

US Air Force Contempt of Constitution Full Statement
Dr. Kenneth L. Schultz
STATEMENT OF FACTS

The Air Force Institute of Technology (AFIT) illegally charged Dr. Schultz with two Equal Opportunity violations, conducted a sham investigation, and found him guilty. Dr. Schultz was charged with using a racial stereotype - as an example of a stereotype, - in a class on stereotypes, (in violation of Dr. Schultz's First Amendment Rights). Dr. Schultz was also charged with using a technical term alleged in a manner to mock Asians. The charge that Dr. Schultz had mocked Asians was so ridiculous that even the original claimant did not support it. The allegations were manufactured, the investigation was a sham, the decision was unlawful and the appeal review was a pretense. The evidence demonstrates that AFIT does not hold itself answerable to any judicial review, nor under any obligation of law, regulation, or the Constitution of the United States. Specific evidence is presented below.

Dr. Schultz respectfully requests that these matters be investigated and that the Department of Defense bring to justice those who would so easily violate their oath of office to defend the Constitution. He also asks that the actions resulting from the EO allegations of January be eliminated and compensation made for any damages, legal fees, loss of income and loss of reputation. A detailed description of events subject of this Complaint is attached hereto, along with supporting information and documentation confirming these charges. First and foremost, the Department of Defense should defend the Constitution of the United States and let all those involved know that violations of the Constitution will not be tolerated.

DENAIL OF FIRST AMENDMENT RIGHTS

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1. Background

Dr. Schultz was falsely accused, in violation of his First Amendment Rights, of making statements inconsistent with Equal Opportunity regulations during a classroom presentation. (1) The charges were based on Dr. Schultz's class held on January 10, 2017, in Dr. Schultz's course on human behavior. The class was a discussion on decision biases. Dr. Schultz addressed how racial and sexual stereotypes lead to poor decisions. He used an example of such a stereotype in class¹. One of his students, Lt. Harold, objected to the mention of such a stereotype. After class Dr. Schultz spoke with Lt. Harold, and she told him that she was not uncomfortable with Dr. Schultz's use of the stereotype, but she felt that the language he used was inappropriate. (2) After class she reported her concerns to her chain of command. Her actions were not inappropriate for a Lt. with such concerns, nor did she violate the Constitution. What followed did.

On or about 13 January 2017, the Chancellor, Dr. Stewart, had a meeting with the Department Chair and other members of Dr. Schultz's chain of command. In that meeting the Chancellor made it very clear that he had "zero tolerance" for Dr. Schultz's remarks. (2) By making such a comment, the Chancellor made it clear that he considered Dr. Schultz to be guilty and expected him to be punished. From that point forward the issue became a case of "The General wants"

On January 17, 2017, Dr. Schultz received notice that disciplinary action was being considered, that he was relieved of classroom duties and restricted from attending any lectures, seminars, thesis defenses or dissertation defenses. (3) These restrictions seriously impeded his job performance and violated his First Amendment and due process rights. The American Association of University Professors considers classroom suspension a "severe sanction second only to dismissal" which "inflicts ignominy upon the teacher and is destructive to the morale of the academic community." (4) Dr. Schultz requested a copy of the charges against him and that request was denied. (2) Dr. Schultz asked to know what he had allegedly said that was illegal and that request was also denied. (*Id*)

Six months later, on July 17, 2017, Dr. Schultz was notified that he would be suspended from duty without pay on July 18 and 19, 2017. This suspension was purportedly for two violations of unspecified laws or regulations relating to statements in Dr. Schultz's class on January 10, 2017. (3) One of the charges was for Dr. Schultz's protected free speech in the classroom. The other charge was investigated and proven to be false. (Even the original accuser did not support it. (5, Statement of Lt. Herald) The allegations were manufactured, the investigation was a sham, the disciplinary decision was unlawful and the review was inappropriate. The AFIT was clearly working under the assumption that the AFIT was not answerable to any legal requirements, nor under any obligation to the Constitution of the United States.

¹The specific stereotype under discussion in Dr. Schultz's classroom was whether African American men have larger feet. Tab 17. The students in the classroom associated or were guided by the investigator to associate this stereotype with other common stereotypes involving African-Americans. Dr. Schultz chose this stereotype because two African American students at Syracuse University had told him it was the only stereotype about African Americans that didn't offend anybody. (Schultz Affidavit 20)

2. The Charges Were Manufactured

The charges against Dr. Schultz were manufactured. On January 18th the AFIT Commandant, Col Cotelleso, appointed Lt. Col Franz to conduct a Commander Directed Investigation (CDI), based on two specific allegations based on two statements. (6) The allegations were that, on January 10th, 2017, Dr. Schultz uttered a stereotype (Statement 1) (*Id*) in violation of AFI 36-2706 paragraph 1.1.1 and that, on January 10th, 2017 Dr. Schultz used a technical term from Queueing Science “in a manner to mock Asians” (Statement 2) (*Id*) in violation of AFI 36-2706 paragraph 1.1.1.

The regulation cited, AFI 36-2706, prohibits discrimination, harassment, intimidation and threats of a racial or sexual nature.² However, none of Dr. Schultz’s students ever alleged that he discriminated, harassed, intimidated or made threats. Lt. Harold’s sworn statement (5), confirms that the student who reported Dr. Schultz’s comments did not claim any discrimination, harassment, intimidation or threat. The only behavior alleged is speech. On topic, open, discussions in the classroom are essential to the education requirements of officers in our Armed Forces. Teaching people to think demands that their thoughts and beliefs be challenged and that they learn to question ideas. Further, such speech is protected by the First Amendment of the United States Constitution. See *Hardy v. Jefferson Community College*, 260 F.3d 671. 682 (6th Cir. 2001) for one. The Chancellor, Dr. Stewart, confirms that discussion of the use of stereotypes is an important issue of public concern for class. (7)

The complainant, Lt. Harold, did not allege that Dr. Schultz made statement 2 in any manner in class on January 10th, 2017. (5)

The complainant never alleged that any part of statement 1 was in violation of the EO regulation. *Id*.

The complainant never alleged that any part of statement 2, had it been said, would have been in violation of the EO regulation. *Id*.

Since no person made any allegation of violation of AFI 36-2706 the entire process was illegal. Obviously, the punishment of Dr. Schultz was not motivated by any desire to enforce the EO regulations.

3. The Investigation Was Improper

Investigations are required to be conducted in accordance with the Commander Directed Investigation (CDI) Guide (the “Guide”)³. These regulations require the Investigating Officer (IO) to review the applicable regulations and meet with the legal advisor (Legal Officer), (CDI Guide, p. 10). The Legal Officer is required to perform a legal review, (*Id.*, pp. 11, 24) including a formal conclusion for each allegation (*Id.*, p. 45). The Guide warns that one of the most common weaknesses of any CDI investigation is to “allege conduct that does not amount to wrongdoing.” (*Id.* p. 12.) The regulations were ignored or actively violated.

² AFI 36-2706 para 1.1.1 states: “It is against Air Force policy for any Airman, military or civilian, to unlawfully discriminate against, harass, intimidate or threaten another Airman on the basis of race, color, religion, sex, national origin, age, disability, reprisal, or genetic information. Terms are defined in Attachment 1 to AFI 36-2706. Full text is available at <https://www.af.mil/Portals/1/documents/eo/afi-36-2706.pdf>.

³ https://www.af.mil/Portals/1/documents/ig/CDI_Guide_18-February-2016.pdf

The formal charges against Dr. Schultz consisted of four allegations: 1) that Dr. Schultz made Statement 1 in class on Jan 10, 2017. 2); that Statement 1 was in violation of AFI 36-2706 paragraph 1.1.1. 3); that Dr. Schultz made Statement 2 in class on Jan 10, 2017; and 4) that Statement 2 was in violation of AFI 36-2706 paragraph 1.1.1. In conducting the investigation, the IO is required by regulation to make a question list⁴. In a legitimate investigation, it would be expected that the question list would have included, as a minimum, questions directed to determine if these four points had any basis in fact.

The witness statements show no evidence that questions 2, 3, and 4, above, were ever asked or investigated. (Either that or negative responses were not recorded.⁵) (5) Furthermore, Dr. Schultz has been repeatedly denied access to the Investigation Report, (See Table 1). Dr. Schultz was repeatedly told that he had received all the information from the CDI that was used to prepare the notice of suspension (2, 7, 8, see Table 1), so there is no reason to believe that these questions were asked in connection with any other witness interviews. (Either that or the replies were all negative and suppressed.) Statements taken during other witness interviews were, allegedly, not used in making any determination, giving rise to the inference that any statements in support of Dr. Schultz were not considered in the determination. The Notice states that not all students were offended, strongly implying that positive information obtained in the investigation was relevant to Dr. Schultz's defense but was both not used and withheld from him. (9) Under these circumstances, it is difficult to imagine how such an investigation, lacking or suppressing answers to key questions, can be deemed legitimate.

The CDI Guide requires legal review of the findings (CDI pp. 11, 24), including a specific conclusion on each allegation (*Id.*, p. 45). Dr. Schultz has not been provided with a copy of this review, even though it is part of the investigation file and was available to the principals involved in deciding and reviewing the case. (Schultz Affidavit 25) Dr. Schultz was entitled to receive a complete copy of the investigative file before these charges were decided, and the AFIT's failure to provide the investigation file, including the legal review, is in further violation of Dr. Schultz's due process rights.

The irregularities permeating the investigation and disciplinary action against Dr. Schultz expose the retaliatory intent of these proceedings. The conduct of the investigation is further evidence that the purpose of the investigation was not to enforce any law or regulation but to punish Dr. Schultz.

4. Denial of Due Process

On May 23, 2017, four and a half months after the alleged infraction, Dr. Pignatiello, Department Chair, presented to Dr. Schultz a Notice of Proposed Suspension (the "Notice"). (9). With the Notice, Dr. Schultz received statements made by Lt. Harold, Cpt. Boothe, LtC. Douglas and Maj. Hazen. (5) Of these, only Lt. Harold, Cpt. Boothe, and Dr. Schultz were present in the classroom on January 10, 2017. LtC. Douglas and Maj. Hazen were not present. Dr. Schultz was

⁴ That list of questions, and the legal advice to the Investigating Officer should be available for review by this investigation.

⁵ Access to the full report and to the required question list prepared by LtC Franz has not been provided, but should show whether the questions were not asked or if undesired replies were suppressed.

told repeatedly that these statements were the only information used to prosecute the case. When Dr. Schultz asked for a copy of the Investigation, he was told repeatedly that he had been given all the information used to prepare the Notice. This was a lie and a clear violation of his constitutional right to due process.

Table 1: Requests by Dr. Schultz for access to the investigation report:

Date	Method	Recipient	Response
1042 12 04 2017	Email	Col Cotellsezzo, Cdr.	Denied
23 05 2017	Verbal (31)	Dr. Pignatiello, Department Head	‘You have been given all the information used in the decision.’
1615 24 05 2017	Tel Msg (21)	Ms. Lee, HR Officer	No response
1040 25 05 2017	Tel Msg (21)	Ms. Lee, HR Officer	Verbal, relayed through Dr. Pignatiello, although Dr. Schultz was in the office all day. Response recorded in email 1308 25 05 2017. ‘You have the information that was used to prepare the notice.’ (21)
1307 28 05 2017	Email (21)	Dr. Badiru, Dean	No response
1308 28 05 2017	Email (21)	Dr. Badiru, Dean	Denied “There is no additional information to be obtained.” (21)
21 06 2017	Response to Notice (23)	Dr. Badiru, Dean	No response (16)
30 07 2017	Grievance (26)	Dr. Stewart, Chancellor	Memo, 19 Oct 2017, “You were provided with all the evidence and substantiation that was considered as a basis to propose disciplinary action.”
27 05 2019	Legal filing	Office of the Special Counsel	Filing deadline missed.
17 07 2020	Congressional Inquiry	Dr. Stewart, Chancellor	No response on that point.
06 2023	DoD IG	Various	Request denied

The Notice refers to the findings of the report thereby confirming that the Investigation Report denied to Dr. Schultz was used when preparing the Notice.

Dr. Schultz made at least 11 requests for a copy of the investigation as listed in Table 1. During the meeting with Dr. Pignatiello, Dr. Pignatiello stated he was authorized to release only the 5 statements and that further requests should to go Ms. Lee at Base Human Resources. (8, 2). Dr. Pignatiello then told Dr. Schultz that, in his opinion, Dr. Schultz would never see the Investigation Report. (Or words to that effect, 2)

When Dr. Schultz contacted Ms. Lee and asked for a copy of the investigation Report, she avoided contact, did not return his calls and instead sent a verbal message through Dr. Pignatiello. She denied him access to the report and stated that the 5 statements received by Dr.

Schultz were the only parts of the report used to prepare the notice. (8) The Dean and the Chancellor also stated that Dr. Schultz had access to all information used to make the decision and that he would not receive a copy of the investigation. (7, 8, Table 1) The AFIT's refusal to provide Dr. Schultz with a copy of the investigation file is a further violation of the Constitution.⁶

It was clear that Dr. Pignatiello knew that information used in the decision was required by law to be given to the accused and that he knew the explanation for not releasing the investigative report was a lie. It was clear that Dr. Badiru, the decision maker, had read the investigation report. The Judge Advocate General representative had access to the investigation report. The Base Human Resources Representative had access to the investigation report. And the reviewing authority, Dr. Stewart, had access to the full investigation report. The conclusions of the report were cited in the Notice of Proposed Suspension. Further, to claim that statements of only 2 of the approximately 20 students in the classroom were used in making the determination is equivalent to stating that the eye-witness accounts of all the other students in the room were irrelevant and all positive statements supporting Dr. Schultz from those students were ignored. The decision to deny Dr. Schultz access to the investigation report showed a clear intent to violate the U. S. Constitution.

During the meeting with Dr. Pignatiello on or about 23 May, 2017, Dr. Schultz asked for the specifics of the regulation under which he was charged. (2, 8) The Notice says only that the actions "in accordance with" AFI 36-704 (which regulates the process of discipline.) (9) Dr. Pignatiello stated that he did not know, nor would he find out, which regulation Dr. Schultz allegedly violated. (2.) Ms. Lee at Base HR, later stated that AFI 36-703 was also used "to formulate the basis of the notice." (8) The reviewing officer noted that he had reviewed four regulations, AFIs 36-703, 36-704, 36-706 and 36-2706, again not saying that Dr. Schultz had violated any of these regulations. (7) This effectively means that the AF alleges that Dr. Schultz violated something, somewhere, in the UCMJ, but the Air Force felt no obligation to tell him what.

Dr. Schultz repeatedly asked for specifics on what law or regulation was violated. Legal review of the investigation is required by regulation, and is part of the investigation but was withheld from Dr. Schultz. Any competent legal review must have pointed out that Charge 1 was in violation of Dr. Schultz's First Amendment rights and that Charge 2 was in violation of Dr. Schultz's Fifth Amendment rights. The Framed Allegations allege violation of AFI 36-2706, paragraph 1.1.1, covering Equal Opportunity. However, neither the Notice nor the Decision contain any reference to AFI 36-2706. It is Dr. Schultz's belief that references to AFI 36-2706 was dropped after AFIT legal counsel, Daniel Sheppard, reviewed the CDI and informed AFIT that the charges against Dr. Schultz held no merit. This would explain why Mr. Sheppard wrote, on March 3, 2017, "The legal review was in progress, but there were matters that required the attention of the IO to ensure due process to the complainant and subject and the legally sufficiency of the report" (8) The AFIT leadership just dropped the reference to any legal

⁶ DoD Civilian Personnel Management System: Defense Civilian Intelligence Personnel System (DCIPS) Disciplinary, Performance-Based, and Adverse Action Procedures, 1400.25, Enclosure 2.2/a.4(b).

violation and proceeded anyway. The AFIT's failure to charge Dr. Schultz with violation of any specific regulation makes defense next to impossible and is further evidence of the AFIT intent to violate Dr. Schultz's rights to Due Process.

Dr. Schultz still does not know what regulation he was charged with violating. The Notice claims that the statements were "unprofessional," "inappropriate" and that not all students were offended (rather strongly proving other statements were considered but rejected because they didn't say what the AFIT wanted to hear.) There is no effort to explain how these are offenses according to regulation. Merely offending someone is not a violation of regulation or law. Students are often offended, by grades for example. Offending might, possibly be illegal under AFI 36-2706 for sexual or racial statements, but the standards are clearly stated in regulation. This instance does not meet those standards, and the AFIT makes no attempt to argue that they do. Neither the Notice or the Decision refer to AFI 36-2706. Without a reference to law or regulation it is impossible to argue that Dr. Schultz did, or did not, meet the unspecified standards. If the standard is "because I said so" then no defense is possible, a clear violation of the Constitution.

In his Decision memorandum, after Dr. Schultz had submitted his defense, Dr. Badiru states the action was taken "to promote the efficiency of the service." (1) A careful and exact reading of the entire text of AFI 36-704 shows that an employee can be charged with being inefficient. If that was intended to be the charge any potential defense was illegally skirted as "efficiency" is not mentioned in any form in the Notice. Efficiency of the Service is only mentioned after the decision has been made. Further paragraph 3.7.3 clearly states that the "Burden of Proof" is to show the connection between the charges and the impact on the efficiency of the service. No attempt was made to show that connection, or any inefficiencies. Without that required argument, no such charge can be supported. The charge of "efficiency of the service" was not intended or supported.

The only alleged adverse effect of Dr. Schultz's statements alleged that some students were offended. No argument of inefficiency was made. It is the nature of teaching that students will be upset by challenges to their preconceived ideas, as well as evaluation and grading. To state that it is appropriate and important to discuss stereotypes, but then punish the teacher if he upsets the students, is the height of hypocrisy. It is not the tradition of the military, common practice or 'efficient' for the military service to prosecute teaching professors for possibly offensive statements designed to challenge preconceived stereotypes.

The Framed Allegations (6) accuse Dr. Schultz of making two statements, both on 10 January 10, 2017. Statement 1 is saying "high rho" in a manner to mock Asians. Dr. Schultz did not say "high rho" in any form on January 10th, 2017. Not a single person ever made any claim that he did.

High Rho was a term used in Queueing Theory, which had been taught the previous quarter. Lt. Harold claims Dr. Schultz said it "in a manner to mock Asians" at some point during that, previous, quarter. Her statement shows no evidence that asked her if he said "high rho" in any manner *on January 10th* as alleged. Either she denied it, and the answer was not recorded, or she was not asked. Dr. Schultz denies ever having said it in such a manner. Cpt Boothe makes no mention of it in his statement. Either he denied it, and the answer was not recorded, or he was never asked, in any manner, about the allegation. (How does one conduct a legitimate

investigation without asking witnesses if they heard the alleged crimes and recording the answers?) It would be interesting to find out if the other students in the class ever thought it was said “in a manner to mock Asians”, or if they were even asked but, by denying access to the investigation, the Air Force has suppressed that evidence.

Dr. Schultz pointed out in his defense that there was no evidence to support the charge. Nonetheless he was found guilty of the allegation.

The second statement was “If one of you were to pull an African-American into the bedroom, you should check the foot size to verify, and let us know.” or words to that effect. Neither student statement uses those exact words so it is difficult to know where that phrasing comes from. Dr. Schultz used large feet as an example of a stereotype for use in class discussion. He used that example in part because two African American men, who were students of his at Syracuse University told him that was a euphemism for the only racial stereotype they knew of that didn’t offend anybody. At one point in the discussion, he was asked if it was true. He said he had no idea. He was asked how they would know. He said someone would have to measure their feet. (AFIT Students are required to do a Masters’ Thesis and research methodologies are often discussed in class.) Dr. Schultz does not recall using the words “in the bedroom.” It would be interesting to know if the rest of the class heard it but, by withholding the investigation, the Air Force suppressed that testimony. In the end however the discussion of topics of social importance in the classroom is protected free speech and the exact wording doesn’t matter.

Open discussion of controversial topics is necessary for education - even at the risk of offending some students. Creating a classroom where professors and students are not afraid of reprisal for discussion of controversial topics is necessary for education - even at the risk of offending some students. The Supreme Court has long held this to be true. In *Hardy vs. Jefferson Community College* Hardy taught that certain words were used as forms of micro-oppression. He named those words. One of his students was offended and Professor Hardy was fired. The 5th Circuit Court of Appeals held that firing to be a violation of Professor Hardy’s rights to free speech and reiterated the importance of freedom from retaliation for open discussion of controversial topics in classroom discussions.

Dr. Schultz submitted his defense (10) to Dean Badiru on June 21 2017. Dr. Badiru reported that he made a full and careful consideration of the information, presumably including the First Amendment defense, and made a decision the following day, June 22. (11)

Regardless that Dr. Schultz violated no regulation and despite Dr. Schultz’s response refuting the allegations, the Decision to Suspend Dr. Schultz was issued by Adedeji B. Badiru, PhD, PE, Dean, Graduate School of Engineering & Management, on July 13, 2017. (1) The decision was signed 13 July proposing a suspension of July 18 and 19, violating the required 10-day notification period. The AFIT knew Dr. Schultz was on official travel until July 17, giving Dr. Schultz one day to prepare for the suspension. Dr. Badiru indicates that the violation of notice requirements was done in order to meet the time requirements for processing EO complaints, (12) even though the final action did not allege that Dr. Schultz had violated AFI 36-2706. Dr. Badiru suspended Dr. Schultz for 2 calendar days. *Id.*

Dr. Badiru’s Decision to Suspend Dr. Schultz makes no reference to AFI 36-2706, the regulation on Equal Opportunity. The Decision to Suspend does claim the action is “in accordance with” AFI 36-704, but makes no claim that any action by Dr. Schultz was in

violation of any part of that regulation. It makes no attempt to link the charges against Dr. Schultz with the efficiency of the service. No other regulations are referred to in either the Decision or the Notice.

Finding Dr. Schultz guilty of saying “high rho” in any manner on January 10 is in complete contradiction of the evidence. Not a single person every reported hearing it said. This is not merely some technicality as it was noted prominently in Dr. Schultz’s defense. The actions of the Department Chair and the Dean in finding Dr. Schultz guilty of that charge demonstrate a clear intent to violate the U. S. Constitution. They didn’t care whether there was evidence or not, whether he did it or not, he was guilty. The fact that the Commandant who wrote out the charges, the officer doing the investigation, the lawyer reviewing the process and the Human Resources officer supporting the finding all made no effort to defend the constitution shows that the problem is systemic. The obvious nature of the disregard for the constitution, the lack of almost any effort to cover their crime, and the widespread support they received in carrying out the crime speak to the seriousness of the problem and their complete lack of any fear of judicial or command review of their actions.

Dr. Badiru and Dr. Pignatiello completely ignored Dr. Schultz’s defense that the discussion of stereotypes was protected free speech. Dr. Pignatiello was informed during the meeting in his office and flat out didn’t care. Dr. Badiru was informed in Dr. Schultz’s defense presentation yet made a decision the next day, without sufficient time to get a reading from the lawyer. Once again they showed by their actions that they had no interest in defending the Constitution, that the Constitution was not to be considered a hinderance to a finding of guilty.

5. The Review was Inappropriate

Following the suspension decision, Dr. Schultz filed a grievance (13) on July 31, 2017. In the grievance, Dr. Schultz requested that the Decision to Suspend and any finding of inappropriate conduct be set aside, and Dr. Schultz be permitted additional remedies, including restitution of compensation. (*Id*) Dr. Schultz asserted in support of the grievance the memorandum he had previously submitted to Dr. Badiru in opposition to the Notice of Proposed Suspension, including his request that he be provided full access to the investigative file.

Dr. Schultz received no response to the grievance within the 60 days period required by AFI 36-706. Given the lack of response, Dr. Schultz realized that the multiple violations of AF 36-706 were intentional, and that further efforts to pursue his appeal would be futile. On September 30, Dr. Schultz withdrew his grievance due to inaction as provided for in AF 36-706. (14)

Two weeks later, on October 16, 2017, Dr. Schultz became aware that the grievance was still being considered, now by Dr. Stewart, the Chancellor. (15) Dr. Stewart had previously made the “zero tolerance” statement which began the illegal proceedings back in January, expressing his bias against Dr. Schultz and his determination to impose disciplinary action. Dr. Schultz again noted that the review was neither expeditious nor impartial. Dr. Schultz asked that further communications should be made with his lawyer. (15)

On October 19, 2018, only after being informed that Dr. Schultz had retained legal counsel, a Formal Grievance Decision was issued by Todd I. Stewart, PhD, Director and Chancellor, AFIT. (7) Only after Dr. Schultz had engaged counsel, the Formal Grievance Decision found that there was no evidence in the record to support the allegation that Dr. Schultz

had used the term “high rho” to mock Asians. *Id.* Despite this finding, no changes were made to the outcome. *Id.* Dr. Stewart states he reviewed four regulations, including AFI 36-306 (a new one). Nonetheless Dr. Stewart, as others before, did not identify any section of any AFI that Dr. Schultz had allegedly violated. *Id.* Dr. Stewart also did not make any connection between the alleged statements and the efficiency of the service, except to assert that some students were offended or, at least, concerned. Dr. Stewart also confirms that the discussion of stereotypes used in decision making are important and valid topics for that class and is a matter of public concern.

By making these statements, Dr. Stewart confirmed that Dr. Schultz was found guilty of a statement he did not make, that Dr. Schultz had not violated any regulation or law, that the AFIT made no attempt to connect the allegations to the efficiency of the service, and that the topic discussed in class was relevant and important. Dr. Stewart did not respond to Dr. Schultz’s lawyer.

The AFIT dropped the unsupported charges of statement 2 only after Dr. Schultz retained an attorney. The AFIT’s strident claims of righteousness are further discredited by the fact that the Chancellor made no effort to discipline any of the 7 people involved in prosecuting Dr. Schultz for a crime for which “there was no evidence to support.” (7, p1) Dr. Stewart completely ignored the fact that two of his leadership had found an employee guilty without any evidence. Dr. Stewart clearly found a conspiracy to violate the Constitution, in violation of oaths of office and chose to do nothing. The violation of the Constitution was ignored because the violators had supported Dr. Stewart’s intent to punish Dr. Schultz regardless.

6. Conclusion

The AFIT’s disciplinary action against Dr. Schultz demonstrates fundamental due process and First Amendment violations. The chilling effect of the AFIT’s disciplinary action against Dr. Schultz for discussing controversial issues in the classroom has broad implications and cannot be permitted to go unanswered

Throughout the disciplinary process, the AFIT disregarded its own regulations, conducted a sham investigation with a predetermined outcome, denied Dr. Schultz access to the investigation file, and conducted a sham grievance appeal process. There is no lawful justification for the conduct of the AFIT in the suspension of Dr. Schultz and his removal from the classroom.

The pattern is pervasive to demonstrate that the purpose of the investigation and the disciplinary action against Dr. Schultz was to impose punishment whether a crime was committed or not. The AFIT knew that speech, especially in the classroom, was protected by the Constitution.⁷ They all knew that the Constitution protects against false prosecution. Col. Cotelleso authorized an investigation on a charge that no person had asserted. Lt. Col Franz investigated that charge without asking anybody if it had happened. Daniel Shepard, the lawyer, reviewed the investigation, found no evidence to support the charge, but nonetheless allowed it to proceed. Dr. Pignatiello, the Department Head, prosecuted Dr. Schultz on a charge the evidence proved he had not committed. Ms. Stephanie Lee, a senior Human Resources agent,

⁷ Legal review of the allegations and of the investigation report would have pointed out the Constitutional protections of free speech in the classroom. Dr. Schultz also used Free Speech as part of his defense in his response to the Notice, and in his appeal.

supported that prosecution. Dr. Badiru, the Dean, found Dr. Schultz guilty of the charge without any supporting evidence. Dr. Stewart, the Chancellor, a retired general officer, admitted the complete lack of evidence yet did nothing to take any corrective action for this retaliation against Dr. Schultz, demonstrating systemic indifference to the constitutional values AFIT purports to uphold.

Since then, Dr. Schultz has tried to get the government to recognize the flagrant disregard for the law and the Constitution. He filed a labor law case with the Merit Service Protection Board. AFIT was required by AFI 36-704, the regulation they insisted their action were in accordance with, to inform Dr. Schultz he could appeal to the MSPB. They did not. Because of that, Dr. Schultz missed the 35-day filing period and his appeal was ignored. Dr. Schultz asked for help from his congressmen. The Air Force sent it back to Dr. Stewart, one of the people Dr. Schultz had accused of serious violations. Dr. Stewart's reply ignored the Constitutional issues without comment and essentially wrote a reply that "Dr. Schultz deserved it." There is no evidence any one else in the Air Force ever read it. Dr. Schultz filed a report with the Investigator General but they also ignored it. It is the job of the Air Force to defend the Air Force, not the Constitution.

The country cannot afford, nor should those serving it be forced to accept, this total disrespect for the oath of office and the U. S. Constitution. I beg anyone reading this to take whatever action you can to help defend the Constitution.

References

Call Out	Date	Title
1	17-Jul-17	Decision to suspend
2	14-May-19	Excerpt from Schultz Affidavit
3	17-Jan-17	Consideration of Disciplinary action and Suspension from teaching
4	19-Jun-17	AAUP The Use and Abuse of Faculty Suspensions
5	23-May-17	CDI Witness Statements
6	18-Jan-17	Framed Allegations
7	19-Oct-17	Formal Grievance Decision
8	Var	Requests for CDI and Regulations Violated
9	23-May-17	Notice of Proposed Suspension
10	21-Jun-17	Response to Notice of Proposal to Suspend
11	10-Jul-17	Dean's confirmation that he made a decision
12	July 17-18	Timing of the decision to suspend
13	30-Jul-17	Grievance
14	30-Sep-17	Withdrawal of Grievance
15	16-Oct-17	Second Withdrawal of Grievance