

## **BETHEL COLLEGE FALSE ARREST CASE REACHES FEDERAL APPEALS COURT**

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The Mennonite lawyer who sued Bethel College for more than a half million dollars in 2019 after his arrest at an academic conference is appealing the judgment of a Wichita federal judge denying him any relief, contending that the court improperly discounted a reputed false statement by Bethel's president to City of North Newton police.

Bruce Leichty, 68, filed his opening brief in the 10th Circuit Court of Appeals last week, asserting that federal judge John W. Broomes committed numerous errors when he granted summary judgment to Bethel College, and prevented him from taking his case to a jury. Leichty had claimed that Bethel breached its agreement with him in connection with his registration for a conference on "Mennonites and the Holocaust" in March 2018 and then instigated his arrest for trespass even though administrators knew he was not in trespass, a violation of Kansas law.

Leichty, who said he was never arrested before and was not at the academic conference to commit an act of civil disobedience, spent 18 hours in custody at the Harvey County Detention Center before being released on his own recognizance in March 2018. City of North Newton did not prosecute a criminal case against him.

The California resident has also appealed the rulings of the Court that the City of North Newton could not be liable to him under state or federal law for the role of its police in the arrest. In his argument to the Court of Appeals, Leichty notes that he went to the North Newton police station before going to the Bethel campus the second day of the conference to make sure that he was acting lawfully and that a challenge to his registrant status would not permit arrest.

Leichty cites in his appeal several reasons why his arrest was unlawful. He contends he could not have been arrested but for the fact that he was told without justification that he could no longer attend conference sessions. The District Court found that he violated unwritten "equitable" provisions of his agreement with the college, by first passing out literature and then trying to make an announcement during a Q and A session about a presentation he had arranged for a nearby community room in North Newton.

That presentation, held March 16, was titled "Two Revisionist Jews Consider the Holocaust," and featured a retired university professor from New York, Daniel McGowan, and a retired engineer from Michigan, Henry Herskovitz.

"Registrants had never been told there was any prohibition on handing out flyers or other literature to fellow registrants, and the College admitted there was nothing in writing and no announcement notifying its guests about this prohibition, nor had I been warned," notes Leichty, who says the Court ignored this fact. Leichty was told to stop the handouts by a college administrator shortly after he arrived for the first session. He was threatened with expulsion from the conference after the College called police, and at that point the parties agreed that Leichty could remain at the conference if he complied with the newly-announced rule.

“At no time was I told it was my views that were under scrutiny, but what I found out later was that the college had been talking to police and sharing pejorative comments based on my history of Christian advocacy and legal cases, and discussing how they would handle me—even though no one ever approached me with any concerns or requests.”

Leichty says that evidence developed in the case showed that the event that led the College to breach its agreement with him happened during a session late on the opening day.

“I was handed a microphone but was prevented by a conference organizer, Mark Jantzen, from finishing my remarks, which were meant only to note that as Jews who had different perspectives on the Holocaust, McGowan and Herskovitz were available for dialogue that evening.” Leichty says the two colleagues had also been denied the opportunity to attend all but a couple public sessions of the Conference after a registration mix-up left them unregistered.

Jantzen called North Newton police after Leichty’s microphone was cut, and berated him, “Are you going to leave or do I have to call the police?”

“I had done nothing wrong, since audience members were allowed to speak,” says Leichty. Leichty says that after he finished trying to make his announcement, he left in the company of another conference organizer, John Sharp of Hesston College, who expressed concern but invited him for further discussion at a conference lunch the next day. Sharp and another administrator later said they were surprised by the rude audience response to Leichty. Leichty says he chatted with North Newton police chief Randy Jordan as the chief pulled into the parking lot to respond to the 9-1-1 call and there was no discussion of trespass at that time.

“Later that evening after we held our event and Henry Herskovitz and I had returned to the campus to watch the public airing of a Nazi propaganda film, I approached Jantzen and asked him whether he would now allow my colleagues to attend sessions the following day.” Leichty says he was told no, “and not only that, you’re out of the conference, too.”

In his appeal brief, Leichty notes that this exchange was treated by the court as a trespass warning, even though Leichty was not told by anyone that he was barred from the campus, and Leichty’s registrant badge had not been taken from him nor had he been offered any refund. “I was also not told what rule I had violated, probably because there wasn’t any such rule. North Newton police officer Donald Stovall confirmed the next morning before I returned to campus that a dispute about registration wasn’t sufficient for me to be held in trespass if I returned.”

Leichty’s appellate brief points to police testimony that Bethel College President Jon Gering effectively lied to police the morning of his arrest saying he had previously told Leichty to leave campus and not return.

“Officer Stovall said during a deposition that the president had told him that he personally had given me the warning, but I hadn’t even met the president the first day of the conference,” says Leichty. “I had already told Officer Stovall about Jantzen’s comment, so the only thing that could have changed Stovall’s mind was the lie. Moreover, Gering told me during his deposition

that he did not care if I was in the campus archives or coffee shop or other places on campus as long as I wasn't at the conference, and therefore there is no crime of trespass but merely a civil dispute or contract disagreement on those facts."

In his appeal brief Leichty also argues that the court improperly prevented him from conducting further discovery with police after another arresting officer, Levi Minkevitch, from the city of Newton, became unavailable for testimony. Minkevitch, a Bethel College alumnus who assisted Stovall in making the arrest, was killed in an off-road accident five days after he was subpoenaed by Leichty to have his deposition taken in the case. Leichty says that on the day of his arrest Minkevitch cut off discussion with him shortly before he was handcuffed, as Leichty tried to explain why he was not in trespass.

"When there are questions of fact that need to be resolved by a jury, a district court judge has no ability by law to award summary judgment and a court of appeals has to reverse," says Leichty.

"Some of the event sponsors didn't want any narrative other than an approved narrative about Mennonite 'guilt' for the Holocaust to be heard by conference-goers," Leichty says. "This is antithetical to the spirit of academic inquiry and historical analysis, and the College acted like the very fascists that they supposedly were exposing to the public for the first time.

"The Court in turn violated its own duty to look at my contentions in the light most favorable to me, just as the college essentially had done in trying to suppress my speech, which must be corrected on appeal."