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California university sued for punishing student posting flier

Thursday, September 25, 2003
AP Breaking News

ROBERT JABLON, Associated Press Writer

(09-25) 16:47 PDT LOS ANGELES (AP) --

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A student sued the president and other officers of California Polytechnic State University, San Luis Obispo, in federal court Thursday, claiming his free-speech rights were violated when he was punished for trying to post a flier promoting a conservative author.

The suit was filed with support from several nonprofit groups who have backed similar legal actions challenging speech codes at campuses around the nation.

Last November, Steve Hinkle went to the campus multicultural center to post a flier advertising a speech by Mason Weaver, a black conservative who argues that reliance on government aid enslaves blacks.

Hinkle, who is white and an officer of the campus Republican club, was confronted by some black students in the lounge who said they found the flier offensive. One student threatened to call campus police, according to the suit.

Hinkle left without posting it but police later arrived and took a report that stated they had been called "to investigate a suspicious white male passing out literature of an offensive racial nature," the suit said.

In March, the school's Judicial Affairs Office ruled that Hinkle violated a state regulation that bars "obstruction or disruption" of campus functions -- specifically, a Bible study that the students contended they were preparing to hold.

Hinkle was ordered to write letters of apology to the students and warned that he could face stiffer penalties or even potential expulsion if he refused, according to the lawsuit.

Hinkle refused.

"I didn't do anything wrong. I was exercising my free-speech rights to advertise for an event for my club,"

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Hinkle, 23, said in a telephone interview Thursday. "If there was any disruption, it was from the reaction of these students. They reacted on the content of the flier.... They're punishing me for my beliefs."

The college had not seen the suit and could not immediately comment, and privacy laws prevent it from discussing student disciplinary action, university spokeswoman Leah Kolt said.

But in a July message sent to alumni and others, Cornel Morton, vice president of student affairs, said the case involves "student conduct, not speech conduct."

"Cal Poly supports and upholds freedom of speech as a constitutional right," he wrote.

"This campus does not practice censorship of thought or word, or impose bans on speech or expression."

The lawsuit argues that the case involves "application of a vague, overbroad, and content-based regulation to punish core political speech because government officials and listeners oppose the speech as 'offensive.'"

It asks the federal court to overturn the punishment, clear Hinkle's record and rule that the university's interpretation of disrupting campus functions is unconstitutional. It also seeks unspecified damages and a temporary restraining order to bar Cal Poly from unlawfully trying to suppress similar speech.

Earlier this month, a federal judge in Philadelphia issued an injunction barring Shippensburg University from enforcing parts of a conduct code that prohibited "acts of intolerance," including racist, sexist and homophobic speech.

Last month, Citrus College in Glendora, Calif., agreed to change a policy that confined free speech to certain areas of campus.

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