

Freedom of Repression

New ruling will allow censorship of campus publications. *By John K. Wilson*

FOR ALMOST FIVE YEARS, the *Innovator* newspaper at Governors State University has been absent from the suburban Chicago campus, banished by the administration's demands for prior approval of its content.

After a June 20 decision by the 7th U.S. Circuit Court of Appeals, the *Innovator* may never be seen again—and many other campus newspapers may join it on the list of publications censored or eliminated for questioning the status quo.

The decision in *Hosty v. Carter* demonstrates the threat that right-wing judges pose to freedom of expression in America. The majority opinion, written by conservative judge Frank Easterbrook and supported by other conservative justices such as Richard Posner, is a classic example of judicial activism. Easterbrook's convoluted opinion abandons well-established precedents supporting the free expression rights of college students, and gives college administrators near-absolute authority to control the content of student newspapers.

The facts of the *Hosty* case are particularly appalling. On November 1, 2000, Governors State Dean Patricia Carter called the *Innovator*'s printer, attempting to stop the publication of the newspaper. When she discovered that she was too late, she ordered the printer to give her future newspapers before they were printed so that she could approve content. Two days later, the president of the university wrote a campus-wide memo denouncing the *Innovator*



because of its coverage of the firing of the newspaper's advisor (who later won an award for wrongful dismissal). Editor-in-Chief Jeni Porche and managing editor Margaret Hosty fought back, refusing to accept the administration's demands for censorship.

Easterbrook built his logic upon the Supreme Court's 1988 *Hazelwood* case, which gave high school principals limited authority to control newspapers created in the classroom. *Hazelwood* has had a disastrous impact, supporting censorship of the student press. The *Hosty* decision not only applies *Hazelwood* to college students, but greatly expands the scope of censorship to cover any newspaper or, potentially, any activity subsidized with student fees.

The *Hosty* case is only part of the growing conservative attack on freedom of speech on campus. An alternative

newspaper at the University of Wisconsin at Eau Claire was denied funding in 2005 because the student government thought it was too "political." Arizona's state budget for next year includes a ban on state appropriations for college student newspapers after a campus sex column offended legislators.

And David Horowitz's Academic Bill of Rights has been introduced as legislation in more than a dozen state legislatures; some versions of the bill would compel grievance procedures at all public (and even private) colleges to enable students to start investigations against professors who express political views or who assign reading lists deemed "too liberal." Horowitz has even threatened to sue Lehigh University after it allowed Michael Moore to speak on campus last fall,

claiming that this violated the school's nonprofit status.

But the *Hosty* decision is so extreme in denying student liberties that even conservatives are worried. Charles Mitchell, a program officer at the right-leaning civil liberties group Foundation for Individual Rights in Education, noted, "*Hosty* will give college administrators yet another excuse to indulge their taste for squelching speech—and that's never a good thing for liberty."

Although the 7th Circuit Court of Appeals only covers Illinois, Wisconsin and Indiana, the decision will enable administrators across the country to censor papers without penalty. Under the "qualified immunity" standard, state officials are only liable for violating constitutional rights when the law is clear, and the *Hosty* decision raises serious doubts about whether college students have any rights. And if administrators can legally treat college students the same as elementary school students, what will happen to academic freedom?

The Society for Professional Journalists (SPJ) president Irwin Gratz said, "It is a sad day for journalism in the United States." The SPJ and dozens of journalism groups joined an amicus brief in the case, urging the 7th Circuit to defend freedom of the press on campus.

"My co-plaintiffs and I are resolved to appeal to the nation's highest court," said Hosty. ■

JOHN K. WILSON is coordinator of the Independent Press Association's Campus Journalism Project (www.indypress.org/cjp). He provided advice to the plaintiffs in *Hosty v. Carter*, and has a Web site about the case at www.collegefreedom.org/gsu.htm. His forthcoming book is *Patriotic Correctness: Academic Freedom and Its Enemies*, from *Paradigm Publishing*.

DON'T LIKE DOING THIS. IT'S NOT SOMETHING I want to do," says Aidan Delgado of his public presentations. "I feel like I have to do it."

A veteran of the Iraq war, Delgado, 23, has spoken to students, churches and peace groups across the country. "The media's not giving the full picture," he says. "Nobody's seeing the ugly side, the underside of the war, and it's something that I've seen, so I feel like I have to share it with people."

In March, Delgado participated in a daylong teach-in on military recruitment at Berkeley High School in California. Students and concerned teachers organized the event in response to the increased presence of recruiters, who are able to target high school students like never before, thanks to Section 9528 of the No Child Left Behind Act. "There's a lot about being in the army that recruiters are not going to tell you," Delgado says.

Delgado signed up for the Army Reserves on the morning of September 11, 2001. Shortly after signing his contract, two infamous planes hit the World Trade Center, gravely affecting the consequences of his enlistment. Like a lot of enlistees, Aidan was looking for something meaningful to do with his life and the Army seemed like a good opportunity. However, joining the reserves no longer means part-time weekend duty; it increasingly requires seeing "action." About a year and a half after joining the reserves, Delgado was deployed to Iraq.

Unlike most soldiers, Delgado speaks Arabic, having grown up in Egypt as a diplomat's son, and was able to communicate with Iraqis. He thought differently about fighting after interacting with prisoners of war. "When I came face to face with the people who were supposed to be my enemies, I thought that I had no reason to fight them," he says. "They were the same as the guys in my unit." The captured men were mostly young and uneducated, and did not have many choices in life.

"I felt like they were trapped in the war as much as I was and we were all victims of it, so I felt that fighting them would be wrong," he says.

During his third month in Iraq, Delgado told his commander that he wanted to be a conscientious objector. "I turned in my weapon, I said 'I'll stay. I'll finish my duty, but I'm not going to fight. I'm not going to kill anyone.'"

Obtaining conscientious objector status was difficult. Delgado endured investigative interviews, bureaucratic paper work, and harassment from his superiors and his peers, some of whom regarded him as a traitor. His commanders also confiscated part of his body armor, rescinded his leave time and assigned him to 16-18 hour shifts. Delgado was granted conscientious objector status and an

honorable discharge only after completing his year-long tour in Iraq.

At Berkeley, Delgado began his slide show by explaining, "I'm not trying to shock you. I'm not trying to show you war pornography, but you're getting to the age now when you're going to have to deal with this stuff ... if you're old enough to fight,

A Different Duty

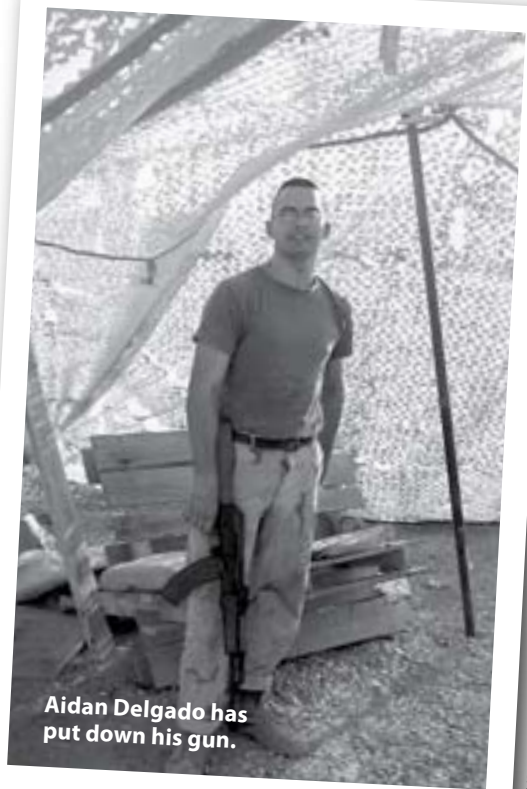
By Lisa Sousa

you are old enough to see what the reality is."

The teenagers gasped as Delgado presented one of the more gruesome slides of a man's head ripped open by machine gun bullets—a prisoner at Abu Ghraib prison, where Delgado's unit was stationed during the final six months of his deployment. Delgado was at Abu Ghraib when the infamous torture occurred. Although he did not have direct knowledge of the incidents, he had heard rumors of abuses.

The man depicted in Delgado's slideshow was killed during a prison protest on November 24, 2003. Armed with sticks and stones, the prisoners demonstrated against their harsh living conditions. The soldiers on duty secured permission to use lethal force in response, wounding nine and killing three. Afterwards, a few of the soldiers photographed each other posing with the corpses. "This was real common stuff at Abu Ghraib," Delgado says.

Delgado challenged the students to think critically before enlisting in the military. After receiving a chorus of boos in reply to his question of whether the students liked high school, Delgado said that the military was quite similar to high school, only "your toughest teacher lives with you and has a gun." ■



COURTESY OF AIDAN DELGADO

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