

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AUDREY LYNN HUBLER : CIVIL ACTION
: :
v. : :
: :
WIDENER UNIVERSITY : NO. 05-01785-JF

BRYAN UBER : CIVIL ACTION
: :
v. : :
: :
WIDENER UNIVERSITY : NO. 05-01920-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

February 22, 2006

The above-captioned cases arise from a somewhat related series of events on the campus of Widener University, and have been consolidated for all purposes. The defendant has filed motions for summary judgment in each of the cases, and the plaintiff Audrey Lynn Hubler has also filed a motion for summary judgment as to liability.

The complaint of Audrey Lynn Hubler asserts that, over a period of several months, she was stalked and sexually harassed by a fellow student, and that the University failed to take appropriate action, and exhibited studied indifference to her plight. The summary judgment record makes clear that there are significant disputes of material fact which preclude the grant of summary judgment to either side in her case.

The plaintiff Bryan Uber is Audrey Lynn Hubler's boyfriend, and was her classmate at Widener during the relevant period. He was accused by several fellow students of bizarre behavior which caused them to fear for their own safety. They asserted that on numerous occasions, many of which were associated with his consumption of alcoholic beverages, he graphically described how he could kill people, and made statements which placed them in fear for their own safety. They were not, apparently, reassured by his occasional statements that he would not kill any females, because he did not believe in killing women.

In response to their complaints, the University authorities conducted a disciplinary proceeding, including an evidentiary hearing at which the accusers and Mr. Uber testified. Mr. Uber was found guilty of threatening the safety of other students and was suspended for the balance of the year, with the privilege of applying for readmission at the conclusion of the school year. When he applied for readmission, however, his application was denied and he was permanently expelled from the school. His appeal was not aided by the fact that the appeal letter was splattered with blood when it was received by the University. Mr. Uber explains that it was not his blood, but rather stemmed from a nosebleed suffered by his then-attorney, who had drafted the letter. According to Mr. Uber, the attorney

(Allen Feingold, Esq.) was pressed for time and did not wish to delay delivery of the letter, and also expressed the view that the blood spatters would give the letter greater impact.

I am unable to perceive any basis for a claim of constitutional violation in Mr. Uber's case. If the persons conducting the evidentiary hearing accepted the testimony of the complainants, there was adequate support for the disciplinary action taken. The most that can be said is that Mr. Uber may have been treated more harshly than the student who allegedly harassed Ms. Hubler, but that does not suffice to show a violation of Mr. Uber's constitutional rights. A defendant who is convicted after a trial which accords him due process of law cannot successfully complain because someone else may have been wrongfully acquitted. Accordingly, the defendant's motion for summary judgment in Mr. Uber's case will be granted.

An Order follows.

