Written by **Bob Adelmann** on July 11, 2017

Texas Professors' Frivolous Concealed-carry Lawsuit Tossed Due to Lack of Standing

When District Court Judge Lee Yeakel dismissed the frivolous lawsuit last week brought by three University of Texas professors against the state's attorney general and numerous others, he claimed the trio had no standing. It's also clear from the details that the professors also had no understanding of the issues involved. Instead they invoked conjecture over cogency, and the judge rightfully threw out the suit.

The three female professors — Jennifer Lynn Glass, Lisa Moore, and Mia Carter — with the help of a local attorney, made up their case against the law that allows concealed carry on the public campuses of Texas effective August 1. They feared that, somehow, armed students in their classrooms would be likely to infringe on their First Amendment rights and "chill" discussion about controversial topics for fear that retribution would be coming from those armed students becoming upset during the discussions.

They also feared that, somehow, their Second Amendment rights, tied in with their 14th Amendment rights, would be violated as well. That argument was far less coherent than the first. From their complaint came this:

> The Texas statutes and university policies that prohibit Plaintiffs from exercising their individual option to forbid handguns in their classrooms violate the Second Amendment to the United States Constitution, as applied in Texas through the Due Process Clause of the Fourteenth Amendment. These policies and procedures deprive Plaintiffs of their Second Amendment right to defend themselves and others in their classrooms from handgun violence by compelling them as public employees to passively acquiesce in the presence of loaded weaponry in their place of public employment without the individual possession and use of such weaponry in public being well-regulated. This infringement lacks any important justification and is imposed without any substantial link between the objectives of the policies and the means chosen to achieve them.

This writer challenges readers to make any coherent sense out of this eruption of anti-gun rhetoric. Somehow, the trio's rights would be violated if students exercised their own.

As far as any lack of regulation or justification, where was this offended threesome when the wide, long, and diverse conversation was taking place on campus during the year between when the concealed carry bill was signed into law (September 2016) and then implemented (August 2017). Surely they were aware that one of the defendants named in the complaint, Gregory Fenves, president of the University of Texas at Austin, created a "working group" to consider just how to implement the new law. He had input from faculty, staff, students, an alumnus, a parent, and a collection of university administrators. Where were these worthies while that was going on?

Judge Yeakel took great pains to explain why he tossed the suit:

> Plaintiffs do not have standing to bring this action because they fail to allege facts showing any cognizable injury. Alternatively, Defendants [the state's attorney general and a whole host of others named in the complaint] argue [that] Plaintiffs have failed to state a claim upon which relief can be granted.

This is how a judge deals with incoherency. In simple terms, he asked the trio rhetorically, "Where's the beef?" Have you been damaged or injured or even threatened in some way under the new law? It hasn't even been implemented yet! If injury is imminent, just how would it be related to the new law?

He explained, most likely for the benefit of the attorney assisting the trio, "First, a plaintiff must have suffered an 'injury in fact,' or an invasion of a legally protected interest which is 'actual or imminent, not conjectured or hypothetical.'" Second, he wrote, "There must be causal connection between [said] injury and the conduct complained of; the injury must be traceable to the challenged action of the defendant[s]. Third, it must be likely … that the injury will be redressed by a favorable decision."

Judge Yeakel gave the trio and their lawyer a lesson in logic, coherency, and relevance:

> Plaintiffs in this case do not challenge a direct regulation or restriction on speech. Plaintiffs allege that "classroom discussion will be narrowed, truncated, cut back, cut off by the allowance of guns in the classroom." One professor avers in an affidavit that the "possibility of the presence of concealed weapons in a classroom impedes my and other professors' ability to create a daring, intellectually active, mutually supportive, and engaged community of thinkers."
>
> Plaintiffs do not specify a subject matter or point of view they feel they must eschew as a result of the Campus Carry Law and Campus Carry Policy, or point to a specific harm they have suffered or will suffer as a result of the law and policy. Rather, the chilling effect appears to arise from Plaintiffs' subjective belief that a person may be more likely to cause harm to a professor or student as a result of the law and policy.

He ended the discussion with this:

> Plaintiffs cannot establish standing by simply claiming that they experienced a "chilling effect" that resulted from a governmental policy that does not regulate, constrain or compel any action on their part.…
>
> Accordingly, the court will dismiss this cause for lack of subject-matter jurisdiction.

Not surprisingly, the lawyer for the trio didn't grasp the totality of Judge Yeakel's dismissal, insisting: "We had other claims in the lawsuit beyond that — a Second Amendment claim [and] an equal protection claim. The order accompanying this dismissal doesn't seem to address these issues. So there's a bit of confusion on our part."

There was no confusion on the part of the Texas state attorney general. Upon hearing of the dismissal, AG Ken Paxton stated, "The court's ruling today is the correct outcome. The fact that a small group of professors dislike a law and speculate about a 'chilling effect' is hardly a valid basis to set the law aside."

Paxton said nothing about the lack of logic, coherency, or validity in the complaint filed against him by the trio of professors. He let the judge's ruling resolve those for him and for the myriad of other defendants named in the complaint.

Photo of the University of Texas-San Antonio: Longhornsguy07 on Wikipedia

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