Court Deals Blow to Mandatory College Fees

October 28, 1998

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The decision in Southworth v. Grebe, handed down recently by the U.S. Court of Appeals for the 7th Circuit, didn't make it onto national television, but it can have a profound effect on American culture and politics. The court held that it is a violation of the First Amendment rights of freedom of speech and association for a state university to use "students' mandatory activity fees to fund organizations which engage in political or ideological activities, advocacy, or speech."

For many years, it has been the common practice of universities and colleges to require all students to pay student activity fees every term. The fees are mandatory; students who refuse to pay cannot receive their grades or graduate.

The money is then turned over to student organizations that spend it pretty much as they please. Much of this money is given to liberal, leftwing, feminist, gay, socialist, or radical student groups, which in turn bring leftwing speakers to campus, lobby for leftwing legislation, and engage in leftwing demonstrations and activities.

These student fees often involve hundreds of thousands of dollars. At the University of Wisconsin, for example, the student fee of $165.75 per semester added up to $974,200 in the 1995-96 school year.

Enjoying tight control over this tremendous pot of money, the leftwing students (with the patronage of leftwing professors) are able to finance the radical movement and pay $25,000 honoraria to leftwing speakers. Only rarely is a token conservative invited.

Scott Southworth, a student at the University of Wisconsin, determined to do something to remedy this abuse. First, he had to confront the roadblocks the university put in his way: secrecy and layers of laundering by committees dispensing "allocable and nonallocable" funds.

After finding a lawyer to file suit (Jordan Lorence of Fairfax, VA), a foundation to provide financial backup (Alliance Defense Fund of Scottsdale, AZ), and several other students to join as plaintiffs, they set out to gather the evidence. The evidence filed with the complaint on April 2, 1996 was plentiful and persuasive, and the facts were not in dispute.

The court's decision cited 18 student organizations that had been funded by University of Wisconsin student fees, including WISPIRG (which lobbied Congress and distributed environmentalist voter guides); the Lesbian, Gay, Bisexual Campus Center (which distributed sexually explicit materials); the Campus Women's Center (which lobbied for abortion rights and against any regulations); the UW Greens (which distributed campaign materials for the Green Party USA and Ralph Nader's presidential candidacy, and organized a march against the Governor's budget); and the Madison AIDS Support Network.

Other student groups cited by the court included the International Socialist Society (which advocated the overthrow of the government and disrupted a church meeting); the Ten Percent Society (which lobbied for same-sex marriages); the Progressive Student Network (which lobbied against the GOP Contract with America); Amnesty International (which lobbied for abolition of the death penalty); the United States Student Association (which lobbies for a mix of leftwing causes); the Militant Student Union; and Students of National Organization for Women.

While the Supreme Court has never directly confronted the issue of student fees, the Court of Appeals was able to base its decision on several Supreme Court decisions that pointed in the right direction. Abood v. Detroit Board of Education (1977) and Keller v. State Bar of California (1990) had ruled that unions and bar associations, respectively, may not constitutionally compel their members to fund advocacy that is nongermane to the purposes of the organization requiring payment of the fee.

Rosenberger v. Rector (1995) had held that a university may not deny access because of ideology to the pool of money created by student fees; additionally, five justices noted that some students might object to the funding of political and ideological organizations. And, the Supreme Court had denied certiorari in Smith v. Regents of the University of California (1993), letting stand a decision of the California Supreme Court that students may not be "forced to support causes they strongly oppose."

At the oral argument on the Southworth case on June 4, 1997, the University of Wisconsin stoutly insisted that its educational mission requires compelling the fees of all students. When the judge asked if a black student would have to contribute to a Ku Klux Klan organization, or a Jewish student to a Nazi group, the university's lawyer replied "yes," arguing that "hateful speech has a place in our society too."

To which the court responded, "but the Constitution does not mandate that citizens pay for it." The court then cited Thomas Jefferson: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

The Southworth decision gives us the opportunity to terminate the "sinful and tyrannical" way that the radical leftwing movement has been picking the pockets of college students. We hope that other college students will follow Southworth's lead and cut off the funding of radical causes on their campuses.