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Pro-Abortion Activists Permitted to Disrupt Pro-Life Display at SUNY-Buffalo; Federal Lawsuit Filed

Buffalo, New York (June 4, 2013) — Today, the American Freedom Law Center (AFLC), a national, nonprofit Judeo-Christian law firm, filed a federal civil rights lawsuit in the United States District Court for the Western District of New York against several officials from the State University of New York at Buffalo (SUNY-Buffalo) for permitting an unruly mob of pro-abortion protestors to purposely disrupt a peaceful, pro-life demonstration on the university's campus. The lawsuit was filed on behalf of the Center for Bio-Ethical Reform, Inc. (CBR), a California-based, pro-life organization; Gregg Cunningham, the executive director of CBR; Darius Hardwick, an employee of CBR; BU Students for Life; and two student officers of the pro-life student organization.

For two days beginning on April 15, 2013, CBR partnered with the SUNY-Buffalo chapter of Students for Life to bring CBR's Genocide Awareness Project (GAP) to the university campus. GAP is a traveling photo-mural exhibit that compares abortion to historically recognized forms of genocide, such as the Holocaust. The GAP display uses graphic images to demonstrate the irrefutable truth that abortion is a violent act that results in the death of an innocent human life.

CBR and the student organization followed the university's procedures to reserve a prime location outside of the Student Union for the pro-life display. The request was initially met with resistance from university officials. However, the pro-life organizers pointed out to the hostile officials that this location had been reserved in the past for student speech activity; therefore, to deny access to this forum for the pro-life display would violate the First Amendment. The officials reluctantly approved the pro-lifers' request.

During the first day (April 15th) of the GAP display, approximately 20 to 30 protestors gathered outside of the Student Union. Initially, the protestors stayed approximately 20 feet away from the GAP signs, thereby allowing the pro-lifers to engage in their free speech activity without interference. However, later in the day—and after observing the effectiveness of the abortion photo display—the protestors formed a barricade directly in front of the display, purposefully blocking the pro-life signs and thereby unlawfully interfering with the pro-lifers’ free speech activity.

As a result, Hardwick immediately told two university police officers who were present at the site that this disruptive conduct was unacceptable. However, because the pro-lifers were disassembling the display for the evening, Hardwick did not pursue it further, but he did inform the officers that he would not tolerate such disruptive behavior if it happened again tomorrow, the second day of the display.

Indeed, the pro-abortion protestors’ disruptive behavior directly violated university regulations regarding expressive rights and responsibilities. Pursuant to university regulations, “All members of a University community must share the responsibility for maintaining a climate in which diverse views can be expressed freely and without harassment. The University at Buffalo has traditionally supported the right of its students, faculty and staff to peaceful protest. Always implicitly is the understanding that demonstrators will not interfere with or violate the rights of others.”

The pro-lifers resumed the GAP display outside of the Student Union on April 16, 2013. At about 10:00 a.m., protestors started to gather around the display. Initially, approximately 4 protestors stood directly in front of the pro-life signs, purposely trying to block them from the view of other students. Hardwick again informed the university police officers present that this was unacceptable. The officers approached the disruptive protestors, and two of them departed.

Upon seeing how effective the 4 protestors were at blocking the signs and disrupting the pro-life speech activity, a larger group of protestors decided to form a solid row in front of the display to completely block the signs. In fact, when the pro-lifers attempted to raise the GAP signs above the disruptive protestors, the protestors held up umbrellas and bed sheets to further block the pro-life signs.

Hardwick again demanded that the university police officers present at the scene stop the protestors' unlawful and disruptive conduct and thus protect the pro-lifers' free speech activity. The officers refused.

Despite the clear violation of the pro-life demonstrators' constitutional rights, the officers refused to stop the disruption, stating that they were under orders not to interfere with the pro-abortion protestors. This order was confirmed by the Chief of Police, who remained at the scene with his arms folded, refusing to protect the pro-lifers' constitutional right to free speech.

As alleged in the complaint that was filed today: "It was clearly established on or about April 15, 2013, that [university officials] had a constitutional duty not to ratify and effectuate a heckler's veto nor join a moiling mob intent on suppressing speech. Rather, [university officials] were required to take reasonable action to protect from disorderly and disruptive conduct persons exercising their constitutional rights, including [the pro-lifers]. By failing to do so, [university officials] violated [the pro-lifers'] rights protected by the First Amendment."

Robert Muise, AFLC Co-Founder and Senior Counsel, commented: "Through the discriminatory enforcement of their own regulations, university officials legitimized and encouraged student resort to disruption rather than reason as the default means of resolving disputes. It would never occur to our clients to use mob action to shut down a 'pro-choice' event. Indeed, by allowing the protestors to engage in disorderly and disruptive conduct to silence our clients' pro-life message, university officials effectively joined the hecklers and as a result censored our clients' speech in direct violation of the First Amendment."

David Yerushalmi, AFLC Co-Founder and Senior Counsel, added: "Instead of fostering the free exchange of ideas in the 'marketplace of ideas' that is a university campus, government officials urged and facilitated aggressively hostile acts to end a debate that pro-abortion students knew they were losing. Apparently, university officials would rather violate the Constitution than allow ideas on campus that are contrary to the established 'liberal orthodoxy.'"

AFLC is asking the court to declare that university officials violated their clients' fundamental constitutional rights, to permanently enjoin the officials from permitting protestors to disrupt and silence future pro-life speech activities on campus, and to award nominal damages.

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