



Significant excerpts from the 6th Circuit decision in *Ward v. Wilbanks* January 27, 2012

p. 3: [A] reasonable jury could conclude that Ward’s professors ejected her from the counseling program because of hostility toward her speech and faith, not due to a policy against referrals. We reverse the trial court’s grant of summary judgment in favor of the university.

p. 11: [W]hat did Ward do wrong? Ward was willing to work with all clients and to respect the school’s affirmation directives in doing so. That is why she asked to refer gay and lesbian clients (and some heterosexual clients) if the conversation required her to affirm their sexual practices. What more could the rule require? Surely, for example, the ban on discrimination against clients based on their religion (1) does not require a Muslim counselor to tell a Jewish client that his religious beliefs are correct if the conversation takes a turn in that direction and (2) does not require an atheist counselor to tell a person of faith that there is a God if the client is wrestling with faith-based issues. Tolerance is a two-way street. Otherwise, the rule mandates orthodoxy, not anti-discrimination.

p. 13: Why treat Ward differently? That her conflict arose from religious convictions is not a good answer; that her conflict arose from religious convictions for which the department at times showed little tolerance is a worse answer.

p. 15: Many of the faculty members’ statements to Ward raise a similar concern about religious discrimination. A reasonable jury could find that the university dismissed Ward from its counseling program because of her faith-based speech, not because of any legitimate pedagogical objective. A university cannot compel a student to alter or violate her belief systems based on a phantom policy as the price for obtaining a degree.

pp. 18-19: The university does not argue that its actions can withstand strict scrutiny, and we agree. Whatever interest the university served by expelling Ward, it falls short of compelling. Allowing a referral would be in the best interest of Ward (who could counsel someone she is better able to assist) and the client (who would receive treatment from a counselor better suited to discuss his relationship issues). The multiple types of referrals tolerated by the counseling profession severely undermine the university’s interest in expelling Ward for the referral she requested.

p. 20: Instead of insisting on changing her clients, Ward asked only that the university not change her.

Full decision: <http://www.adfmedia.org/files/WardAppellateDecision.pdf>