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## How a dispute at Harvard led to a grad student's forced mental exam and an extraordinary restraining order against a prominent scientist

By [Alison McCook](#), [Retraction Watch](#) | Jan. 18, 2017 , 4:30 PM

At 1 a.m. on 4 June 2016, Gustavo German, a doctoral student in biomedicine at Harvard University, heard a knock at his door. It was three police officers.

They explained that a doctor with Harvard's health service had issued an order to take German to a hospital for a psychiatric evaluation to see whether he should be committed, even against his will. Surprised, German said he was fine. One police officer put on black gloves. His parents, who were visiting, tried to persuade the police to stop, saying they were not concerned about their son.

The officers made German lie down on a stretcher, and an ambulance carried him to a hospital. He was back home within hours, however; a psychiatrist had found nothing out of the ordinary. But German was traumatized, he says, and “my mom was distraught.” She couldn’t sleep for 5 days, he says. Soon after, German says a Harvard official told him he shouldn’t return to his laboratory.

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Court records reveal that the police had received their order because, for months, German’s mentor—prominent stem cell researcher Lee Rubin—had been voicing concerns about German’s behavior. German appeared “uncharacteristically disheveled and exhausted” at times, according to an affidavit from Rubin; other members of Rubin’s laboratory said they felt unsafe around German, and worried he might sabotage their experiments. Rubin’s concerns deepened in late May 2016, after German—who was just months away from finishing his Ph.D.—stopped showing up at the lab. Just weeks later, German’s disappearance led the health service doctor—who had never spoken to German, nor his physician—to order him to be taken from his home in the middle of the night for a psychiatric evaluation.

German, however, believes the forced evaluation was an act of revenge by Rubin, retaliation prompted by German’s allegation of scientific misconduct against Rubin and two of his students. (The allegation was later dismissed.) And this past August, a Massachusetts judge agreed with German, concluding that Rubin was “motivated by bias and revenge, not by a legitimate interest in keeping German safe.” The judge issued an order that has created an extraordinary situation: Rubin must allow German to work in his laboratory, but stay at least 30.5 meters away from him, and have no direct or indirect contact. Rubin must also provide German with all of the lab resources he had before the problems began.

Rubin vehemently objects to the findings and the decision, his lawyer says, and is filing an appeal. “At no time did I ever act with malice toward Mr. German,” Rubin stated in an affidavit filed with the court this past July. “At all times, I strove in good faith to resolve the tensions which developed between him and me.”

All sides say the order has created tense and difficult working conditions. Among other things, it means Rubin can’t be in his office or laboratory when German is there, according to German. And the dispute has left bystanders wondering how a conflict between a mentor and his student spiraled so dramatically out of control, jeopardizing the reputation of a prominent scientist and an elite research university, along with the future of a promising young scientist.

Rubin's lawyer says Rubin cannot discuss the case, citing his ongoing appeal. But court affidavits, interviews with German, and a **findings of fact** issued 25 August 2016 by Superior Court Judge Elizabeth Fahey tell some of the story.

## Tension rises

German joined Rubin's lab in 2013 to work on understanding the causes of spinal muscular atrophy (SMA), the leading genetic cause of infant death. It was a plum position. Before joining the Harvard faculty in 2006, Rubin was chief scientific officer at Curis, where his group pinpointed the first small molecule regulators of a key signaling pathway involved in cancer, resulting in a now-approved cancer drug. Rubin's papers have been cited more than 11,000 times. His lab, which has about 30 members, focuses on finding drug targets for SMA and studying other major diseases, such as Alzheimer's and autism. The lab recently identified a protein that appears to reverse some of the effects of aging.

German was an intense, but mostly agreeable co-worker, according to affidavits filed by members of Rubin's laboratory. But he began clashing with some co-workers. In January 2016, a postdoctoral researcher reported that German asked her to perform a tedious task, which she believed was disrespectful, leading to a dispute. German was "red in the face and shaking with rage," she said in her sworn statement. At about the same time, other lab members said they noticed changes in German's behavior; he became "erratic" and "looked unwell." One research associate suspected German was tinkering with her experiment, after she noticed that images her equipment had automatically recorded over the weekend were out of focus on Monday mornings. She stated in her affidavit that she began locking her computer, and even rinsing out her coffee mug, worried that German might spike it with chemicals. In April, after lab members informed Rubin of their concerns, Rubin and German attended a meeting with an ombudsperson in an effort to reduce tensions.

Then, on 4 May 2016, university officials responsible for scientific integrity informed Rubin that someone had filed a misconduct complaint against him. It alleged that Rubin and two co-authors had knowingly published fabricated data in a **2015 paper in *Cell Stem Cell*** that focused on how certain gene mutations might contribute to SMA. The whistleblower alleged one author had fabricated four of six data points showing that a particular compound had a statistically significant benefit in protecting motor neurons, and that Rubin had moved ahead with publication even after being alerted to the alleged fabrication by another member of his laboratory. The whistleblower was anonymous, but in an affidavit Rubin said he suspected it was German. As part of the investigation, Harvard officials seized computers and lab notes from Rubin's lab.

As the investigation continued, lab members continued to raise concerns about German, and Harvard officials had more meetings and discussions seeking to iron out the problems. In the third week of May, however, German stopped appearing at the lab. In emails and texts, he assured several acquaintances that he was fine. In an affidavit, Rubin stated that on 3 June he contacted Harvard officials and voiced his concerns, including that German might be entering the lab at night. Later that

day, Rubin learned German had told an undergraduate that he didn't know when he'd be back at work. Worried, Rubin suggested Harvard officials seek advice from a mental health professional. That night, Rubin twice spoke with a clinician at Harvard's Health Services, according to the court's findings. Under state law, doctors and social workers can order an involuntary psychiatric evaluation—even if they haven't examined the person—if they believe there is a “likelihood of serious harm by reason of mental illness.” A few hours later, the police were at German's door.

## Ethical concerns

According to German, something did change about a year ago. In the fall of 2015, he took a refresher course in the conduct of science, which covered topics such as ethics and misconduct. The course reminded him that, around June 2015, a member of Rubin's lab had told him about the alleged data fabrication in the *Cell Stem Cell* paper. After talking about the situation with faculty and students—in hypothetical terms—German concluded that it was “grave misconduct,” he stated in an affidavit, and that he had an obligation to correct the scientific literature.

On 10 March 2016, German sent an email to Harvard's president, Drew Faust, outlining the allegation. On 25 March, he met with two research integrity officers, who explained how the university would investigate the allegation.

Within the lab, things went from bad to worse for German, he says. After learning that Rubin and other lab members were raising concerns about his behavior, German feared that they had discovered he was the whistleblower and were retaliating. He worried about his safety; German is physically slight, but he noted that the boyfriend of one of the accused researchers was a bodybuilder. So he stopped going to the laboratory.

When German disappeared, people noticed. But in emails and texts he assured those who inquired, including multiple Harvard administrators, that he was fine. Still, his parents came to visit, concerned about what he was experiencing. In the early hours of 4 June, he was chatting with his dad when the police arrived. “It was absolutely horrible,” German says. Afterward, on 6 June, a Harvard official told German not to return to his lab until they could resolve the conflict.

## A startling order

Barred from lab notebooks and computers holding 3 years' worth of data, German decided to fight back. Acting as his own lawyer, he asked a judge to intervene. And in late August 2016, after extensive filings and multiple hearings, Judge Fahey issued her startling order.

Rubin had falsely accused German of being a danger to himself and others, in order to discredit him and force him to back down from his accusations, Fahey concluded in her findings of fact. And she found that, in five instances, he had acted “maliciously” to harass German. “I find that Rubin's entire course of harassment did, in fact, cause German to experience fear and intimidation,” she wrote.

On 14 September 2016, just weeks after Fahey's ruling, Harvard's Committee on Professional Conduct informed German that it had decided not to pursue his misconduct allegation after a "thorough review." German believes the investigation was flawed.

The dispute is not over. While a court considers Rubin's appeal, the two sides have battled over the exact nature of the resources, such as mice and research assistants, that German is entitled to receive. German, for instance, claims he's still waiting on a specific strain of mice to finish up one of his projects.

## Difficult working conditions

Though suspicions and bad blood are common in academia, this case appears especially bizarre and destructive. Often, a person accused of misconduct will try to "isolate, humiliate, and terminate" the whistleblower, says **Patrick Burns**, the acting executive director and president of the Taxpayers Against Fraud Education Fund, a Washington, D.C.-based group that supports whistleblowers. But he's never seen a case involving a forced mental exam.

The requirement that Rubin stay 30.5 meters from German and have no contact may isolate Rubin to the point where it may be difficult for his lab to function, says biologist **Tony Wilson**, who runs a laboratory at Brooklyn College in New York. "It would be terrifically challenging for a [principal investigator (PI)] in such a situation to ensure that the other members of his/her lab would receive adequate guidance and supervision, if the student chose to work in the laboratory, as the PI would essentially be barred from their own lab."

The order has made life "very difficult for Dr. Rubin and for the operation of the Rubin lab," says Rubin's attorney, John Rooney of Melick & Porter in Boston. "[T]he other graduate students will not progress toward their degrees" if he couldn't come to the lab, Rubin stated in an affidavit. "Work on federal grants that require my personal participation would need to be suspended, which likely would mean many individuals would lose their jobs." A spokesperson for Harvard says officials "are helping facilitate Dr. Rubin's compliance with the order, while ensuring that research programs in the lab continue unimpeded and that the studies of the student are fully supported." German says that, "basically, the situation is really painful."

How long it will continue isn't clear. German says he's still months from finishing his doctoral work, and the ruling has complicated the role of Rubin, who serves on German's evaluation committee and would typically sign off on his thesis. And it is not clear when a judge will rule on Rubin's request to reverse Judge Fahey's findings of fact and cancel the restraining order.

*Alison McCook is the editor of Retraction Watch, based in Philadelphia, Pennsylvania. This story is the product of a collaboration between Science and Retraction Watch.*



## Alison McCook, Retraction Watch

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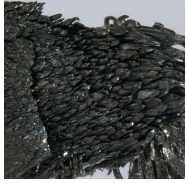
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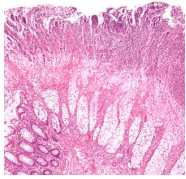
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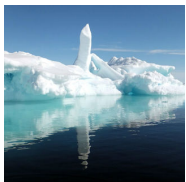
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