

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED

AUG 27 1979

CLERK

DEPUTY CLERK

THE STUDENT COALITION FOR)
GAY RIGHTS, an unincorporated)
association, EDWIN GUZMAN,)
Individually and as President)
of The Student Coalition for)
Gay Rights, SAMUEL T. HELTON,)
Individually and as Treasurer)
of The Student Coalition for)
Gay Rights, and WILLIAM H.)
DANNENMAIER, Individually and)
as a member of The Student)
Coalition for Gay Rights,)

Plaintiffs,)

VS.)

CIVIL ACTION NO. 79-3430

AUSTIN PEAY STATE UNIVERSITY,)
an institution of higher)
education operated by The)
State of Tennessee, ROY S.)
NICKS, Individually and as)
Chancellor of The State)
University and Community)
College System of Tennessee,)
ROBERT O. RIGGS, Individually)
and as President of Austin)
Peay State University, CHARLES)
N. BOEHMS, Individually and as)
Vice President for Student)
Affairs of Austin Peay State)
University, THE STATE BOARD OF)
REGENTS, an agency of the)
State of Tennessee administer-)
ing The State University and)
Community College System in)
Tennessee, LAMAR ALEXANDER, as)
Chairman of the State Board of)
Regents, CLAUDE C. BOND, J. C.)
EOFF, JR., and DAVID V. WHITE,)
Individually and in their)
official capacities as members)
of the Student Life Committee)
of The State Board of Regents,)

Defendants.)

C O M P L A I N T

The Parties

1. Plaintiff Student Coalition for Gay Rights (herein after, the "Coalition") is an unincorporated association of Students of Austin Peay State University created and existing for the purpose of educating the public about homosexuals and homosexual lifestyles and engaging in political action in support of legislation prohibiting various forms of discrimination against homosexuals. Its membership is composed both of persons whose

sexual orientation is homosexual and whose sexual orientation is heterosexual.

2. Plaintiff Edwin Guzman is a citizen of the United States, a student at Austin Peay State University and the President of the Coalition. He brings this action in his individual capacity and as an officer of said organization.

3. Plaintiff Samuel T. Helton is a citizen of the United States, a student at Austin Peay State University, and Treasurer of the Coalition. He brings this action in his individual capacity and as an officer of said organization.

4. Plaintiff William H. Dannenmaier is a citizen of the United States, a student at Austin Peay State University, and was formerly Vice President of the Coalition. He brings this action in his individual capacity and as a member of said organization. His sexual orientation is exclusively heterosexual.

5. Defendant State Board of Regents (hereinafter, the "Board") is an agency of the State of Tennessee composed of persons appointed pursuant to Tennessee Code Annotated §49-3237 and having the responsibility of governing the System of State Universities and Community Colleges in Tennessee, including defendant Austin Peay State University, a component of said System by virtue of T.C.A. §49-3236.

6. Defendant Lamar Alexander is Governor of the State of Tennessee, an ex-officio member of the Board, and the Board's Chairman. He is sued in his official capacity as Board Chairman.

7. Defendants Claude C. Bond, J. C. Eoff, Jr. and David V. White are members of the Board and of its Student Life Committee. They are sued individually and in their official capacities.

8. Defendant Roy S. Nicks is an employee of the Board and is Chancellor of the System of State Universities and Community Colleges administered by the Board. As such, he is the chief executive officer of said system. He is sued individually and in his official capacity.

9. Defendant Robert O. Riggs is President of Austin Peay State University (hereinafter, the "University") and as

such is its chief executive officer. He is sued individually and in his official capacity.

10. Defendant Charles N. Boehms is Vice President for Student Affairs of the University and as such has day-to-day responsibility for administering non-academic University functions related to students and student organizations. He is sued individually and in his official capacity.

Jurisdiction

11. This action arises under 42 U.S.C. §1983, §1985(2), and §1986 and the first and fourteenth amendments to the United States Constitution.

12. The Court has jurisdiction of this cause by virtue of 28 U.S.C. §1343.

13. The acts of the defendants complained of herein were taken under the color and pretense of the statutes, regulations, customs and usages of the State of Tennessee, and under the color and pretense of their authority as agencies, officers, and employees of the State of Tennessee.

Cause of Action

14. In the fall of 1978 certain University students, including plaintiffs Guzman, Helton, and Dannenmaier, organized the Coalition and filed an application with the Student Government Association (hereinafter "SGA") for recognition of it as a student organization. Recognition carries with it certain rights (including use of University facilities) that are not given to non-recognized student organizations.

15. The SGA approved the Coalition's application for recognition by a vote of 25-1. On or about December 1, 1978, the application was submitted to Vice President for Student Affairs Charles N. Boehms for approval as required by University regulations. Although the Coalition had complied with all procedural requirements of the University and the Board for recognition of

student organizations, Boehms denied University recognition to it on January 31, 1979.

16. The Coalition appealed Vice President Boehms' decision to University President Robert O. Riggs. On February 8, 1979 defendant Riggs refused to extend recognition to it.

17. The Coalition appealed Riggs' decision to Chancellor Roy S. Nicks. On July 16, 1979 defendant Nicks notified the Coalition that he refused to recognize it.

18. The Coalition appealed Chancellor Nicks' decision to the Student Life Committee of the Board, which the Board had previously given the responsibility of disposing of any appeal that might result from an adverse decision by the Chancellor. On August 13, 1979, by a vote of 3-2 (defendants Bond, Eoff, and White constituting the majority) the Committee sent the issue back to Chancellor Nicks for reconsideration, with the proviso that the Committee approved Nicks' final decision, whatever it might be.

19. On Friday, August 24, 1979 counsel for the Coalition received a letter from defendant Nicks re-affirming his previous action not to recognize the Coalition.

20. The refusal of defendants Boehms, Riggs, and Nicks to extend recognition to the Coalition is without factual and legal justification, and has the effect of suppressing or burdening plaintiffs' expressive and associational activity in behalf of certain social and legal reforms which they seek and with which these defendants disagree. The actions of these defendants, individually and in concert, were carried out for the purpose of suppressing plaintiffs' lawful advocacy of ideas which defendants believe are unpopular with the majority of Tennessee residents.

21. The conduct of defendants Bond, Eoff, and White referred to in paragraph 18 constitutes a neglect and refusal to prevent the wrongs conspired to be carried out by defendants Boehms, Riggs and Nicks, in violation of 42 U.S.C. §1986.

22. Defendants' actions have the effect of denying to plaintiffs equal access to and use of certain University

perquisites (including use of facilities) on the same basis as other students and student organizations, which have been recognized. The denial of recognition significantly interferes with, and otherwise burdens, plaintiffs' attempts to organize, associate, assemble, and communicate for the purpose of protected speech and political action. The denial of recognition is based on disagreement with the nature and content of the political and social ideology of plaintiffs, fear that plaintiffs' constitutionally protected political activity might be effective in changing social attitudes and the law concerning homosexuality, and fear of community disapproval of recognition.

23. On information and belief, the acts, conduct and behavior of defendants Boehms, Riggs, and Nicks were performed knowingly, intentionally and maliciously. They knew, or reasonably should have known, that their actions violated the constitutional rights of plaintiffs.

24. The conduct of defendants, and each of them, has deprived plaintiffs of rights, privileges, and immunities secured to them by the laws and Constitution of the United States, particularly the first amendment guaranties of freedom of assembly, association, and expression and the fourteenth amendment guarantee of equal protection of the laws and constitute violations of 42 U.S.C. §1983, §1985(2), and §1986.

25. Plaintiffs have been damaged by defendants' conduct and are suffering irreparable injury for which there is no adequate remedy at law.

WHEREFORE, plaintiffs pray:

1. That the Court declare that the Coalition is entitled to University recognition and all consequent University perquisites (including the use of facilities).

2. That the Court grant a preliminary and permanent injunction against defendants prohibiting them from denying University recognition to the Coalition and from denying to the

Coalition all the perquisites that accompany recognition, including access to and use of University facilities on the same basis as other recognized student organizations.

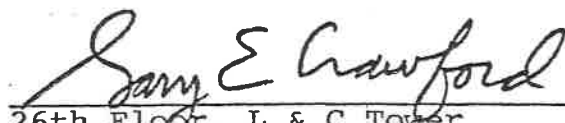
3. That the Court award plaintiffs appropriate compensatory and punitive damages.

4. That the Court award plaintiffs the costs and expenses of this cause, including reasonable attorneys' fees pursuant to 42 U.S.C. §1988.

5. That the Court grant plaintiffs such further and general relief as justice may require.

Respectfully submitted,

GARY E. CRAWFORD



26th Floor, L & C Tower
Nashville, Tennessee 37219
(615) 244-9270

JAMES BLUMSTEIN



121 21st Avenue, South
Nashville, Tennessee 37240
(615) 322-2615

ATTORNEYS FOR PLAINTIFFS