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Foundation for Individual Rights in Education

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NPR's *All Things Considered* (8:00 PM ET) - NPR

Transcript: December 11, 2001

Auburn University Embroiled in a Free Speech Lawsuit

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From NPR News, it's ALL THINGS CONSIDERED. I'm Noah Adams.

LINDA WERTHEIMER, host:

And I'm Linda Wertheimer.

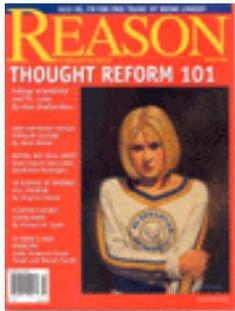
In Alabama, Auburn University is embroiled in a free speech lawsuit. It stems from the university's decision to suspend 15 students and two all-white fraternities after photos from Halloween parties showed the students wearing racially offensive costumes. NPR's Debbie Elliott reports. DEBBIE ELLIOTT reporting:

Shock, embarrassment, humiliation--those are the words that Auburn officials and students alike use to describe their reaction to what happened at two separate Halloween parties on fraternity row. Photographs from the Delta Sigma Phi house show fraternity brothers staging a mock lynching: one in a Ku Klux Klan robe holding a noose around another in blackface. At a Beta Theta Pi party, members wore Afro wigs, oversized gold jewelry and jerseys with the Greek letters of a traditionally black fraternity.





Read excerpts from *The Shadow University* by Alan Charles Kors & Harvey A. Silverglate.



Read *Thought Reform 101* by Alan Charles Kors.



Read *Memo to Free Speech Advocates University of Wisconsin-Madison* by Harvey A. Silverglate.

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Both white fraternities apologized, and their national organizations disbanded the local chapters. Meanwhile, Auburn's president suspended 15 students, saying their continued presence on the east Alabama campus raised security concerns. Now a judge has ordered the students reinstated in the wake of a \$100 million civil rights lawsuit filed by the Auburn chapter of Beta Theta Pi. Birmingham attorney Romaine Scott represents the fraternity and is the father of one of the students. He says school officials overreacted.

Mr. ROMAINE SCOTT (Attorney): They simply jumped to the conclusion that A, they were racist; B, they were mocking a particular group of minorities, and that they should be punished for it.

ELLIOTT: Scott says the students have been unfairly cast as racist. Fraternity members have received hate mail, he says, and graduating seniors are having their resumes returned. The lawsuit claims the university defamed the students, didn't give them due process, and violated the fraternity members' rights to free speech and association.

Mr. SCOTT: Even if they were racist, and I stress that they are not, even if they had intended to offend, and they did not, that they have a right to express themselves in ways that will offend people, just as you or I do. That is what free speech is all about.

ELLIOTT: But interim Auburn President William Walker says the suspensions were not aimed at stifling speech. He says the students' behavior put the campus at risk.

Mr. WILLIAM WALKER (Interim President, Auburn University): Well, the students were suspended because of the threats that we had received. It's an indication that there was some potential violence that was possible. The president has the authority to suspend students whenever the president feels that the welfare of the students or the institution is at stake.

ELLIOTT: Walker says officials must balance the rights of one group against the rights of the rest of the student body.

Lawyers for the fraternity question Auburn's motives. The lawsuit

accuses the university of making the fraternity members scapegoats for political correctness, and trying to use their punishment to solve minority recruitment problems. As the lawsuit makes its way through the courts, the students involved in the Halloween incidents could face further disciplinary action, up to expulsion. Officials are investigating whether they violated Auburn's policy against harassment, which includes slurs, jokes or other conduct related to a student's race. Civil liberties advocates say that policy amounts to an unconstitutional speech code.

Mr. THOR HALVORSSSEN (Executive Director, Foundation for Individual Rights in Education): You do not trample the Bill of Rights because you found something offensive.

ELLIOTT: Thor Halvorssen is the executive director of the Foundation for Individual Rights in Education. He says two-thirds of college campuses seek to restrict student speech through policies like Auburn's.

Mr. HALVORSSSEN: There is a conflict between the principles of freedom of speech and the erroneous assumption that some universities give its students--that they have a right not to be offended.

ELLIOTT: And courts tend to agree. For example, the 4th Circuit Court of Appeals agreed with the lower court that George Mason University in Virginia went too far when it suspended Sigma Chi fraternity for an ugly woman contest. One member had dressed as an offensive caricature of a black woman. The court found that despite its obvious sophomoric nature, the fraternity's crude attempt at expression was protected by the First Amendment. Debbie Elliott, NPR News.

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