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TESTIMONY OF  
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“The State of Intellectual Freedom in America”  
House Subcommittee on the Constitution and Civil Justice  
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Thank you, Chairman Goodlatte, Chairman King, and Members of the Committee. It is an honor to testify before you today. The reason I am here with you is that I am a veteran of a seven and a half year First Amendment lawsuit in which I ultimately prevailed against my university. The story of how that litigation came about and how the university responded to it speaks volumes about what imperils intellectual freedom in higher education today.

In 1993, just weeks after getting my PhD, I was hired by the overwhelmingly politically liberal Department of Sociology and Criminology at the University of North Carolina at Wilmington (“UNCW”).<sup>1</sup> The faculty loved me, and so did the students. I won my first teaching award in 1996. I won the “Outstanding UNCW Professor Award”—my first professor of the year award—in 1998. Thus, I was easily awarded tenure later in 1998.<sup>2</sup> During this time, I was an atheist with politically liberal views.

Then things changed because my views changed. In 2000, I returned to Christianity—shortly after winning my second Faculty Member of the Year Award, and this transformed my ideological views.<sup>3</sup> I registered Republican and joined the NRA. In early 2001, I cautioned my colleagues against “interject[ing] political and religious bias into the hiring process.”

Shortly after the September 11th attacks, I was involved in free speech battle that drew the attention of the national media. That controversy began when I was accused of violating one of the University’s numerous unconstitutional speech policies. Shortly after the complaint was filed, UNCW searched through private emails looking for evidence related to the alleged violation. After the Foundation for Individual Rights in Education (“FIRE”) intervened, the national media started reporting on the controversy, and the University lied about inspecting of those private emails. That’s when I started to speak out more vocally.

In 2002, I wrote a column criticizing UNCW and my department for religious intolerance. The next year, I started writing a regular column for TownHall.com, typically twice a week. Those columns focused on exposing threats to free speech on college campuses, but they also discussed a wide range of other topics like academic freedom, constitutional rights, discrimination, race, gender, feminism, religion, and morality, all from a conservative political and religious perspective.<sup>4</sup> In 2004, I published *Welcome to the Ivory Tower of Babel: Confessions of a Conservative College Professor*.<sup>5</sup> In 2005, I started speaking for Young America’s Foundation on numerous college campuses, often encouraging students to challenge unconstitutional speech policies on their campuses.

In 2006, I sought and was denied promotion to full professor. When I requested an explanation for the denial, my department chair eventually said that I was deficient in each area of evaluation: teaching, research, and service.<sup>6</sup>

In a nutshell, before my change in worldview and before I criticized unlawful university policies, I was showered with awards. Afterwards, I was considered deficient in every way. UNCW did not allow an internal appeal of what was obviously a politically motivated decision. Thus, with the encouragement of my friend David French

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<sup>1</sup> *Adams v. Trs. of Univ. of N.C.-Wilmington*, 640 F.3d 550, 553 (4th Cir. 2011).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 565.

<sup>5</sup> *Id.* at 553.

<sup>6</sup> *Id.* at 555–56.

and Alliance Defending Freedom, I filed suit because the University had retaliated against me for exercising my First Amendment freedoms.

Our case was merely circumstantial at first. But after discovery was completed, we had direct evidence of viewpoint-based discrimination and retaliation. For example,

- The University chancellor tried to change the criteria for promotion in order to specifically penalize me for criticizing UNCW’s policies and expenditures.
- The chancellor ordered secret investigations to determine whether I was engaged in “trans-phobic” speech in the classroom.
- The department chair tampered with faculty evaluations of my fitness for promotion. This misled and ultimately guided the committee towards the conclusion that there was virtually no support for my promotion.
- After the denial, I asked for the reasons for the rejection. Initially, my chair drafted a letter explaining that I was deficient only in research. Discovery showed that this initial letter was replaced with a second one falsely claiming I was deficient in every area—teaching, research, and service.<sup>7</sup>

In the face of direct evidence of viewpoint discrimination, the University should have settled the case. Instead, they argued that they had the right to discriminate based on viewpoint.

Citing *Garcetti v. Ceballos*, 547 U.S. 410 (2006), the University claimed that my speeches on campuses and articles for TownHall.com were “transformed” from protected speech into “official duties” (and thus beyond the First Amendment’s protections) when I mentioned them on my promotion application. Thus, they argued that it was permissible for them to hold those views against me in the promotion process. Initially, the district court agreed and ruled for the University.<sup>8</sup>

Next, we appealed the dismissal to the United States Court of Appeals for the Fourth Circuit. There, we won a unanimous opinion saying that *Garcetti* did not apply to professors when they are engaged in teaching and scholarship<sup>9</sup>; that my columns, books, and speeches retained the full protection of the First Amendment<sup>10</sup>; and that the UNCW officials involved could be personally liable for their actions.<sup>11</sup>

This should have been the end of the case. But instead of settling, UNCW continued to fight, at one point demanding that I apologize to it for the lawsuit. So seven years into the conflict, we finally had a jury trial. It took the jury less than two hours of deliberation to rule in my favor against all defendants on all counts.<sup>12</sup>

As a result, I was awarded promotion to full professor and \$50,000 in back pay, and my attorneys collected over \$600,000 in legal fees.<sup>13</sup> But the University never

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<sup>7</sup> *Id.* at 555–56.

<sup>8</sup> *Id.* at 561.

<sup>9</sup> *Id.* at 562–64.

<sup>10</sup> *Id.* at 564–65.

<sup>11</sup> *Id.* at 566.

<sup>12</sup> Alliance Defending Freedom, *Jury Finds UNC-Wilmington Retaliated Against Professor*, Mar. 20, 2014, available at <http://www.adfmedia.org/News/PRDetail/8942> (last visited Jun. 18, 2018).

<sup>13</sup> Alliance Defending Freedom, *Dr. Mike Adams*, available at <http://www.adflegal.org/detailspages/client-stories-details/dr.-mike-adams> (last visited Jun. 14, 2018); Alliance Defending Freedom, *Final Victory: UNCW Won't Appeal Ruling in Favor of Professor Denied Promotion for His Views*, July 16, 2014, available at

punished anyone—no professor and no administrator—for engaging in viewpoint discrimination and retaliation and for violating my freedoms.

As bad as my ordeal was, conservative and Christian students on the campuses I visit have it much worse. They are routinely confined to unconstitutional speech zones and punished under unconstitutional speech codes. Their groups are routinely denied recognition or denied funding that left-leaning groups get almost automatically. Generally speaking, these students are not well versed in constitutional law. They simply do not know the university is violating their rights. To make matters worse, administrators routinely deceive these students about the scope of their rights.

This brings me to my central point, which is the need for accountability for universities that so flagrantly and so routinely violate the Constitution.

During the Obama administration, we saw something that was unprecedented in the history of education policy. Under the guise of enforcing Title IX, the Obama Department of Education actually made the receipt of federal funding contingent upon depriving students accused of sexual assault of basic constitutional protections. Universities were coerced into weakening basic due process protections. Now, it is time to reverse course and make the receipt of federal education funding contingent upon honoring the Constitution, rather than violating it.

Each of you has taken an oath to uphold the Constitution. You can take a great step toward fully honoring that oath by withholding federal funding from public universities that are engaged in a war against our basic constitutional principles. Only then will these institutions live up to the ideal of being a “marketplace of ideas” where all viewpoints are truly welcomed and debated. I hope the discussion on how to do that will begin today. Thank you.