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SCOT LEHIGH

The Boston Globe

Humor vs. free speech at UNH

By Scot Lehigh, Globe Columnist | November 17, 2004

FOR AN example of the way universities stifle free speech in the name of nebulous notions of civility, one need look no further than the hullabaloo that ensued at the University of New Hampshire after sophomore Timothy Garneau tried to use a little humor to ease elevator use.

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Earlier this fall, Garneau was living on the seventh floor of UNH's eight-story Stoke Hall. Frustrated by the time an elevator trip took, Garneau downloaded a sketch of a slim woman in a leotard and made two posters with this message:

"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."

He posted that ungrammatical attempt at humor in the dorm elevators.

The fliers were quickly ripped down, he says. But that was hardly the end of the episode. UNH declined comment, but as Garneau tells it, two weeks later, Brad Williams, the hall director, asked if he knew who had hung the signs. Garneau denied knowing. But when, a few minutes later, Williams spotted one of the posters in his room, "I came forward and said it was me."

Garneau, who was on university probation for having run afoul of UNH's alcohol policy as a freshman, quickly found himself written up on a series of school charges.

In addition to "acts of dishonesty" -- his initial lie to the hall director -- he was accused of violating the school's affirmative-action policies, harassment, and disorderly conduct. The judgment from Garneau's case reveals the tortured nature of UNH's reasoning. "The sign was posted in a very public place, and when read by a reasonable person, can be taken as directed specifically at freshmen women, and was seen and discussed by many of those same women in the hall and from our discussion in the hearing, was not taken as a joke. Therefore, I believe that Tim's actions are a violation of the University's affirmative action policies . . . specifically related to harassment, which was discriminatory because of the targeting of a specific gender, women. "

And if it weren't Orwellian enough to twist a simple sophomoric sign into harassment merely because someone claimed to have been offended, UNH then made this leap into the chasm of the absurd: "I also believe that Tim's poster did nothing to contribute to an orderly environment in Stoke Hall the day he posted it or the days immediately after this incident, and also

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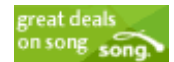
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find him responsible for disorderly conduct."

And then came the sanctions. They started with expulsion from UNH housing and university probation through May 2006. No offense of this magnitude would be complete without some re-education and a compelled apology, of course. Thus Garneau's sentence included a meeting with a university counselor, a 3,000-word "reflection paper" about what he had learned, and a written apology to the dorm.

Garneau appealed. UNH denied the appeal. The student, an aspiring attorney, then contacted the Foundation for Individual Rights in Education, the nonprofit group dedicated to upholding freedom of speech on campus.

On Oct. 22, Greg Lukianoff, the foundation's director of legal and public advocacy, sent UNH President Ann Weaver Hart a letter pointing out what should have been obvious: Even when highly offensive -- and in Garneau's case, that could scarcely be said to be the case -- such speech is protected by the First Amendment and "UNH may not attempt to re-characterize the posting of the flier as 'harassment' in order to punish him."

On Oct. 27, UNH revoked all charges except for "acts of dishonesty." Garneau, who spent some nights sleeping in his car during his dorm exile, has since been assigned a new room in another residence hall.

Still, David French, the foundation's president, says the lamentable episode is all too typical of today's campus perspective.

"The mindset is that the right not to be offended trumps all else, and that as soon as someone is offended, an investigation must commence and punishment must be handed down," he said. "No one asks the question: Is this speech protected or should anyone really be offended?"

But those are the first questions that any institution dedicated to free inquiry and the free exchange of ideas should put first. Shame on UNH that, until the foundation intervened, university officials appear not to have considered those essential issues at all.

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