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AU student punished for taping Tipper Gore

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WASHINGTON, Aug. 21 (UPI) -- American University has punished a student for videotaping a speech by Tipper Gore, wife of former Vice President Al Gore, on the grounds that the images constituted "stolen property" in his possession.

The school denies that Ben Wetmore, an undergraduate student journalist from Denton, Texas, was singled out because he maintains a Web site where he criticizes and parodies AU President Benjamin Ladner and opposes university policies and expenditures.

"American University does not regard this matter as a First Amendment issue," said Vice President of Campus Life Gail Short Hanson in a statement provided to United Press International by Todd Sedmak, director of media relations.

Wetmore's case has been taken up by the Philadelphia-based Foundation for Individual Rights in Education. FIRE describes itself as "a non-profit educational foundation devoted to free speech, individual liberty, religious freedom, the rights of conscience, legal equality, due process, and academic freedom on our nation's campuses."

"Wetmore received a letter from the university essentially telling him that his Web site constitutes harassment," said FIRE's executive director, Thor L. Halvorsen. "The Tipper Gore situation was the linchpin to get rid of him and to silence him. And they did it with a kangaroo court."

In an April 26 letter to Wetmore's former attorney, Jonathan Katz, AU's vice president and university counsel, Mary E. Kennard, wrote that despite the university's admonitions, Wetmore "has continued to post derogatory material about staff on his Web site."

Kennard also objected to Wetmore videotaping Ladner's residence and what she said were the student's attempts to gain access to Ladner's private home in Maryland.

"The president and his family have a right to privacy when they are not engaged in university business and in their home ... Your client's behavior is not only harassment but is, in my opinion, dangerously close to stalking," Kennard wrote.

On April 8, Wetmore attended a speech by Tipper Gore at the university's Bender Arena. FIRE characterized it as a public speech by a public figure.

Wetmore's current attorney, Solomon Wisenberg, said that in the weeks before the incident, prominent Tennessee Democrats were promoting Gore's candidacy for the U.S. Senate seat vacated by retiring Republican Sen. Fred Thompson.

On March 17, Gore said that after "serious consideration," she had decided not to run.

Sedmak said it was a private event at a private university sponsored by the Kennedy Political Union, a student organization, and he questioned whether Gore is in fact a public figure.

"We had other journalists call us (asking) to attend, and we turned them away," the spokesman said.

Both sides agree that the only prohibition announced before the lecture was flash photography. For Wisenberg, this constituted tacit permission to videotape, an interpretation not shared by the university.

Wetmore taped Gore's remarks from the back bleachers for about a half-hour before plainclothes university police asked him to stop. "He was told what the rules were, and he continued to violate those rules," Sedmak told UPI.

The following account is taken from the written statement of a university official, Karen Gerlach -- then assistant director of student activities and now the director.

Gerlach wrote she was not present during the initial encounter but subsequently "indicated" to Wetmore "that we should talk about this outside the arena because I did not want this incident to cause a disruption to the event. Mr. Wetmore then got up and came outside of Bender Arena on the Mezzanine level with the Public Safety Officers and myself ...

"I indicated to Mr. Wetmore that we were contractually obligated to have no recording of the event occur," she wrote.

Wetmore refused repeated requests from Officer David Lazarus to turn over the tape, "and that's when the struggle began ... I realized that the incident was escalating, and I honestly did not know what to do. I attempted to tell Officer Lazarus and Officer (Daniel) Smith that this incident was escalating to a level that it didn't need to go. I felt like they were escalating the situation, and I didn't feel that this needed to be handled this way."

Gerlach asked someone to summon Faith Leonard, dean of students, who was in the arena. "I was hoping that she could manage the situation in a more informal way," Gerlach wrote.

"When I turned back around, Mr. Wetmore was laying face down on the ground with the Public Safety Officers hovering over him with handcuffs. By this point there were three other officers present. ... The video camera was now on the floor lying next to Mr. Wetmore."

Lazarus handed the recorder to Gerlach, who handed it back to him. As Lazarus was attempting to eject the tape, she noticed that camera's red light was still on and that it might be recording. Lazarus removed the tape and confiscated it. AU has refused Wetmore's requests to return the tape.

In a written statement, Brooke Summers, who identified herself as Wetmore's girlfriend, said Wetmore was held in custody about 1-1/2 hours before being released.

"He told me that his wrists hurt because of the cuffs and that the plainclothes officer bent his finger backwards. The finger in question was very swollen. He told me that that same man had threatened to spray his face with pepper spray," Summers wrote.

On April 30 and May 1, Wetmore faced charges of misconduct before an AU disciplinary conference board chaired by Katsura Kurita, director of judicial affairs and mediation services. His former attorney, Jonathan Katz, was not allowed to join him in the hearing.

Wisenberg said the panel was biased in its very structure.

"It's such a core concept of due process that you have a neutral and detached arbiter," he told UPI. He said that Kurita acted as prosecutor, judge and jury.

"She decided that charges should be brought. She actually was a fact-finder, and made legal rulings. Her very own law clerk, who obviously will have the desire to please her boss, was the other judge. The third member of the board was this student, who is a political opponent of my client, who twice tried to get him impeached from student government."

Kurita, reached by telephone, declined to answer questions, referring UPI to AU media relations.

The disciplinary board found Wetmore guilty of five charges, including possession of stolen property, trespass and failing to comply with the directions of university officials. Leonard, the dean of students, notified FIRE that there is no right of appeal.

Wetmore was placed on disciplinary probation for one year, ordered to attend a conflict resolution workshop and write several papers on the topic, assigned 40 hours of community service (cleaning the auditorium), stripped of his elected presidency of Anderson Hall student residence, and warned that another such incident could result in expulsion.

In her judgment, Kurita wrote that Wetmore lacked remorse and that he inappropriately used the disciplinary conference "to challenge the structure and procedures in operation at the university."

In a June 11 letter to Ladner, Greg Lukianoff, FIRE's director of legal and public advocacy, stated: "It seems unmistakable that AU is targeting Mr. Wetmore for the content of his journalistic activities and political speech." The mere consideration that the charges against Wetmore were worthy of a hearing "has produced a chilling effect across the campus," Lukianoff wrote.

In response, Lukianoff received a June 26 letter from Leonard that basically affirmed the board's actions.

In a July 16 letter to George C. Collins, chairman of the AU Board of Trustees (unanswered), Lukianoff reiterated his opinion that the issue is one of free speech. "Mr. Wetmore was chastised for and warned about his Website many times, even during his judicial hearing on this supposedly unrelated matter," he wrote.

Asked about the requirement that Wetmore write a paper on conflict resolution, Lukianoff replied: "Forcing people to imbibe 'right thinking' is the hallmark of a totalitarian society ... I think American University is being both foolish and arrogant to think that nothing's going to come of this."

In an interview with District Chronicles, a Howard University student newspaper, Wetmore expressed his disappointment that the Gores have not come to his support.

"When I think about Tipper Gore, I wonder how her photojournalism would be if she had been treated this way while taping, let's say, Pat Nixon," Wetmore said. "Her husband claims a lot of journalism experience, as does she, so it amazes me that they would remain silent on this matter. The university beat me up in her name, stole my tape in her name, prosecuted me in her name, and then she deflects it because it's a 'matter between the university and a student.' I'm just really frustrated and disappointed that Tipper Gore won't tell AU to quit this nonsense," Wetmore told the Chronicles.

Attempts to contact Tipper Gore through Leadership '02, a Democratic political action committee, were unsuccessful. Communications Director Jano Cabrera told UPI that the Gores were on vacation and could not be reached.

Wetmore's attorney, Solomon Wisenberg, a partner at the Washington law firm of Ross, Dixon and Bell, told UPI a number of civil remedies and, potentially, criminal remedies are available to his client.

"This is not the typical case of a private university getting away with something that might be unfair," he said. "They screwed up big-time here, and through their arrogance they're about to become the poster boy of the abuse of student rights."

"We're not going away. This is an outrage, and it's going to be rectified. If American University wants to be known throughout the land as the kind of place where if you criticize the administration you can be put in handcuffs and put through a kangaroo court, so be it."

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