



at Raymond Walters College informed plaintiff by letter as follows:

The behavior described [in the university police report] is reprehensible and well beyond any acceptable standard of conduct. I am outraged that you would so betray the outstretched hand of this college. Your services are no longer desired. You will be removed from the schedule for Spring Quarter as well as all future quarters. Further, you are no longer welcome on this campus in any capacity.

On April 6, 1989, the university police arrested plaintiff at his home in Cincinnati. He was charged with bribery in violation of R.C. 2921.02. Plaintiff was indicted by the Hamilton County Grand Jury. Thereafter, he was tried and acquitted of the charge.

Plaintiff then filed a complaint in this court in which he asserted a number of causes of action, including malicious prosecution, false arrest, false imprisonment, defamation, intentional infliction of emotional distress, and wrongful discharge. Additionally, plaintiff asserted that various employees acted beyond the scope of their employment or so egregiously as to be no longer entitled to R.C. 9.86 immunity and plaintiff would have the court so find pursuant to R.C. 2743.02(F).

The stance of a plaintiff in a case such as this is remarkably similar to that of one seeking compensation under R.C. 2743.48 for wrongful imprisonment in that a finding of "not guilty" in the criminal prosecution does not equate to an inference in the later civil trial that the civil plaintiff was wrongfully prosecuted. See, *e.g. Walden v. State* (1988), 47 Ohio

St. 3d 47. There are many reasons why a court, upon a civil trial, may conclude that one was properly prosecuted, convicted and perhaps even imprisoned, although not legally guilty of the crime charged. So also in the present case, the court need not conclude that plaintiff actually engaged in bribery, or that he did not, in order to find that no liability attached to the university's actions.

The crux of all of plaintiff's causes of action is whether plaintiff engaged in such conduct with his students as would justify those actions taken by the employees of the University of Cincinnati. Upon consideration of all of the evidence presented, and in light of the applicable law, the court finds by a preponderance of the credible evidence that the university acted reasonably under all the circumstances.

The evidence plainly indicated that plaintiff arranged a meeting with one of his own students for the express purpose of receiving money from that student. Plaintiff also attended that meeting and actually took the money from the student into his possession. Furthermore, it is clear that the student did not owe the money to plaintiff and plaintiff was not entitled to it other than as a gift from the student.

The university employees were informed of these events before the fact of their occurrence by the student who also asserted that the money to be paid had been solicited by plaintiff in exchange for a considerable improvement in the student's grade for the course. The university police acted quite correctly in investigating the student's allegations, not, as plaintiff would have it, by focusing upon the character and motives of the student, but by surreptitiously attending and

observing the meeting itself. Plaintiff's arrival and acceptance of the money from the student were reasonably taken as confirmation of the student's version of the events.

All of the myriads of reactions that followed were quite proper reactions to the police report of the events observed and the characterization of the events by the student. There was clearly probable cause to arrest and charge plaintiff, as there was reason to bring the criminal case to trial.

The university is not required to prove plaintiff's guilt of the crime of bribery, but may dismiss him as an at-will employee for any reason or for no reason. Certainly, the facts here were sufficient justification to terminate an instructor's contract, at least until certain questions could be resolved. Moreover, the university has a settled policy against soliciting funds from students for any purpose, which policy plaintiff clearly violated. This policy provides ample additional justification for terminating plaintiff's employment.

In conclusion, plaintiff has failed to prove any of his legal theories by a preponderance of the evidence. Furthermore, the court finds that all of defendant's employees acted within the scope of their responsibilities, in good faith, without malice and not recklessly. Accordingly, the court finds in favor of defendant and against plaintiff.

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**RUSSELL LEACH**  
Judge



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