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May 8, 2005

University of Pennsylvania freshman Eden Jacobowitz was writing an English paper on Jan. 13, 1993, when he was distracted by students making a ruckus outside his dorm.

He asked them to quiet down, and when the noise grew louder he shouted out his window: "Shut up, you water buffalo. If you want a party, there's a zoo a mile from here."

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The members of a black sorority who were making the noise did not take kindly to Jacobowitz's words. They reported him to the school's judicial inquiry officer, who prosecuted Jacobowitz for violating the university's racial harassment policy.

Jacobowitz refused to accept a settlement offer that included that he remain on probation for the remainder of his time living on campus and accept a black mark on his transcript. Jacobowitz fought the claim with the help of history professor Alan Kors.

The story caught the attention of the national press, and the school later dropped the case.

Kors and Harvey Silverglate, a civil rights attorney, went on to write a book about the case called "The Shadow University: The Betrayal of Liberty on America's Campuses."

In 1999, they formed the group FIRE — Foundation for Individual Rights in Education. Based in Philadelphia, FIRE acts as a clearinghouse for information about student-conduct cases. The FIRE Web site says the group has intervened successfully in defending liberty-related issues on behalf of hundreds of students and faculty members at colleges and universities across the nation.

"But for every success, we have just as many railroadings," said Greg Lukianoff, FIRE's director of legal and public advocacy.

Lukianoff said one of the biggest flaws of college judicial systems is that the more serious the charge, the fewer rights are afforded to the defendant — just the opposite of what criminal and civil courts offer.

"Guilty until proven innocent ... that's worrisome," Lukianoff said.

Adding to the problem is a shift toward "risk management" by colleges and universities, Lukianoff said. Instead of taking a chance, he said, they expel any student who may be the focus of a future lawsuit.

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