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Monday, December 5, 20

Penn Drops Charges Against Student Who Posted Online Photos of Nude Couple

By [DAN CARNEVALE](#)

A day after reporters and bloggers besieged the University of Pennsylvania with calls and criticism, university officials decided to drop all charges against a student who had posted pictures online of fellow students having sex against a dormitory window.

The student, identified only as a junior who is majoring in engineering, had been charged with sexual harassment and misuse of university electronic resources after he posted pictures of the nude couple on his personal Penn Web site for a couple of weeks. One of the students in the pictures lodged a complaint about the pictures with the university's Office of Student Conduct ([The Chronicle](#), December 1).

Andrew B. Geier, a graduate student in experimental psychology who had volunteered to advise the engineering junior, said university officials announced their decision during a meeting Thursday to discuss the issue. He said the officials offered to drop the charges, but then asked for the engineering junior to apologize for posting the pictures online.

"I responded, 'There's only going to be one apology, and that's going to be from you to the student,'" Mr. Geier said. Neither party offered an apology, but the charges were dropped nonetheless, and Mr. Geier said he considered the matter settled.

University officials would not comment on the meeting or the issue, except to release this statement: "The University has decided not to pursue disciplinary proceedings. We are disturbed

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by the photographer's conduct in this matter. We are concerned about the wide dissemination of the intimate photos in a manner and to the extent that subjected another member of the Penn community to embarrassment and ridicule. We have asked the student photographer to apologize and sincerely hope he does."

"They don't have a case," said Mr. Geier.

He said that the couple had had sex in the window of their high-rise dormitory room on at least three separate days, and that more than one student had taken pictures of them. Taking pictures of so public an event could not be considered harassment, he said, nor could posting those pictures on the Internet. Other students eventually learned the identity of the couple.

The Chronicle tried to reach one of the students who filed the complaint, but was unable to locate her for comment. The students in the photographs have not been publicly named.

Alan Charles Kors, a professor of history at Penn, had also volunteered to represent the engineering junior. Mr. Kors is a free-speech advocate who is also cofounder and chairman of the Foundation for Individual Rights in Education, a nationally known free-speech organization. The foundation was not involved in this investigation.

Mr. Kors said this incident reminded him of the famous "water buffalo" controversy of 1993. In that case, also at Penn, a white male student, a freshman, yelled at five black female students, "Shut up, you water buffalo." The male student said that he was just reacting to the noise the five students were making during a celebration. But the female students argued that the comment was racist.

When the five students complained, the university charged the freshman with racial harassment. But as the national media focused attention on the case, many observers concluded that political correctness had run amok at the university. After several weeks of media scrutiny, the five students eventually backed down from the charges ([The Chronicle](#), June 2, 1993).

Mr. Kors said Penn likely did not want to face weeks of negative publicity this time around.

He also said he found it curious that the university seemed to handle the situation more as a public relations incident than as a judicial inquiry. The university's investigation into the incident lasted for longer than a month, but after a day of media scrutiny, the university backed down.

But if it weren't for the titillating nature of the story, Mr. Kors said, it might not have been so broadly covered. Indeed, if it weren't for the willingness of the engineering junior to fight charges he thought were unfair, the media might never have known about the incident at all, said Mr. Kors.

Mr. Kors, who has worked with many students who have been accused of wrongdoing by their universities, said most students are willing to plea-bargain to avoid the risk of being suspended or expelled. "It is an extremely rare student who is willing to say no," Mr. Kors said. "How much injustice is going on out there?"

Initially, the university's Office of Student Conduct asked the engineering junior to write a letter of apology and write an essay explaining why what he did was wrong. It also recommended that he be placed on disciplinary probation until graduation, a penalty that would create a permanent record of the incident.

Now that the case appears to be over, Mr. Geier said the engineering junior is looking to concentrate on studying for his finals. Mr. Geier, however, is still uneasy.

"The student is vindicated with the outcome, certainly, but I don't know if you could say that I'm satisfied," Mr. Geier said. "The charges were ridiculous to begin with."

Background articles from *The Chronicle*:

- [U. of Pennsylvania Charges Junior Who Posted Images of Students Having Sex in Window](#) (12/1/2005)
- [A Fiercely Principled Critic Warns Universities on Free Speech](#) (9/25/1998)
- [Outcome at Penn Leaves No One Satisfied](#) (6/2/1993)

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