

Judge Sides with Student Punished for Criticizing Lesbians

'Controversy built right into the syllabus'

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The University of New Mexico and one of its professors will face trial on a charge of violating the constitutional rights of a student punished for expressing her opinions about lesbianism in a class described by the instructor as having “controversy built right into the syllabus.”

Chief U.S. District Judge M. Christina Armijo denied a motion by the university to dismiss a case brought by student Monica Pompeo, who claimed she was improperly dismissed from the class for describing lesbianism as perverse in an assigned critique of a lesbian romance film. The course, “Images of (Wo)men: From Icons to Iconoclasts,” was taught by professor Caroline Hinkley in 2012.

Judge Armijo, in her Sept. 29 order, wrote that the First Amendment “violation in this case arises from the irreconcilable conflict between the all-views-are-welcome description of the forum and [the professor's] only-those-views-with-which-I-personally-agree-are-acceptable implementation of the forum.”

Hinkley wrote in the syllabus: “It’s quite clear that we do not expect anyone to necessarily agree with the positions and arguments advanced in our work. There’s controversy built right into the syllabus, and we can’t wait to hash out our differences.” But when she assigned students to watch and write about “Desert Hearts,” a 1985 lesbian romance film, Pompeo said Hinckley refused to read beyond the first two pages of her harsh critique. The professor described Pompeo’s opinion as “inflammatory and offensive” hate speech and said it would be in her best interest to drop the class. The movie, set in the 1950s, tells the story of a woman who arrives to get a divorce and “finds herself increasingly drawn” to another woman, “an open and self-assured lesbian.”

The judge noted that “due to Hinkley’s hostility, including her refusal to assign a grade to plaintiff’s critique,” Pompeo withdrew from the class.

[Noted law professor, legal analyst and writer Eugene Volokh](#), writing at his Volokh Conspiracy, pointed out Hinkley’s supervisor, Susan Dever, also warned there would be “consequences” because of Pompeo’s opinion. The school officials “acted to suppress a viewpoint [they] found personally offensive, rather than for a legitimate pedagogical reason,” Volokh said.

The judge said there were three questions to be addressed...

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