

Saint Mary's fights human rights complaint

University, free speech society say human rights body took too long to order inquiry

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Saint Mary's University is asking a judge to quash Nova Scotia's Human Rights Commission's decision from June 2024 to bring a complaint about one of its professors to an inquiry.

The original complaint was from Kendra Gould, who was a student at Saint Mary's (SMU) in 2019, about an article her professor wrote, titled *Indigenize This*.

The commission holds a public board of inquiry hearing as the last step in its dispute resolution process when a complaint is not dismissed.

Tuesday's hearing was in front of Justice Denise Boudreau of the province's Supreme Court.

In the January 2019 article, John MacKinnon, associate professor in SMU's department of philosophy, writes about special treatment he believes the university administration granted to a Mi'kmaw student in his philosophy of law class who he refers to as "Q."

The article criticized the administration's apparent decision to retroactively withdraw the student from one of his courses without academic penalty, after the deadline listed in the university's academic calendar.

Mackinnon also calls SMU's practices, such as flying the Mi'kmaq flag and making land acknowledgements, "revisionist antics" and wrote "the rest of us have to wonder when and how far their pandering will affect academic policy."

The article was published in a newsletter by the [Society for Academic Freedom and Scholarship](#), which, according to its website, has a goal of "maintaining freedom in teaching, research and scholarship."

Mackinnon's article has been removed from the edition of the newsletter currently published on its website. An online cache of the newsletter from August 2019 shows an [archived version](#) of the article on page 36.

Although Gould is not referenced by name, neither the society nor SMU disputed that it is about her.



Saint Mary's lawyer Tara Erskine said the commission took too long to process the request. The commission's time limit for complaints is 12 months after a discriminating event. Erskine said that deadline expired on Sept. 10, 2020, one year after Gould first saw the article.

Erskine said by the time the commission even sent Gould the complaint form, the complaint was already four days past that limit.

"Why is that time limit there?" asked Erskine. "It is so complaints are dealt with quickly."

Erskine also said the commission took too long to notify the university of the complaint against it and the Society for Academic Freedom and Scholarship.

The society was also named in the commission’s decision. It joined this application for judicial review and agreed with the points made by SMU.

The society’s lawyer, Chris Fleury, also argued that protection from hurt feelings is not grounds to restrict free expression.

“Human rights legislation is not meant to extend that far,” said Fleury. “There has to be something more than feelings or a personal or internal effect on the complainant, there must be something that’s actually manifested in terms of the discrimination.”

The hearing ran overtime and the commission did not make their case on Tuesday. The next date is scheduled for Feb. 13.

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