



Written by [James Murphy](#) on July 8, 2018

Conservative Professor Prevails in Wisconsin Free-speech Case

A conservative law professor who was terminated by Marquette University in 2016 has won a victory for free speech. On Friday, July 6, the [Wisconsin Supreme Court ruled in favor of Professor John McAdams](#), who has been suspended without pay for the last seven semesters for a post on his personal blog that criticized the treatment of a student by an instructor. The vote was 4-2 in favor of McAdams.



Marquette has said it plans to reinstate McAdams. The court sent the case back to Milwaukee County Circuit Court to award damages, which may include the restoration of unimpaired rank, tenure, compensation, and benefits.

McAdams became the [first professor to lose tenure in the 135-year history of Marquette](#) because of a November 2014 blog post critical of teaching assistant Cheryl Abbate, who was recorded berating a student who wished to be allowed to debate gay marriage in a Philosophy of Ethics class. In his Marquette Warrior blog, he wrote, "Like the rest of academia, Marquette is less and less a real university. And when gay marriage cannot be discussed, certainly not a Catholic University."

Marquette argued that McAdam's dismissal was not because of his views, but because he named Abbate in his blog post, which allegedly caused Abbate, a graduate student at the time, to receive disgusting e-mails and threats.

"This case has never been about academic freedom or a professor's political views," Marquette officials reiterated in a statement. "Had the professor published the same blog without the student-teacher's name or contact information, he would not have been disciplined."

The lawyer for Marquette, Ralph Weber, put it more bluntly when he referred to McAdams naming Abbate in his blog post. "That's not academic freedom. That's cyberbullying."

As opposed to the actual bullying that Abbate engaged in when she dressed down the student, apparently.

McAdams argued that, since Abbate was acting as an instructor, her behavior toward the student was fair game for public criticism.

"It's absurd that when you find misconduct in a bureaucracy, you can't go public with it," McAdams said in the wake of Friday's decision. "Fighting a battle against bureaucracy is often much less effective than bringing sunlight to the situation."

The Wisconsin Supreme Court sided with McAdams' view of events. From the opinion, written by Justice Daniel Kelly: "The undisputed facts show that the university breached its contract with Dr. McAdams when it suspended him for engaging in activity protected by the contract's guarantee of



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academic freedom.”

In an unusual move, more than one justice wrote opinions in favor of the plaintiff. Justice Rebecca Bradley, in a concurring opinion, wrote that the case was about forcing professors to “succumb to the dominant academic culture of microaggressions, trigger warnings and safe spaces that seeks to silence unpopular speech by deceptively recasting it as violence.”

In her dissent, Justice Ann Walsh Bradley felt the majority missed the point of the case, suggesting that it was Marquette’s freedom that was being imperiled. “[The decision] fails to recognize, much less analyze, the academic freedom of Marquette as a private, Catholic, Jesuit university,” Bradley wrote. “As a result, it dilutes a private educational institution’s autonomy to make its own academic decisions in fulfillment of its unique mission.”

But, in this case at least, the rights of the individual trumped the rights of the institution. By firing McAdams, Marquette used a sledgehammer in dealing with a mosquito. McAdams may or may not have been correct in publishing Abbate’s name but, either way, he didn’t deserve to be dismissed over it.

The victory comes at a time when free speech is under assault from an academic and media culture that values feelings over truth. The watchdog group Freedom for Individual Rights in Education (FIRE) [is tracking dozens of cases](#) where free speech is threatened by [speech codes](#) and [“Bias Response Teams.”](#) Hopefully, the McAdams case provides a precedent in the right direction.

There is a tendency to label the McAdams case as a victory for conservatives, but that’s not really true. It is a victory for the First Amendment, which applies to all of us, Left, Right, or middle-of-the-road. UW-Madison professor Don Moynihan, who disagrees with McAdams’ actions, put it well when he tweeted, “McAdams behaved unprofessionally toward a grad student. But a conservative plaintiff made it more likely for the Wisconsin Supreme Court to champion academic freedom.”

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