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A controversial Marquette University professor who drew national attention after a blog he wrote about a teaching assistant who refused to allow a discussion of same-sex marriage in her classroom will get his job back and be awarded financial damages including seven semesters of back pay, the Wisconsin Supreme Court ordered in a decision released Friday.

The Milwaukee university must "immediately reinstate Dr. (John C.) McAdams with unimpaired rank, tenure, compensation and benefits," wrote Justice Daniel Kelly in the majority decision. The court split 4-2 with one justice not participating.

McAdams, who began teaching in the political science department in 1977 and was awarded tenure in 1989, jettisoned Marquette into a national debate over free speech and political correctness on American college campuses.

While the case has raised constitutionally protected free speech issues, the case essentially boiled down to a contract dispute: Did Marquette violate a professor's academic freedom guaranteed by contract or did McAdams step outside the bounds, particularly related to the values of a Jesuit university?

The majority of the court agreed that Marquette violated its contract with McAdams, while the dissent held the majority decision "fails to recognize, much less analyze, the academic freedom of Marquette as a private, Catholic, Jesuit university. As a result, it dilutes a private educational institution's autonomy to make its own academic decisions in fulfillment of its unique mission."

The uproar began in November 2014 when McAdams posted an item on his private blog, the Marquette Warrior, about an encounter between graduate student Cheryl Abbate and an undergraduate in a philosophy class she taught. The undergraduate objected to Abbate's decision that same-sex rights could not be discussed in the class saying "everybody agrees on this, and there is no need to discuss it" and told the student he could drop the class.

The undergrad was surreptitiously recording the conversation, which he at first denied. He gave the recording to McAdams who posted it on his blog site.

"After he made the blog post, McAdams actively promoted the story by distributing copies of the audio recording to interested journalists and bloggers, posting follow-up stories linking back to the post, creating a category of posts linked to Abbate by name, and arranging to appear on radio and television interviews about the story and subsequent controversy," Justice Ann Walsh Bradley wrote in a dissenting opinion. "He provided copies of the surreptitious recording to representatives of Fox News, Inside Higher Ed, and a local Fox television affiliate."

Within days, McAdams was suspended. Later a seven-member faculty committee conducted an extensive review of the case and recommended to Marquette president Michael Lovell that McAdams be suspended without pay for two semesters. Lovell added requirements that, among other things, McAdams apologize.

Although Abbate initially said in an email to a college dean that she was "pleasantly surprised" by the posting, she later received many "disgusting and threatening" comments — including threats of rape — via email, Facebook and regular mail, according to documents filed. The university for a time had to provide security outside her classroom, and Abbate later withdrew from the program and is studying at another university where she had to repeat her graduate school work. She filed a claim against the university and received an undisclosed settlement.

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McAdams maintains Lovell's actions were tantamount to firing.

Marquette maintained that if McAdams had not named Abbate in the blog, no disciplinary action would have been taken.

In a press statement, Marquette said the case had never been about academic freedom or a professor's political views but the fact that McAdams' conduct had crossed a line.

"This case has been watched closely by the local and national business community because of its emphasis on private employers' rights to maintain behavioral standards for employees," the statement said. "This case also is significant to every institution of higher education in the country. The balance of rights and responsibilities of tenured faculty members is a tradition that goes back more than a century. By discarding a contractually established disciplinary process when a professor crosses a line, this decision may significantly harm institutions' ability to establish and enforce standards conduct."

Rick Esenberg, general counsel for the Wisconsin Institute for Law and Liberty who represented McAdams, said that while the decision does not set precedent outside of Wisconsin, the issues presented are being experienced elsewhere in the country and there have been few decisions of such cases.

"The law is fairly unsettled," he said. "It's important because the court decided that this was a right guaranteed by contract. Other courts in other states will take note of the decision."

Since it is a contractual protection rather than a constitutional guarantee, could Marquette and others change its faculty contracts?

"It would be a mistake to do that," Esenberg said. "It would make Marquette less of a university and make it more difficult to attract faculty. I think its instinct for self-preservation will prevent that."

[Marie Rohde is a freelance writer in Milwaukee and a frequent NCR contributor.]

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