

Civil Rights Lawsuit of UIC Law Professor Partially Dismissed by Court



A federal judge has partially dismissed a civil rights lawsuit filed by Jason Kilborn, a professor at the University of Illinois Chicago (UIC) School of Law, who had been accused of using abbreviated racial and gender slurs in a 2020 essay exam question. The lawsuit alleged that Kilborn had been unfairly retaliated against for engaging in protected speech. Still, the judge ruled that his conduct did not involve a matter of public concern that would have triggered First Amendment protection for retaliation.

However, the court allowed some of Kilborn's defamation claims to go forward, ruling that the professor could proceed against school administrators in their capacities but not their official capacities. The complaint named university administrators, including former law school dean Julie Spanbauer, as defendants. The judge found that Kilborn's due process claim could also go forward because the university's nondiscrimination policy statement is "unconstitutionally void."

The lawsuit stemmed from a single final examination question, which one or two students had complained about, according to Kilborn's 2022 amended complaint. According to the defense's motion to dismiss, students circulated a petition that was critical of Kilborn after the exam question.

The lawsuit also referenced a January 2021 Zoom call that Kilborn had with a member of the school's Black Law Students Association, during which Kilborn said the dean had not shown him the petition, perhaps because she feared that he might "become homicidal" if he saw it. According to the complaint, this was said in jest, which also claims that it led to the university placing Kilborn on indefinite leave. At the same time, an assessment was made to assess "this purported 'threat' of imminent physical violence."

Kilborn was released to unrestricted duty a few days later, but his classes were canceled. In a 2021 interview with the ABA Journal, Kilborn said he received full pay, benefits, and email access during the administrative leave.

According to the motion to dismiss, various students and a faculty member filed complaints about Kilborn with the university's Office for Access and Equity. Some grievances dated back a few years. Allegations that the office found to be substantiated include Kilborn referring to racial minorities in a 2020 lecture as "cockroaches" and denouncing their participation in civil rights claims, according to a 2021 Office for Access and Equity letter.

The letter also claimed that Kilborn characterized media stories focused on the negative behaviors of white men as "lynching." According to the letter, all the remarks were made in the space of one hour, and Kilborn reportedly acknowledged much of the conduct. He apologized for the lynching reference.

The letter also claimed that Kilborn emailed a student who signed the Black Law Students Association's December 2020 petition, and he wrote that she should not "bite the hand that feeds her."

Considering Kilborn's 2020 lecture, the exam question, and the remarks he made during the January 2021 Zoom call, his alleged behavior affected many Black students and "substantially interfered" with their law school participation, according to the Office for Access and Equity letter.

Kilborn argued that the university shared the Office for Access and Equity letter detailing the findings, marked "personal and confidential," with a third-party news source. In her order, the judge wrote that Kilborn "plausibly alleged" that the defendants published the letter. The defense argued that the letter was "only made available to the UIC community" after it was released as part of a journalistic Freedom of Information Act request.

The defense's motion to dismiss also argued that the statements that Kilborn claimed were defamatory were "substantially true." However, the judge ruled that this decision "should be left to a trier of fact."

REFERENCES:

Court dismisses part of UIC law prof's civil rights lawsuit