



Clemson Lawsuit Update

By: Amanda Carey, Editor in Chief

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Recently, The Tiger Town Observer reported on a lawsuit filed by former Executive Secretary of the Board of Trustees, Eugene Troutman against numerous University officials. The lawsuit cites that tuition increases since 2000 were beyond what was necessary, and \$80 million has been sitting as a hoard of unused money.

Since then, The Observer has learned some interesting new developments. Since the filing of the initial lawsuit on January 9, 2008, Clemson University did submit a response, in which they requested to move jurisdiction of the case from state to federal court. This can only be done if the case meets three different criteria.

First, under the Constitution, federal courts only exercise "judicial" powers, meaning that federal judges may interpret the law only through the resolution of actual legal disputes. Thus, the court cannot attempt to correct a problem on its own initiative.

Second, provided that there is an actual case, the plaintiff in a federal court case also must have legal "standing" to ask the court for a decision. This means the plaintiff (Troutman) must have been aggrieved, or legally harmed in some way by the defendant.

Third, the case must represent a class of dispute that the law in question (1st Amendment) was designed to address, and it must be something the court has the power (under the Constitution or federal law) to remedy.

In their response, Clemson also cited a well known court case in their defense, a move that was obvious and anticipated. The court case, named *Garcetti v Ceballos*, involved an employee at the office of L.A. County District Attorney (Ceballos), and three other employees, including Gil Garret, the District Attorney. In this suit, Ceballos alleged that the three defendants retaliated against him for exercising his 1st Amendment rights.

According the Ceballos, he was informed that a sheriff might have lied in a search warrant affidavit that had been filed as evidence in a murder case. After investigating the issue, he issued a memorandum reporting the falsification, and suggested the case be

dismissed.

Ceballos alleged that the three defendants retaliated against him on several occasions for his submission of the memorandum, by asking him to transfer to another branch or to accept being re-assigned to filing misdemeanors, not being allowed to work on future murder cases, and also in denying him a promotion.

Garcetti and the other two defendants claimed they were immune from liability, and the district court found no protected 1st Amendment speech interest in the memorandum because Ceballos wrote it in a purely job-related capacity; not as a citizen. However, the Ninth Circuit Court of Appeals reversed the decision, saying the memorandum was entitled to free speech protection because it was a matter of public concern.

Clemson University is using the fact that Troutman's protest of what he saw to be serious mismanagement of finances, isn't protected under the 1st Amendment because he was acting within his job capacity of Secretary.

If taken to federal court, a judge will be responsible for resolving the matter. Also, Clemson University is attempting to move the court proceedings from Richland County, where the lawsuit was filed, to the Greenville/Pickens area. Additional documents are expected to be filed by February 28, and more updates will be available at that time.

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