

October 28, 1970

Dr. James C. Fletcher
President, University of Utah
210 Park Building
University of Utah
Salt Lake City, Utah 84112

Dear President Fletcher:

Advisory Opinion of the Academic Freedom and Tenure Committee in
Re Associate Instructor Victor Gordon.

The Committee finds, upon the basis of testimony and materials presented to it, that Victor Gordon did not deliberately or negligently fail to disclose to the Administration of the University of Utah or the Institutional Council of the University of Utah certain facts regarding his personal life. A detailed statement, including findings plus reasoning, accompanies this opinion as a separate document.

The primary bases for the conclusion are two: First, no questions tending to elicit the facts concerning his personal life were directed to Victor Gordon throughout the prolonged process leading to his appointment. The primary direction of questions concerned his teaching competence and the then pending charges of the use of "obscenity". There was nothing to suggest to him the need to volunteer the personal information concerned. Second, considering the personal background of Victor Gordon, which the Committee investigation revealed, and the cultural setting in which he has lived, the personal facts are not of such a nature to be deemed, by him or others similarly situated, as matters requiring or deserving voluntary mention.

Based upon the foregoing finding, the Committee recommends that no action be taken against Victor Gordon on the basis of his failure to disclose the facts concerning his personal life.

While the Committee was asked to consider the issue of whether Victor Gordon improperly failed to disclose personal matters, the Committee also heard evidence on certain aspects of such personal matters. The Committee concludes that the evidence indicates that Victor Gordon is a basically mature and responsible person who poses no threat to good order and morality at the University of Utah.

The Committee is unanimous in this opinion.

Separate from these findings, the Committee would like to express appreciation to the Institutional Council, Administration, Faculty and Students for developing a solid climate for freedom of inquiry at the University of Utah. Our University has a sensitive and fine record in this area. Support of academic freedom at the University of Utah has been excellent and continued good will is needed during such times as these.

If necessary, this Committee is available to meet with the Administration and Institutional Council to discuss this report in detail.

Committee on Academic Freedom and Tenure

Reed M. Merrill, Chairman (Educational
Psychology)
Lewis Max Rogers, Vice Chairman
(Philosophy)
Albert L. Fisher, Secretary (Geography)
A. J. Wann (Political Science)
Denny O. Ingram (Law)
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Roy T. Shaw (Marketing)
Ray R. Canning (Sociology)
Wayne S. Brown (Mechanical Engineering)
Paul E. Wyler (Languages)
Robert R. Kadesch (Physics)
Edwin B. Firmage (Law--absent--on leave)

BEFORE THE ACADEMIC FREEDOM AND TENURE COMMITTEE

In the Matter of Victor Gordon: Detailed Findings

After investigation of all facts deemed by the parties and the committee to be pertinent to the Committee's investigative function at this stage of these proceedings, the Committee makes the following Findings of Fact:

1. Mr. Gordon was under active consideration as a proposed teacher in both the English Department and the Education Department, Secondary Education Division, beginning in late winter, 1970. Discussions relating to prospective employment continued through the Winter and Spring of 1970 and appointments were processed in both departments. Mr. Gordon met with the faculty of the English Department on May 18, 1970, to discuss his conception of his proposed course in Black Literature and to answer questions. A faculty appointment form, executed by the faculty of the English Department, was submitted together with the appointment recommendation to the Dean of Humanities.

2. In none of the foregoing discussions was any inquiry made nor were any questions raised about the personal life or relations of Mr. Gordon by anyone, in spite of the fact that at least two faculty members best acquainted with and most closely involved in promoting Mr. Gordon's appointment were aware of his general relationship with the two mothers who formally filed the paternity actions which gave rise to these proceedings. On May 6, 1970, some three weeks after the "obscenity incident" of April 15, 1970, the chairman of the English Department, having received certain background information from Mr. Gordon relative to his academic qualifications wrote to him to report that "we can go ahead with the plans for you to join our department" and specifically stating that:

"The further information about yourself and the course supplied by way of Phil Sullivan was excellent and quite sufficient for our needs."

3. Vice President Andersen received notice of the pending English Department appointment on June 2, 1970. He withdrew the appointment from

normal processing and it was discussed in early June both by the Administration and, on two occasions, by members of the Institutional Council. At no time did anyone in the English Department, the Administration, or on the Institutional Council ever make inquiry of Mr. Gordon respecting his personal life nor were any instructions ever issued that such an inquiry be made, though Mr. Andersen was instructed, in a very general way, to interview Mr. Gordon.

4. In late June or early July, arrangements were made with Mr. Gordon to employ him for the summer in a "consultant" role with support from non-State appropriated funds. Mr. Gordon could reasonably understand that at that point he was employed at least temporarily by the University without any indication of further interest in matters which might relate to his personal relationships.

5. Vice President Andersen interviewed Mr. Gordon, in accordance with the instructions of the Institutional Council, before his departure on vacation on July 1, 1970. A second interview by Mr. Andersen occurred in early September, 1970, at which the possibility of hearing before the Council was discussed, looking to a determination of the status of Mr. Gordon's appointment. In neither of these interviews, were any inquiries made or questions asked which sought disclosure of Mr. Gordon's personal relationships.

6. At a meeting of the Institutional Council on September 14, 1970, tentative arrangements were made for a presentation by Professor Sullivan, Chairman Lueders of the English Department, Dean Cave, Dean of Humanities, and Mr. Gordon on the 20th of September, 1970, and those arrangements were subsequently confirmed. Neither the Institutional Council nor any of its members nor members of the administration issued any instructions respecting the content of the presentation or questions to be covered or asked at the meeting on September 20 and no such instructions were received by any members of the Department or Mr. Gordon.

7. At the meeting on September 20, 1970, with the Institutional Council, presentations were made and questions were answered by Dean Cave, Chairman

Lueders, Professor Sullivan and Mr. Gordon. The primary context of the questions related to the English Department's satisfaction with Mr. Gordon's academic background and capacity to teach the Black Literature course, the special need for a Black man to interpret Black culture and experience in such a course; the general direction and content of that course; Mr. Gordon's background and experience as a Black man and some of the details of that special experience as bearing upon his sensitivity to and capacity to interpret problems of relationships between minority cultures and the dominant White culture; and the specific questions of whether Mr. Gordon would be inclined to use his classroom opportunity to promote the cause involved in his obscenity charges and countersuit. Most questions asked by members of the administration or Council related directly to the above matters and were presented in that context. Where discussion centered on Mr. Gordon's personal experience as a Black man, some personal questions were asked; but those questions which were of personal nature were extremely general in content and did not call for disclosure of the matters of personal relationship now in question.

8. No instructions or regulations seeking or requiring University colleges or departments to investigate the matters of personal relationship here involved have been issued by the Institutional Council or the University administration. Such questions have heretofore been regarded as irrelevant unless they involve some specific interference with an appointee's teaching or other performance on behalf of the University.

9. The Academic Vice President, the Dean of Humanities, the Chairman of the English Department and Professor Sullivan were present at the September 20 meeting throughout the time Victor Gordon was present at that meeting. In their testimony before the Academic Freedom and Tenure Committee all of them stated that they felt Victor Gordon was not at fault in failing to volunteer the information concerning his personal life to the Institutional Council or the Administration. All of them specifically stated that, in their judgment, Victor Gordon did not deliberately mislead the council and he was not negligent in failing to disclose the information.

Victor Gordon stated in his testimony to this Committee that it just never occurred to him that the matters of his personal life might be relevant or ought to have been discussed by him. Having had the opportunity to see and hear him, the Committee believes Mr. Gordon's testimony is true and accurate. It also accepts as probably accurate his speculation that his failure even to consider a need to disclose such information is attributable in part to the relationship of Black men and White men in our society. Mr. Gordon indicated that the circumstances of this relationship is such that it would seem strange and unnatural for a Black man to discuss details of his personal life with Whites.

10. The Committee heard evidence from the welfare worker who handled the paternity proceedings on behalf of the mothers of Victor Gordon's children. It also heard the testimony of Victor Gordon concerning his relationships with his children and their mothers. No information on this aspect of the case was presented on behalf of the University Administration.

11. The evidence presented to the Committee shows Victor Gordon to be a devoted and responsible father. He has three children aged 5 1/2, 4, and 3. One woman is the mother of the two oldest children; another woman is the mother of the youngest. The ages of the two women are 26 and 30 respectively. Victor Gordon's relationships with them are of long standing.

12. For several years prior to the filing of the paternity proceedings Victor Gordon contributed to the support of his children. Indeed, those proceedings were commenced only at the request of the Welfare Department, when, during a period Victor Gordon was unemployed, the mothers of the children sought support for the children from the Welfare Department.

13. Victor Gordon was completely cooperative with the Welfare Department and voluntarily consented to the paternity proceedings. According to the Welfare worker, he did so because he recognized his obligations to his children and wanted them to know that their father cared for them.

14. The evidence shows that Victor Gordon has continued to meet his financial obligations to support his children to the full extent he has been able to do so. In addition he maintains a relationship with them of love and affection. He has consciously attempted to provide his children with a personal relationship to meet their need for a father. For example, his youngest child suffers from cerebral palsy, and, in an attempt to provide his child with the additional care and understanding necessary to help compensate for this handicap, Mr. Gordon has been participating in a parent's group for cerebral palsy connected with Primary Children's Hospital.

15. The Committee was presented with studies of Black family life which indicate that a central feature of Black culture in this country has been the disruption of family resulting from emotional disorganization traceable to slavery and the role of economic impotence in which the Black male typically has been cast because of the unavailability of adequate employment opportunities for him and the relatively greater, though menial opportunities available for the female. These studies indicate that the typical consequence of such disruption has been the inability of the Black father to support his family or illegitimate children, legal processes arising from welfare practices which seek to impose a financial responsibility which employment opportunities make impossible to bear, driving many Black males from their homes and disrupting any permanent relation with their families or offspring.

The Committee did not find it necessary to evaluate these studies in reaching its decision in this case since it has found on the basis of the evidence that Mr. Gordon is a mature and responsible father who has been attempting to meet his obligations to his children.

16. The Committee does not consider the obscenity incident and the related criminal charges relevant to these proceedings. The Committee is aware that there is a judicial decision dismissing the criminal charge.

Even if that dismissal is not a final judgment, the Committee believes that the obscenity charge was fully and elaborately considered before Mr. Gordon was appointed and that the criminal charge is thus not now relevant to these proceedings.

CONCLUSIONS

(a) Victor Gordon did not deliberately or negligently fail to disclose to the administration of the University of Utah or to the Institutional Council of the University of Utah, the existence of the paternity proceedings.

(b) In light of our investigation, the Committee concludes that the employment of Mr. Gordon as a teacher at the University poses neither a moral risk nor a risk to the good order of the University.