

Administration softens charges in Stoke flier controversy

By Kristen Melamed

The emotional roller coaster that rocked Timothy Garneau's life has settled for the moment as he was recently allowed back into the dorms, but not without national controversy that has plagued both him and the University of New Hampshire in a drawn-out battle centered on first amendment rights.

Last month, the 20-year-old sophomore lived on the seventh floor of Stoke Hall, and frustrated with the long lines for the elevator, downloaded the image of a woman in a leotard and posted the following message on a flier in the lobby: "9 out of 10 freshman girls gain 10-15 pounds. But there is something you can do about it. If u live below the 6th floor takes the stairs. Not only will u feel better about yourself but you will also be saving us time and wont be sore on the eyes."

The poster was removed within hours, and Garneau was soon charged with dishonesty, furnishing false information to a University official, violation of affirmative action, harassment and conduct which is disorderly and lewd, according to judicial records obtained from his hearing. He was convicted on all accounts, and was subsequently evicted from his dorm.

Garneau was on probation for alcohol at the time, and officials did not confirm or deny if that was a pending factor in his resulting eviction. Before he was sentenced to eviction, the sophomore contacted the Foundation for Individual Rights in Education (FIRE). Just recently, Garneau was dropped of all the charges, except dishonesty, and was allowed this past week to move back onto campus. He was randomly assigned a room in Gibbs Hall.

Garneau posted the flier within the first few weeks of the semester because he noticed that many people were "flustered" and "frustrated" at the long elevator lines within the dorm. People would take the elevator to go up only one or two floors, he said. "The flier was sort of like constructive criticism," Garneau said. "It was a joke for everybody." He posted two fliers, one in each elevator, but both were removed within hours.

According to Garneau, Brad Williams, the Stoke Hall director, confronted Garneau and his group of friends. How or why Williams knew to confront that particular group remains unclear. He spoke with the group of young males and told the unidentified perpetrator to come forward and identify himself within 24 hours or the entire group would face consequences.

According to Garneau, Williams saw something near Garneau's computer that led Williams to believe he had posted the fliers. When Williams asked Garneau if he had indeed posted the fliers, Garneau said yes.

Williams did not return phone calls.

Two weeks went by before anything happened. In the meantime, Garneau posted apologies around the dorm and crafted two bulletin boards explaining what harassment really was because, he feels, people do not correctly understand the term.

"I feel bad if people got upset," Garneau said. "But I still don't think it was harassment." According to judicial records, "the poster crossed a line and goes beyond being offensive

and rises to discriminatory harassment. The complainant brought forth information that female residents of the hall were upset and angry about the presence of the sign. Men, who were not mentioned in the sign at all, also reacted similarly, some telling the complainant that they 'were pissed' and made comments such as, 'Women already have enough stuff to deal with, why would they have to deal with this?'"

Garneau believes that his poster was meant as a harmless joke. There is another poster around campus, he said, that advertises yoga as a means of avoiding the freshmen 15. The difference, Garneau said, is that UNH supported it.

Before he was evicted, Garneau contacted one of his political science professors who advised him to get a hold of politicians around the state that would help him with his case. The professor mentioned FIRE, an organization designed to "defend and sustain individual rights at America's increasingly repressive and partisan college and universities," according to their Web site. Garneau contacted the organization and his case was immediately accepted.

"They [at FIRE] said it was so blatant that [UNH] abused [my] first amendment rights," Garneau said.

"It is one of the most basic aspects of constitutional law that satire, humor and parody are protected forms of expression under the First Amendment," said David French, president of FIRE. "This includes even satire that hurts feelings, causes anger or outrage or is otherwise 'offensive' to students. In fact, one of the primary purposes of satire and humor is to cause just such a reaction."

The fact that the flier targeted a specific group, namely freshmen women, did not necessarily register in Garneau's mind when he hastily constructed the flier. It was something to catch people's attention, Garneau said, sort of similar to a "marketing technique."

"It is completely irrelevant that some people are sensitive about their weight," French said. "The definition of 'harassment' is not 'feeling offended' or 'getting upset.' The U.S. Department of Education's Office of Civil Rights has stated that for something to be 'harassment' the conduct must be so 'severe' or 'pervasive' that it denies the person the ability to receive the benefit of the educational program. This flier hardly qualifies."

With the help of FIRE and local politicians, Garneau's case became a national controversy. FIRE contacted the media, and if press and publicity didn't work to lessen the charges against him, FIRE would have taken the case to court, Garneau said. The case has made the front page of FIRE's Web site, allocating that Garneau's first amendment rights were violated and that the fault lies within the University.

"To borrow a phrase from the Red Sox recent playoff successes, students need to 'cowboy up' and stop being so laughably sensitive," French said. "If someone's feelings are hurt, why don't they actually talk to the student who hurt them? Must everything be channeled into official proceedings? Do students actually trust government officials to regulate personal relationships so minutely?"

In a letter addressed to President Ann Weaver Hart, Greg Lukianoff, director of legal and public advocacy for FIRE, stated that: "As you know, UNH is a public university and therefore has an overarching legal obligation, in addition to its moral obligation, to preserve the First Amendment rights of its students. UNH has kicked Garneau out of his home in the Stoke Hall dormitory (effectively sentencing him to spend the rest of his semester living out of his car) simply because he tried to amuse people in a way that was transformed into a serious offense by UNH officials. This is an unconscionable offense

against one of your own students and will not withstand either moral or legal scrutiny." Despite numerous efforts, UNH officials would not return phone calls.

FIRE also released an editorial to many media outlets addressing Garneau's case. The story has drawn national attention, including articles not only in local newspapers, but also a recent opinion-editorial this past week in "The Boston Globe" as well as a call from producers at "The Daily Show."

Several weeks ago, however, UNH officials e-mailed Garneau with the news that all of the charges against him would be dropped, except dishonesty, and that he would be allowed back into UNH housing. It remains unclear why.

"They said it had nothing to do with the media [attention]," he said. His appeal to move back into Stoke was denied, and Garneau was randomly placed in Gibbs Hall and moved in less than two weeks ago. In the weeks between his eviction and his recent placement in Gibbs, when Garneau wasn't crashing with friends, he was living out of his '95 Ford Contour on Mast Road.

Dan Randlett, a freshman civil engineering major, lives on the seventh floor of Stoke. He heard about the fliers, but did not see them. He did see, however, the apology letter to the Stoke community that Garneau posted around the dorm.

"I wasn't offended," Randlett said. "There should have been a warning, but he shouldn't have been kicked out." Kathleen O'Connor, a fellow dorm-mate, echoes his sentiments, and believes a lot of the students in the dorm community feel the same way.

His parents have been supportive, Garneau said, and both he and his family want the whole ordeal to be over. He regrets offending anyone, and says that if he could do it again, he would do so in a more careful manner.

"I still would've put up a poster," Garneau said. "I didn't mean for it to be an affirmative action thing. I wish this [particular] situation wouldn't have happened. I wish UNH would see they were violating my rights."

Sidebar: The First Amendment of the U.S. Constitution states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
