

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

PETER J. HAMMER,
Plaintiff,

vs.

CASE NO. 04-241 MK
HON. JAMES R. GIDDINGS

THE BOARD OF REGENTS OF THE
UNIVERSITY OF MICHIGAN, a body
politic,
Defendant.

DEPOSITION OF:

MATTHIAS REIMANN

November 17, 2005
900 Victors Way
Ann Arbor, Michigan

Appearances - PHILIP GREEN, P-14316
Attorney for Plaintiff

RICHARD J. SERYAK, P-26152
Attorney for Defendant

Also Present - Evan Caminker

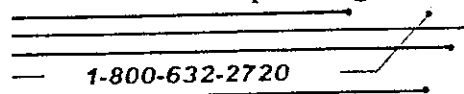
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Mary M. Rowley, CER-7598

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1 this in privacy and maybe with some more time on our hands
2 and then that's what we did.
3 Q In what way were you frustrated with the decision?
4 A Well, I believed it was wrong and I believed that
5 insufficient weight had been given to the teaching and
6 service record of Peter.
7 Q Had there been any discussion in the tenure faculty
8 meetings about Peter Hammer's sexual preference?
9 A No.
10 Q Had anyone indicated to you as a member of the faculty or
11 as a member of the tenure committee that diversity was one
12 of the considerations to be taken into account on a tenure
13 decision?
14 A In this particular case?
15 Q Yes.
16 A Not that I recall.
17 Q How long did the meeting take that you had with Dean
18 Lehman, not the one in the hall but the subsequent one?
19 A Yeah. I would have to guess 10 to 15 minutes.
20 Q And other than his stating to you that your opinions
21 differed on the merits of the case, was anything else said?
22 A We discussed the -- more broadly how much weight should be
23 given to the teaching record in tenure cases.
24 Q And what was his position?
25 A If I recall this correctly it was that teaching should

1 matter but not on equal footing with scholarship and that
2 the benefits you get of truly good teaching were probably
3 much smaller than I thought they should be.
4 Q How about service?
5 A That was not a main focus of the discussion but we -- you
6 know, roughly the same things were said I think.
7 Q During the years that you have been there, how many tenure
8 cases have you participated in, either as a committee
9 member or a faculty member?
10 A I would have to guess probably 10 or so.
11 Q And other than Peter Hammer, have any of other applicants
12 been denied tenure?
13 A Not in decisions that I participated in.
14 Q All right. In the decisions in which you participated, how
15 would you compare Peter Hammer's teaching to those who were
16 successful in their tenure applications?
17 MR. SERYAK: I'm going to object for lack of
18 foundation.
19 Q You can answer.
20 A How would I compare Peter Hammer's teaching?
21 Q In other words, if you had 10 of them and he was one of the
22 10, would he be first, tenth or somewhere in the middle?
23 A Towards the top.
24 Q Towards the top. With regard to his service, how would he
25 compare to the other 10?

1 MR. SERYAK: You're asking the witness' personal
2 opinion?
3 MR. GREEN: Well, of course.
4 A Towards the top.
5 Q And with regard to his scholarship, how would he compare to
6 the other 10?
7 A In the lower half.
8 Q All right. Of all of the tenure cases that you've
9 participated in, was his scholarship the worst?
10 A I can't say that because it depends on so many criteria
11 and -- I can't answer that confidently.
12 Q I may have asked you this before and if I did I'm sure I'm
13 going to get an objection. Do you recall specifically
14 anybody's comments during the tenure committee meetings
15 other than the comment that you recalled made by Omri
16 Ben-Shahar?
17 A Specifically as to content?
18 Q Yes.
19 A No. I recall the general tone and direction of the
20 discussion but not individually what people said about
21 specific issues.
22 Q Do you recall Sallyanne Payton talking during the meetings?
23 A Yes, she did talk. I think I recall that.
24 Q And do you recall what she said or not?
25 A No, I don't specifically.

1 Q Do you have any recollection of her saying anything to the
2 effect that she was voting in favor of tenure as an act of
3 civil disobedience?
4 A No.
5 Q Do you recall her indicating how she intended to vote
6 during her presentation?
7 A No.
8 Q By the way, in these discussions I assume that people would
9 talk about the strengths and weaknesses of the tenure file
10 or tenure case, as it were?
11 A Which discussions?
12 Q At the tenure committee meetings -- or I'm sorry -- at the
13 faculty meetings.
14 A Yes.
15 Q All right. And is it customary for the individuals when
16 giving their view of the tenure file to express their
17 opinion or their anticipation of how they were going to
18 vote?
19 A Yes.
20 Q All right. Do you recall whether or not Omri Ben-Shahar
21 indicated how he was going to vote?
22 A Not specifically.
23 Q How about Rich Friedman?
24 A I think he indicated he was going to vote against but, you
25 know, that's my recollection of three years ago.

1 Q Do you have any recollection of his presenting a cogent
2 argument against tenure during the course of either of
3 these meetings?
4 A Cogent to whom?
5 Q To you.
6 A No, wasn't cogent to me.
7 Q And during the meeting, you've got in excess of 30 people
8 in attendance?
9 A That's probably right.
10 Q Okay. I take it that people volunteer to speak or discuss
11 what they -- how they view the tenure application?
12 A Yes.
13 Q And while that person is presenting are there side
14 discussions going on?
15 A Normally not.
16 Q Do you recall anyone having to ask people to be quiet and
17 listen to the presentations as they were being made?
18 A No.
19 Q What kind of room were you sitting in during these
20 meetings?
21 A The faculty lounge.
22 Q Okay. And was there a big table around which everybody sat
23 or were you kind of spread out among various chairs in
24 small groupings?
25 A The latter, spread out.

1 EXAMINATION BY MR. SERYAK:
2 Q Professor, do you recall whether Peter Hammer was given an
3 opportunity to identify names of external reviewers and
4 object to external reviewers by the evaluation committee?
5 A By the tenure committee?
6 Q Correct, by the tenure committee.
7 A Yes.
8 Q And did the tenure committee consider Peter Hammer's
9 written response to that request?
10 A Yes.
11 Q Does a candidate -- in your experience does a tenure
12 candidate have the final say in designating who the
13 external reviewers will be?
14 A No.
15 Q Who makes that determination?
16 A The committee.
17 Q And regardless of whether you can state word for word
18 comments that were made, what was the tenor? I think
19 you've indicated -- what was the tenor of the comments made
20 during the faculty meetings on Peter Hammer's tenure case?
21 A It was very mixed. I mean, there were people who spoke in
22 favor and people who spoke against.
23 Q Do you recall -- whether you can recall names or not do you
24 recall any faculty members commenting that they had
25 difficulty understanding Peter Hammer's -- the substance of

1 Q Do you remember who you were sitting around during these
2 meetings? Who was in closest proximity?
3 A I was sitting in the front row but I don't remember who I
4 was sitting next to.
5 Q Do you believe that the denial of tenure to Peter Hammer
6 was based on an honest difference of opinion on the value
7 of his scholarship?
8 A Yes.
9 Q And were you frustrated at all that you were unable to
10 persuade your colleagues to vote in favor of tenure?
11 A Yes.
12 Q Have you ever felt that way at any other time in a tenure
13 committee meeting?
14 A Well, it wasn't --
15 Q I'm sorry. Tenure --
16 A It wasn't the situation. The situation didn't come up.
17 Q Is this the only time anyone has been denied tenure while
18 you've been there?
19 A Yeah.
20 MR. GREEN: No further questions.
21 MR. SERYAK: If I can just have a minute or two?
22 MR. GREEN: Sure.
23 (Off the record)
24
25

1 his work, either because of his writing or just the content
2 of his scholarship?
3 A Yes. Several people made such comments.
4 Q Professor, did you observe any comments or events in any of
5 the meetings you attended, either from the tenure committee
6 or the faculty meeting, to indicate that Peter Hammer's
7 homosexuality was a factor in anyone's vote?
8 A No.
9 MR. SERYAK: That's all I have.
10 MR. GREEN: I have nothing further. Thank you.
11 (Deposition concluded at approximately 3:58 p.m.)
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