

Disciplinary Action against Me by My University

Document 13: Regarding the 7 December Meeting

Yet another monster bred by the sleep of reason

Mark Mercer

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To: Robert Summerby-Murray;
Malcolm Butler

Cc: Dean of Arts;
Carol Crosson ccrosson@crossonlaw.ca

Reflections on the disciplinary meeting of 7 December 2020

Robert and Malcolm,

Robert gave a talk in September 2017 under the title of Francisco Goya's aquatint. The business just concluded, from Saint Mary's accepting complaints and drawing up allegations to its extorting from me a statement of regret, is precisely the sort of monster Goya had in mind. (The sentiment I expressed is sincere but I resent having to express it as part of a deal.)

1. Robert was hostile toward me throughout the meeting on 7 December and dismissive of my endeavours as a critic of Saint Mary's University and its headlong rush away from academic values and the academic mission into ideological correctness.

Robert mocked me when I said that my message of 23 October corrected a couple mistakes about the Verushka Lieutenant-Duval affair that had been repeated in news stories. Why shouldn't I care to report events accurately?

Robert's hostility was part of the ghastly punitiveness of the whole affair. I suspect you think it will help further your social justice goals.

That the meeting was held on the last possible day according to rules set in the Collective Agreement, that I was notified of the meeting on the last possible day, and that the university communicated its decision on the last possible day are other examples of our administration's nastiness. Let the process count as part of the punishment.

At least you respected the Collective Agreement's deadlines. You failed to respect the Collective Agreement's requirements: 1) that the first step is to resolve complaints informally; 2) that the complainant be encouraged to speak with the person at whom he or she is angry; 3) that the administration have good grounds for initiating disciplinary proceedings; and 4) that the administration seek to resolve the matter at the disciplinary meeting and not almost three months later.

2. Robert tried to establish a firm distinction between academic work and the non-academic things a professor gets up to. He then tried, but failed, to assign my sending my message of 23 October to the non-academic side.

In fact, as a professor, almost everything I do I do as a professor, and it's true of most professors that they are almost always acting as a professor. The three categories research, teaching and service are not clearly distinct from each other; as well, a professor's activity might be both dissemination of research and service at one and the same time, as many of my messages are. Finally, all sorts of mundane things academics do (conversations with shop clerks, for instance) partake of research, teaching or service.

My concern to preserve academic values and the academic mission of the university in an institution hostile to them (as Saint Mary's is) takes many forms and my research on universities and education informs my service (and my teaching). Robert tried to make the dig that my efforts have been largely unsuccessful. Even if that's true, the matter of the quality of my efforts isn't relevant to anything that was at issue in that meeting.

3. I have listed on my annual reports since 2010-2011 my email messages to Saint Mary's administrators and other officers as one of the ways in which I discharge my responsibility to serve the university and to serve intellectual culture generally. I send three or four messages a year, I'd estimate. Never has the dean of arts or the academic vice president, the two academic administrators who receive the annual reports, told me that my efforts do not count as service. Administrators may not now claim that my message was not within the ambit of my work as a professor at Saint Mary's.

4. I have in the past sent messages critical of Saint Mary's to each of the people at Saint Mary's to whom I sent my message of 23 October. Every one of those people has received various messages from me. None had asked me not to send another message to them. I had no reason to think I was not to send the 23 October message to one or another of the people to whom I sent it, academic staff or non-academic.

5. The distinction between academic members of a university community and non-academic members is strained and arbitrary and cannot be used normatively. All members of an academic community have a responsibility to that community as an academic community. I would think that that entails not seeking to undermine academic values and academic ways, as the complainants have sought.

Is the distinction between academic and non-academic at all clear in the case of diversity officers, personnel managers, conflict resolution people, writing centre staff, information technology people and others? All of these people have influence if not power over university matters and their behaviour contributes to or detracts from the ethos or functioning of the institution.

I think it is presumptuous and patronizing of Robert to treat non-academic members of the community as lacking interest in or incapable of participating in discussions about the care of the university or academic values (or anything else). (I know cleaners at Saint Mary's who enjoy an intellectual atmosphere and who are proud to be associated with a university.)

Robert suggests that non-academic members of a university community are incapable of reading and understanding commentary on the university and that I should guide my behaviour by supposing them incapable.

In any case: "Protection of Freedom of Speech. This policy is not to be applied in such a way as to detract from the right of faculty, staff and students to engage in the frank discussion of potentially controversial matters." The university's Policy on Conflict Resolution and the Prevention and Resolution of Harassment and Discrimination includes staff as members of the university community and protects those who communicate with staff members from persecution. (Again, the documents you allege I've breached in fact protect my behaviour as a critic of policies and trends at Saint Mary's.)

6. Robert proposed as a relevant criterion by which to distinguish academic members of a university community from non-academic members the possession of academic freedom. Robert said that people to whom I sent my message who do not enjoy academic freedom would be fearful for their jobs were they to respond, either critically or in support.

Do these fearful people, then, shy away from reading about universities and academic values? Do they hesitate to write letters to the editor expressing their views on universities? If so, Saint Mary's has a dreadful problem on its hands. (Do people who have a thought in their heads *not* apply for non-academic positions at Saint Mary's, not wanting to give up their right to express themselves?)

One problem with using the criterion of enjoying academic freedom to separate insiders from outsiders is that most members of the Saint Mary's community would be classed as outsiders to academic life and the academic endeavour. First, academic administrators (deans and vice presidents) do not enjoy academic freedom in their roles but serve at the pleasure of the president. Second, students do not enjoy formal protection of expression (though it is scandalous that they don't). Third, professors who are not members of the Saint Mary's University Faculty Union enjoy less protection of academic freedom than SMUFU members do (which, as my being summoned for discipline for sending a message illustrates, isn't much protection). The members of the Saint Mary's University community whose freedom of expression is contractually recognized are few. (By the way, I have long advocated contractual academic freedom protection for deans and other academic administrators. It seems to me that one reason the quality of academic administrators is so dismally low is that professors who value academic freedom are loath to give it up to serve as administrators.)

The solution, of course, is to cultivate on campus an ethos of academic freedom and freedom of expression. Let us endorse as an institution the Chicago Principles, say, and let us be sure not to punish or to interfere with expression. Let's make sure that students know that they may criticize Saint Mary's and their teachers without facing discipline.

The 7 December disciplinary meeting expressed and will perpetuate the chilly climate for expression at Saint Mary's. That might well have been one of its central purposes.

7. I knew that some of the recipients of my message were black though the thought that some are black did not cross my mind. Robert thinks we should take into consideration when writing to people the colour of their skin. How odious, Robert.

What do I know about a person from knowing that they are black? Do I know they take offense easily? Do I know that they don't take offense easily? Do I know that though they might take offense, their concern to understand things takes precedence over their being offended? Do I know that they are apt to take offense and that they prefer being offended to coming to understand things? Do I know

that they want to be treated as intellectually and morally autonomous or that they want to be coddled and mollified? From my knowledge that a person is black, I know nothing at all about them.

I will not follow your directive, Robert, to treat people differently according to the colour of their skin.

8. I raised the important point that administrators have a responsibility to the wellbeing of the university as an academic institution and that that responsibility includes explaining to members of non-academic staff the nature of academic life and helping them to support that way of life and, indeed, to come to enjoy it.

In response, Robert accused me of blaming the victim. But: 1) There was no victim. 2) I blamed no one. As a committed civil libertarian, I support freedom of emotional reaction. People may react emotionally as they wish. 3) Some patterns of emotional reaction are debilitating and can affect one's ability to think and to perform one's duties. 4) In an academic community, we have a responsibility to help people fashion patterns of emotional reaction with which they are happy and that allow themselves and others to participate in academic life.

Let's talk about 4 for a minute. Filing a complaint with an authority because one is offended by something someone has said is not an expression of one's moral autonomy. On the contrary, it expresses both lack of tolerance and dependence on authority. Universities, though, are places at which people who enjoy their intellectual and moral autonomy gather in order to pursue study as free and equal members of an intellectual community. Filing complaints, then, expresses anti-academic attitudes and threatens to harm the university. You two, as senior academic administrators, have a responsibility to maintain Saint Mary's as a place of intellectual community. By accepting the complaint, then, and by initiating a disciplinary process, you have sought to harm Saint Mary's.

Robert or Malcolm should have explained to the complainant that receiving my message was not an instance of disrespect but a pedagogical opportunity, an opportunity to consider their views against the points and arguments I made.

Robert or Malcolm should also have explained, as the documents I'm alleged to have breached do, that taking offence at something someone says is not to suffer a harm.

The two of you chose, against your responsibilities, to mollify a staff member rather than to engage with him or her as a proper member of the Saint Mary's university community.

The responsibility of academic administrators to help members of the university community (including non-academic staff and students) understand and acclimatize to academic ways is recognized in the documents I'm alleged to have breached. The two of you have failed dismally in your duties.

9. None of the distinctions Robert sought to draw is recognized in the policy, the guideline or the declaration I am alleged to have breached. I certainly could not have been expected to take these distinctions into account when nothing I could have read or listened to describes them or instructs how they are to be recognized and honoured in one's behaviour. (Robert's distinctions are without merit or force, anyway.)

10. Even if my message-sending falls outside the range of academic endeavour (it doesn't), even if it is ineffective (it isn't *totally* ineffective), even if the distinction between academic members and non-

academic members of a university can be drawn non-arbitrarily (it cannot) and has normative significance (it doesn't), even if we are to treat people differently according to the colour of their skin (which is evil), I am free as a Canadian citizen to send messages to whomever I want for whatever reason I want. This freedom is guaranteed in the academic freedom passage of the Collective Agreement. No single message can count as harassing unless it's abusive and no message I have ever sent has been abusive.

11. While I do regret that someone or other was offended or upset at receiving my message (sad that the university's lawyer failed at the meeting to note that I expressed regret), whether I do regret or not is neither here nor there from the perspective of right or wrong or breaching a policy. Nothing at all hangs on my expressing regret, despite what the university's lawyer might think. I did nothing wrong in sending my message to those to whom I sent it and I did nothing unbecoming of a professor—and that should have been conveyed to the complainant by one of you and should have been the end of the matter.

12. I had to stifle a dry laugh when [name redacted], the university's lawyer, said that Robert and I might exchange ideas about the care of the university some other time, *as we had certainly done in the past*. I have sought to exchange ideas with Robert ever since he arrived at Saint Mary's but Robert has never responded. (Neither has Malcolm. Only two administrators have ever engaged with me about Saint Mary's, and both did so in confidence.) I asked questions at the talk Robert gave on the sleep of reason breeding monsters and Robert once came to a talk I gave, but he left before the question period and did not say anything about it later. To [the university's lawyer]: Robert and I have *never* discussed universities.

The only time Robert has come close to engaging me on matters that I take to be of common interest is at a disciplinary meeting, while he was holding a gun to my head.

13. The Collective Agreement: "The notification [of the disciplinary meeting] shall state the specifics of the Employee's alleged infraction or the Employer's alleged source of dissatisfaction with the Employee." (20.2.10.) The notification contained vague allegations and no references to specific passages in the documents it mentioned. Never during the meeting did Robert or Malcolm or [the university's lawyer] say specifically what provision I had breached or how I supposedly breached it.

14. The Collective Agreement: "An attempt shall be made at the meeting to resolve the matter in a manner satisfactory to all concerned." (20.2.10.) No attempt *at all* was made at the meeting to resolve the matter. In fact, the university's lawyer actively prevented me, the SMUFU lawyer, and my lawyer from seeking to resolve the matter each time we tried.

15. As well as having failed in their duties to help staff members appreciate academic discussion, Robert and Malcolm have failed in their duties of respect and due process toward me. They should have handled the complaint by suggesting that the complainant formulate his or her criticism and then pass it on to me. That is how senior academic administrators concerned with the academic ethos of their university would have addressed the matter. (It's also what's required by the Policy on Conflict Resolution.) There was no need to jump straight to a disciplinary meeting even given your bizarre and false belief that with my message I treated someone disrespectfully or harassed someone.

Robert and Malcolm's scurrying to formal disciplinary proceedings is a betrayal of collegiality and good academic community.

16. The allegations are ludicrous, proceeding to a disciplinary meeting on them is outrageous, and the meeting itself was farcical. Robert and Malcolm have beclowned our institution.

Not only has the process been vile; the whole thing seems stupid. What good could Malcolm and Robert have thought would be accomplished?

Malcolm and Robert should have known that accepting the complaint and proceeding toward discipline would have these negative consequences:

- sour a professor even further on Saint Mary’s University
- interfere with that professor’s research during his leave
- waste the time and effort of various people, including Malcolm and Robert themselves
- cost an awful lot of money (and this time is no time at all to be wasting money)
- confirm the complainant in his or her misapprehension of university life and the academic mission
- deform relations among university people by mediating them through offices and officials
- intimidate members of the university community into following prescribed doctrine
- undercut academic freedom and freedom of expression on campus

I call these “negative consequences” but I’m not sure Malcolm or Robert would. I don’t think either cares that a good professor at their institution has been further soured on Saint Mary’s and I doubt either of them cares about my work.

So what have these past four months been about? I speculate that persecuting me was intended to send a message that Saint Mary’s is committed to the ends and means associated with contemporary social justice movements. One of Robert and Malcolm’s goals is to mollify those who advocate these ends and means and who would seek to create trouble for the university if they don’t think the university is acting quickly and harshly enough. Another of their goals is to stifle on campus and elsewhere criticism by faculty members and students of the university’s abandonment of its academic mission in favour of turning Saint Mary’s into a tool useful to social justice movements.

Initiating and pursuing this disciplinary process was intended to let everyone know just what side the bread at Saint Mary’s is now buttered on. Let us through fear and intimidation (that is, through the favourite means of these movements) become a post-academic university committed to the goals of contemporary social justice movements.

All the best,

Mark

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[As of 14 March 2021, I have received no reply to this message.]