



April 26, 2012

Via U.S. Mail & Facsimile at (270) 745-4492

Dr. Gary A. Ransdell
Office of the President
Western Kentucky University
1906 College Heights Blvd. #11001
Bowling Green, Kentucky 42101

Re: University's Response to Vandalism of Pro-Life Display

Dear President Ransdell:

As we represent Hilltoppers for Life, we are gravely concerned at the way its pro-life display was vandalized on the morning of April 20, 2012 and the way Western Kentucky University (WKU) officials have responded to this illegal action. Especially as this story continues to unfold, it appears that several WKU officials knew this vandalism would occur, did nothing to stop it, and allowed it to continue. Our clients were exercising their First Amendment rights, and it is the duty of WKU officials to protect those freedoms, not passively allow them to be violated.

By way of introduction, the Alliance Defense Fund (ADF) is a legal alliance that defends religious liberty and the sanctity of life. The ADF Center for Academic Freedom is dedicated to ensuring that religious, conservative, and pro-life students and faculty may exercise their rights to speak, associate, and learn on an equal basis as all other students and faculty.

As you know, Hilltoppers for Life erected approximately 3,700 crosses to commemorate the number of lives lost to abortion everyday in the United States. On the morning of April 20th, Elaina Smith, a WKU art student, began placing condoms on each of the crosses. Members of Hilltoppers for Life confronted her and asked her to stop, but she refused. When campus security officers arrived, they did nothing, and Ms. Smith absurdly claimed she was completing an approved art assignment by desecrating our clients' display.

Your April 24th statement claims that Ms. Smith's professor, Kristina Arnold, did not intend to target our client's pro-life display. But Dr. Arnold told WBKO that she did not disapprove of Ms. Smith's proposed vandalism. So she at least knew of

it in advance and did nothing to stop it. However, other comments indicate that she actually condoned Ms. Smith's acts: "Learning and debating are not always pretty or polite processes. Critical engagement with ideas can get messy."¹ At a public university, "critical engagement" also involves respecting the free speech rights of fellow students, something Ms. Smith and Dr. Arnold both missed.

While it is encouraging to hear that you and your colleagues value free speech, so far WKU's actions have not demonstrated that it fully acknowledges the serious violation of our client's rights. When our client's freedoms have been so publicly and flagrantly violated, issuing private assurances and holding secret meetings with the perpetrators and accomplices simply does not suffice.

However, we would like to work with WKU to resolve this matter amicably. If you share our desire, we respectfully request that you do the following:

- Conduct a full and thorough investigation into this incident to determine what occurred, who was responsible for it, and who facilitated or enabled it.
- Instruct Ms. Smith to apologize publicly to Hilltoppers for Life for vandalizing its display.
- Assure us in writing that Ms. Smith will not receive any form of academic credit for this act of vandalism.
- Assure us in writing that Ms. Smith will be disciplined under the *Student Code of Conduct* for this act of vandalism.
- Instruct Chief Robert Dean, the head of campus security, to apologize publicly to Hilltoppers for Life for not taking action to protect this display from Ms. Smith's vandalism.
- Instruct Dr. Arnold to apologize publicly to Hilltoppers for Life for not preventing and even condoning the desecration of their display.
- Assure us in writing of the specific disciplinary action that will be taken against Dr. Arnold for facilitating Ms. Smith's vandalism.
- Disclose who purchased and supplied Ms. Smith with the approximately 3,700 condoms she used to desecrate our clients' display.

¹ See Elsa Bolt, *Art Professor of Student, Accused Of Desecrating Pro-Life Cross Display For Project, Speaks Up*, available at http://www.wbko.com/news/headlines/Art_Professor_of_Student_Accused_Of_Desecrating_Pro-Life_Cross_Display_For_Project_Speaks_Up_148775885.html?ref=885 (last visited Apr. 25, 2012).

If you are willing to take these steps to demonstrate in a concrete fashion your commitment to preserving free speech on campus, please inform us of this in writing by the close of business on May 4, 2012.

While we desire to resolve this matter amicably, we will take whatever action necessary to ensure that our clients' rights are secured and will not be violated again, especially if WKU is unwilling to take the steps outlined above. As litigation is one possibility, we also advise you to take all steps necessary to prevent the destruction of any documents connected with, discussing, or relevant to our clients' display, Ms. Smith's vandalism, and Professor Arnold's art assignment.

Last, this letter also serves as a public records request under KY. STAT. ANN. §§ 61.780, *et seq.* Accordingly, please produce for inspection and copying the following public records:

- All documents and electronically stored information (including, but not limited to, e-mails) regarding or discussing Hilltoppers for Life, its officers (including its president, John Sohl), and its Cemetery of the Innocents display, from January 1, 2012 to the present.
- All documents and electronically stored information (including, but not limited to, e-mails) regarding or discussing Dr. Arnold's Art Installation course and the assignments she gave to students, from January 1, 2012 to the present.
- All documents and electronically stored information (including, but not limited to, e-mails) regarding or discussing Ms. Elaina Smith, her involvement in Dr. Arnold's Art Installation class, her interference in our clients' display, and the reaction of WKU officials to her actions.

Should you deny my request, or any part of it, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial, as required by law. If you believe that you are entitled to any statutorily prescribed fees as a condition for fulfilling this request, please advise me as soon as possible of the amounts and the personnel to whom payment should be directed.

Sincerely,



Travis Christopher Barham
Litigation Staff Counsel
ALLIANCE DEFENSE FUND