adherents’ workplace. As a general matter, proselytizing is entitled to the same constitutional protection as any other form of speech. Therefore, in the governmental workplace, proselytizing should not be singled out because of its content for harsher treatment than nonreligious expression.”

Section 2.D, Paragraph 2: “A hostile environment, for Title VII purposes, is not created by the bare expression of speech with which one disagrees.”