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University of Calgary's war on free speech

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The University of Calgary claims its mission is “to seek truth and disseminate knowledge” but this self-described “place of education and scholarly inquiry” has now had three court judgments rendered against it in the past four years, all of them involving freedom of expression.

The first judgment, in 2010, reprimanded the U of C for failing to respect the Charter-protected free speech rights of Keith and Steven Pridgen, and other students who criticized one of their professors on Facebook. The U of C found the students guilty of non-academic misconduct, and ordered them to apologize. But the court, in *Pridgen v. University of Calgary*, held that “the university is not a Charter-free zone.”

The second judgment, in 2012, rejected the trespassing charges which the U of C had laid against a non-student for peacefully distributing flyers on campus. In *R. v. Whatcott*, the court asked: “Does anyone actually expect to attend a university campus and encounter only the ideas they already embrace? Are only select viewpoints now permissible on our university campuses?” The court quoted from *On Liberty* by John Stuart Mill: “He who knows only his own side of the case, knows little of that.”

In *Wilson v. University of Calgary*, the court on April 1, 2014, ruled against the U of C for the third time, striking down a decision of the Board of Governors which affirmed that seven students were guilty of non-academic misconduct for having set up a pro-life display on campus.

In *Wilson*, the court has set aside this board of governors decision as unreasonable and lacking “justification, transparency and intelligibility.” The court has ordered the board of governors to hear the students’ appeal and consider fully all the legal arguments raised by them. The court stated that



The origins of the *Wilson* case go back to 2006, when U of C students began setting up a controversial anti-abortion display on campus.

there was no evidence before the board of governors “as to exactly what it was about the display” that might threaten safety and security on campus, and ruled that “there is no indication that having the images turned inwards will somehow alleviate any safety concerns.” The board of governors failed to balance the students’ free expression rights with other interests, and did not take into account “the nature and purpose of a university as a forum for the expression of differing views.”

Free speech should be respected at universities not because this is legally required, but because it is fundamental to the nature of the enterprise. Shielding students from ideas thought to cause offence is a disgrace. With three court losses (five, if you include unsuccessful appeals) the board of governors of the University of Calgary has some soul-searching to do.

Calgary lawyer John Carpay is president of the Justice Centre for Constitutional Freedoms. He represents the students in their court action against the University of Calgary in *Wilson v. University of Calgary*.

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