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The Right Time by Joe Murray: Law School Conflict Puts First Amendment Under Microscope

By: Joe Murray, The Bulletin
01/31/2007

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Forty years ago, it would have been bras, draft cards and Jane Fonda. As thousands of anti-war students crammed the nation's universities and Students for a Democratic Society (SDS) brought many a campus to its knees, university administrations struggled with balancing a student's First Amendment rights against the need to preserve order. This balance, though, did not come easy. Students were arrested, suspended and/or expelled for exercising their rights. Even though a college campus was the origins of the marketplace of ideas, fear soon overran freedom, and universities placed the First Amendment on hiatus. The turmoil, though, did not last forever. After America accepted "peace with honor," the tide of protest rescinded, the bonfires become a mere flicker, and bras went back on bodies, civility returned to campus. But four decades later, in an ironic twist, the campus crusaders of yesterday have become the powers that be of today.

With the Woodstock warrior's ascension to administration and faculty levels and the humanist mindset deemed enlightened on campus, a new segment of students has filled the shoes of the once-persecuted SDS. This group, though, does not march in the streets, wallow in the mud or chain themselves to doorways. Rather, these individuals express themselves by prayer and by publicly professing faith in Jesus Christ.

As conservative Christians become vocal on college campuses, many university administrations are struggling on how to balance the constitutional rights of Christian students against the tenets of tolerance that define most universities. Unfortunately, it appears that universities have chosen to tip the scales in favor of censorship, not civil rights.

Recently, this delicate balancing act was put to the test at Pace University School of Law in White Plains, N.Y., after the university's administration stepped in to reverse a decision by the student government, the Student Bar Association (SBA), which denied recognition of a Christian club.

The controversy began last year when student Cari Rincker decided to organize a group for Christian law students attending Pace University. Specifically, Rincker wanted to form a Pace Christian Legal Society and have the club recognized by the university.

The Christian Legal Society (CLS) is a national association of Christian lawyers that supports numerous law school chapters throughout the nation. In order to be an official chapter of the CLS, student officers must adhere to the rules and regulations of CLS.

Some of the key rules promulgated by the CLS are that a statement of faith must be included in any proposed constitution and that membership is limited to students who are willing to, according to the CLS, "sign, affirm and endeavor to live their lives in a manner consistent with the Statement of Faith." The Statement of Faith, among other things, requires that members believe in the Holy Trinity, that God was the maker of heaven and earth, Christ died for human sins and that the Bible is the inspired work of God.

Because Pace has previously recognized a wide variety of organizations, such as



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the Asian American Law Students Association and Pace Law School Democrats, Rincker did not anticipate any problems in attempting to organize the law school's Christians.

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Rincker, though, was wrong.

PHILADELPHIA FORWARD LINK

After word spread that Rincker was going to start a Christian group, the campus erupted.

COMMENTS BY ROSEMARY MCDONOUGH

"The whole campus was upset," stated Rincker. Rincker explains that both students and faculty denounced the idea of a Christian group. "Some were saying that we should be scared of the Christian right and that we could lose accreditation if the CLS was recognized."

CYNTHIA NIMERICHTER: MARRIAGE

But the biggest complaint focused on the claim that the group was discriminatory because it required a Statement of Faith.

ESSAYS BY MARY FRAN BONTEMPO

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The national CLS requires its "Equal Opportunity and Equal Access" clause be included in each chapter's constitution. The clause reads, "In the conduct of all aspects of its activities, the Chapter shall not discriminate on the basis of age, disability, color, national origin, race, sex, or veteran status." The absence of religion and sexual orientation from the list of prohibitory discrimination concerned the SBA.

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In light of the controversy, Rincker withdrew her application for recognition of the Pace Christian Law Society.

SPORTS WORLD

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This past fall, Rincker returned to school and decided to compromise. "I struck most of the religious language out of the constitution, no longer required that our officers be Christian and no longer required a signed statement of faith," asserts Rincker. Rincker also added religion and sexual orientation to the group's equal opportunity clause. The SBA still denied her request for recognition.

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According to the Foundation for Individual Rights in Education (FIRE), Rincker's compromise caused the national office of the CLS to request the organization change its name. The group became the Christian Law Student Association (CLSA) and had to disaffiliate with CLS.

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Rincker appealed to the administration, but was fearful that the university would drag its feet. Hence, Rincker contacted the Philadelphia-based FIRE.

YELLOW PAGES

THE ROCHESTER FILES OF SOCIETY

FIRE is a nonprofit organization that seeks to uphold the principles of free expression and association on college campuses. On Jan. 11, FIRE wrote a letter to Stephen J. Friedman, dean of Pace Law School and expressed hope that "the Pace Administration step in where the Student Bar Association had failed"

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FIRE wanted Rincker's rights of free association to be protected by Pace. There is, however, a wrinkle in this controversy. Pace Law School is a private university and the First Amendment does, not restrict its behavior. But even though it is not a public university, Greg Lukianoff, president of FIRE, argues that Pace has promised its students the right of free association.

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"The right to exclude people from an organization is at the very heart of the freedom of association," stated Lukianoff. FIRE argues that in its "Guiding Principles of Conduct," Pace Law School promises its students the right to freely associate.

The Guiding Principles state, "Each member of the university community is required to cooperate with the university in its endeavor to foster and maintain the freedom of expression and the exchange of ideas necessary...." The code of conduct also states "The University strives to protect the rights of students... to organize and join political associations"

After FIRE brought attention to this matter, the Pace Administration began to investigate the behavior of the SBA. The administration held two town hall meetings and told Rincker that a decision would be forthcoming. Just this week, the dean sided with Rincker.

"The dean came out with a memo saying he disagreed with the SBA and that the SBA was wrong," stated Lukianoff.

In explaining why he felt the SBA erred, Friedman wrote "I have done so because of a deep conviction that the freedom of students of like views to associate with each other and to organize around those views is fundamental to the free exchange of ideas that lies at the heart of a law school community."

Rincker is not out of the woods yet, as she meets with Pace's counsel to discuss language in CLSA's constitution. Nonetheless, FIRE believes the dean's memorandum "points toward renewed hope for the [CLSA]."

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