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Order issued in lawsuit

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— VALDOSTA — U.S. District Court Judge Charles A. Pannell, Jr. issued his first order in a federal civil rights lawsuit filed by former Valdosta State University student Hayden Barnes, who was expelled last year. In his order, Pannell granted VSU's motion to dismiss the first two counts of Barnes' lawsuit, which allege that all defendants (including VSU, former VSU President Dr. Ronald Zaccari, the Board of Regents and several VSU administrators) deprived Barnes of his First Amendment rights as well as his rights to procedural and substantive due process guaranteed by the U.S. and Georgia Constitutions, according to a press release from the Foundation of Individual Rights in Education (FIRE).

The decision to dismiss the counts was reached after the court found the Eleventh Amendment's immunity clause, which grants states immunity in federal court, to be applicable in the case.

Nonetheless, the order upheld Barnes' third and fourth counts, which allege that each defendant, not just VSU and the Board of Regents, could be individually held liable for denying Barnes his right to free speech as well as his right to due process, the release stated.

The order denied VSU's motion to dismiss Barnes' final three counts. Count 5 alleges that "VSU and the Board of Regents violated a binding contract with Barnes by failing to observe policies outlined in VSU's student handbook." Count 6 alleges that "each individual defendant in their official capacity violated the Americans with Disabilities Act (ADA) by using Barnes' visits to VSU counseling center against him," and Count 7 alleges that "each individual defendant in his or her official capacity violated the Rehabilitation Act by using Barnes' visit to the counseling center against him."

Before the case proceeds, VSU is to file an answer to the complaint either admitting or denying the allegations, according to the release. In response to the order, VSU Assistant to the President for Communications Thressea Boyd released the following statement: "As this is a pending legal matter, we are not at liberty to discuss the particulars of this issue at this time."

Hayden Barnes was expelled in May 2007 after posting a satirical collage on Facebook.com in protest of the construction of two parking decks on VSU's campus. Barnes' expulsion was later reversed by the Board of Regents of the University System of Georgia.

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Former Valdosta State University student Hayden Barnes has a lawsuit pending against the university regarding his expulsion in 2007.