

August 15, 2025
IN THE SUPREME COURT
OF THE UNITED STATES

No. 2025-2026

William DeNolf, Petitioner

vs.

Olympus State University, Respondent

On Writ of Certiorari to the Court of Appeals for the Fourteenth Circuit.

ORDER OF THE COURT ON SUBMISSION

IT IS THEREFORE ORDERED that counsel appear before the Supreme Court to present oral argument on the following issue:

Whether Respondent violated Petitioner's right to freedom of expression under the First Amendment to the United States Constitution, as applied to the states through the Due Process Clause of the Fourteenth Amendment.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTEENTH CIRCUIT No. 01-76318

WILLIAM DENOLF, Plaintiff-Appellant

vs.

OLYMPUS STATE UNIVERSITY, Defendant-Appellee

Appeal from the United States District Court for the Central District of Olympus

Before Matthew Rubinstein, Jennifer Fridman, and Riley Revilla, Circuit Judges

OPINION BY Judge Rubinstein, with Judge Revilla concurring:

I

Order

This case arises on appeal from a decision by the United States District Court for the Central District of Olympus. Plaintiff-Appellant, William DeNolf (hereinafter “DeNolf”), filed suit against Defendant-Appellee Olympus State University (hereinafter “OSU”) claiming that Respondent violated his First Amendment rights when it fired him for complaints he made about its admissions policy. After a jury trial, a verdict was returned in favor of the Respondent. The District Court entered judgment in favor of the Defendant.

We AFFIRM the judgment of the District Court.

II

(A)

Overview of the Facts

Plaintiff-Appellant William DeNolf appeals the decision of the District Court for the Central District of Olympus affirming the constitutionality of the decision of Respondent to terminate his employment. No claims were brought under the Olympus State Constitution or any law of the State of Olympus. The District Court had jurisdiction under 28 U.S.C. §§ 1331, 1343(3). Our jurisdiction rests on 28 U.S.C. § 1291. The parties have stipulated to the following facts on appeal. There are no material facts in dispute. Accordingly, all issues raised are legal. Issues not raised in this opinion are not properly before this Court. We review all questions *de novo*. The judgment of the District Court is AFFIRMED.

(B)

Facts of the Case

William DeNolf is a 40-year old white male who has no children and has never been married. After graduating from Kedesh College in 2006, DeNolf, the son and grandson of police officers, went into law enforcement. In 2007, DeNolf graduated from the Olympus Police Academy and became a state trooper. In 2013, after five plus years of service, DeNolf was wounded in the line of duty. He spent three months in rehabilitation and returned to duty at a desk job. While he found public service rewarding, DeNolf was bored with the desk duty and decided to try a career at the law. In 2014 DeNolf enrolled in law school at Apollo State University School of Law. While he did well in his classes, DeNolf did not enjoy his experience, and on April 1, 2016, DeNolf formally withdrew from law school. He went to visit his old advisor from college, Professor Charles Noble. Professor Noble asked if DeNolf would consider a Master's Degree in Political Science which he could use for a number of purposes, among them teaching. DeNolf found the idea appealing and applied to and was accepted into the Kedesh College Master's Program. He started in the fall of 2016 and graduated with a Master's Degree in 2018. In August of 2018, DeNolf started teaching at OSU as a part-time lecturer, teaching American Constitutional Law, Criminal Law, and Judicial Process in the Department of Government and Politics.

By late 2022, DeNolf, while he enjoyed teaching, had come to realize that he missed public service and to that end he decided he wanted to pursue a career in law enforcement with the goal of being a police commissioner in a big city. In January 2023, DeNolf applied to the School for acceptance into the 2023 fall class. On March 17, 2023, DeNolf was notified that his application had been rejected.

DeNolf is a former part-time lecturer in the Department of Government and Politics at OSU. He worked in that capacity from August 2018 to May 2023. DeNolf was hired by the Department Chair, Professor Bobbi Bronner. Professor Bronner had been DeNolf's professor at Kedesh College. In fact, it was a class with Professor Bronner that had first piqued DeNolf's interest in the law and Professor Bronner had recommended DeNolf for legal study. At Professor Bronner's initiative, the Department created classes on the judicial process and criminal law for DeNolf to teach. DeNolf also taught American Constitutional Law and a Selected Topics Class on Gender and the Law. It proved a popular class with the student body – which was 65% female. DeNolf was frequently nominated as one of the best and most popular faculty members on campus. In 2021, he was awarded the S. Borden Jeanne Award for Teaching Excellence. DeNolf enjoyed teaching and went out of his way to mentor students. This invariably meant mentoring mostly female students. DeNolf was enthusiastic about this mentoring and wrote many letters of recommendation for his students for law school – 85% of these letters were for female applicants.

DeNolf taught two courses per term. He was rewarded with extra pay if he served as a faculty advisor to student groups. To that end, DeNolf assisted with the Department's Mock Trial Program. While presenting at conferences was not a requirement of his employment, OSU encouraged its lecturers, full and part-time alike, to present papers at conferences and at other academic settings. In addition, OSU encouraged its lecturers to publish their work in academic or commercial journals, and on-line public platforms, such as newspapers and professional websites. During his employment, DeNolf was eligible for travel support from OSU, as well as for a small stipend to cover costs related to research. The faculty at OSU is not unionized.

DeNolf was thrilled to teach law classes to undergraduates and excited to work at an institution that has long expressed openness to new ideas and a commitment to free expression, especially in the classroom. For example, OSU had posted a statement on its website announcing its opposition to political correctness and censorship and pledged to ensure that its students not be sheltered from the reality that in life one meets people with whom one disagrees. The statement is posted online and is found in the handbooks given to students and faculty, and reads as follows:

We are committed to delivering the highest quality of education to prepare students for their post-graduate lives. In order to best prepare our students, we do not condone shielding students from controversial ideas and perspectives. Students will not be warned about speakers whose remarks may be controversial, nor will faculty be required to issue trigger warnings before exposing students to class materials. As a public university, it is our role and mission to foster the free exchange of ideas.

In the spring of 2023, DeNolf taught a class on American Constitutional Law and one on Gender and the Law. In both courses, DeNolf scheduled classes on subjects including affirmative action, equal protection, sex discrimination, reverse discrimination, and the rights of traditionally disadvantaged groups. At the outset of the term, Professor Bronner informed DeNolf that although OSU was facing budget cuts that would result in some part-time faculty not returning for the following term, her preference was to bring DeNolf back, especially if DeNolf agreed to keep teaching at least one section of American Constitutional Law each semester. DeNolf agreed.

When DeNolf's application to the School was rejected, he became convinced that it was because of the school's Pettus-Cole policy ("the Policy"), and that he was the victim of what he believed to be an unconstitutional "affirmative action" program. While the specifics of the policy are not relevant to the dispute at hand, suffice it to say that the policy sought to increase the number of women enrolled in the school, and it offered various incentives for women who applied.

DeNolf began to complain in class about the Policy. Specifically, he complained that his right to equality had been violated. In his classes, he called on female students to defend the Policy. DeNolf was critical of male students in the class who either did not agree with him or were not actively trying to end the Policy. As the term progressed, DeNolf's attitude became more vociferous, and he began to complain in settings outside his classroom. For example, DeNolf voiced his complaints in the following settings:

- At lunch with other faculty members both on and off campus;
- At two academic conferences where he presented papers. The first was at a forum on sex discrimination and the law held on OSU's campus and the second was at a professional association meeting held out of state that was funded by OSU travel support. These papers identified DeNolf as a lecturer at OSU;
- At a political rally off campus sponsored by two organizations: Men Against Discrimination (MAD) and Women for True Equality (WTE). The event, held off campus, allowed men to come and share how they had been discriminated against because they are men. DeNolf was introduced at the event by MTE co-founders Grady Smith and John Littles as "a victim of OSU's female-first policy." DeNolf spoke about the evils of the Policy and shared his story. Neither DeNolf nor anyone else noted that he was employed at OSU; and
- At a political rally held on campus known as Unity Fest. Unity Fest, which was sponsored by the OSU student government, in greater detail below.

In the 2022-2023 academic year, there were a number of disturbing events on OSU's campus. First, two female students who wore head scarfs were assaulted by two masked men while walking back to their dormitory from the library. The assailants reportedly told the students to "go back to their own country" and called them "terrorists." Second, misogynist slogans were spray painted outside the building where the Department of Women's, Gender and Sexuality Studies is located. Third, anti-Semitic slogans were spray painted outside the campus chapter of Hillel. Fourth, two men were caught on surveillance video hanging a noose inside the Student Union. In addition, flyers bearing a variety of offensive slogans aimed at a variety of groups were distributed on campus by students and non-students alike.

The aforementioned incidents prompted the OSU student government to organize a campus event called Unity Fest to promote campus-wide unity regardless of nationality, religion, race, sex, or sexual orientation. Unity Fest was held in April 2023 and was open to OSU employees and to students, as well as to the local community. OSU President Jackie Zambrano gave the student government permission to host the event and recommended the inclusion of professors, including, *inter alia*, DeNolf, who was well known as a popular and dynamic lecturer who liked to write poetry about social issues.

DeNolf, who was very concerned and distraught by events that had occurred on campus, was excited about the festival. DeNolf asked several of his colleagues at OSU, including Professor Bronner, for suggestions as to which of his poems he should recite. DeNolf did so because several professors were familiar with his work. The consensus was that DeNolf should present a poem he had written about the Policy entitled “Imagine a Level Playing Field.” The poem followed the lyrics and beat of John Lennon’s song entitled “Imagine.” It addressed society’s use of affirmative action to supposedly level the playing field for all. The poem’s theme was that to truly create a world that was fair for all society must forgo affirmative action. Before presenting the poem, which he sang while playing an acoustic guitar, DeNolf blasted “the powers that be” and asserted that “affirmative action is inconsistent with true equality.” He called for “an end to laws that favor people based on immutable characteristics” and called for “students to rise up and challenge inequality whatever form it takes and wherever they find it—including at OSU.”

At Unity Fest, OSU student government president, Jocelyn Colpitts, and Senior Class President, Farnoz Norouzi, introduced DeNolf. Both were former students of DeNolf. Neither Colpitts nor Norouzi identified DeNolf as an employee of OSU. Colpitts stated that “I am excited to call to the stage one of my favorite people ever” while Norouzi called DeNolf “a true visionary, a voice for the truth, who has communicated to me the need to fight for what I believe in.” DeNolf went on stage, took the microphone, and introduced himself as “William DeNolf, a lecturer in the Department of Government and Politics, and a recent victim of the cruel and paternalistic system that keeps women down by convincing them that they need affirmative action to achieve equality rather than achieve it by virtue of their own merits and skills.”

The next day, videos of DeNolf’s performance went “viral” on several social media sites. A blogger named “Action Jackson” live-streamed the performance on her Facebook page, which was viewed by more than 1.5 million followers. Students around the nation and prominent activists for men’s rights across the country praised DeNolf for his courage, strength, and message. After Unity Fest, DeNolf did several radio interviews, each time being introduced as a lecturer at OSU. DeNolf accepted invitations to appear on both the “Rachel Maddow Show” and “Fox and Friends,” where he discussed affirmative action. DeNolf, who identified as “a progressive in most every way,” denied that he had a political agenda or was a male supremacist. Rather, he asserted, “I believe men and women are equal in every way, I simply want everyone to be treated equally – a level playing field.” DeNolf was invited to attend various conservative conventions, as well as participate in a symposium sponsored by Students for Fair Admissions. He turned these invitations down; however, he did agree to give a TED Talk and he participated in a series of collegial debates on college campuses with supporters of affirmative action.

DeNolf’s message was not well received by everyone, especially by many people with connections to OSU and/or the School. The offices of OSU President Zambrano and the College

of the Liberal Arts were inundated with phone calls, emails, and letters, the overwhelming majority of which disapproved of DeNolf's message and the manner in which he continued to criticize the School. A great many of these messages came from the parents of students, donors, and alumni. Several elected officials called upon OSU to take action in defense of the female graduate students at the School—many of whom had been “trolled” on social media and had been labeled “Affirmative Action Babies!” By and large, the persons who contacted OSU were upset that the university, by virtue of the fact that it employed DeNolf, appeared to endorse his point of view. Alumni contacting OSU included a group of influential women, known as “the Seven,” who withdrew their financial donations for the following year and successfully pressured others to do the same.

On May 4, 2023, the OSU Chairman of the Board of Trustees, Zach Brewer, and the Vice-President of Finance, Ethan Finn, met with President Zambrano to discuss the impact of losing alumni donations, and how it would affect OSU's highly ranked athletic programs, especially since recruiting future student-athletes was dependent on these donations. Vice-President Finn informed President Zambrano and Chairman Brewer that total applications and those filed by women were down by 20% and 33% respectively. A second meeting, on May 8, 2023, was convened. This time President Zambrano and Vice President Finn met with the full board.

On May 27, 2023, President Zambrano spoke with OSU Provost Dr. Carolina Dykes and the Dean of the College of Liberal Arts Dr. Sean Ignatuk. They agreed that DeNolf was to be fired and that Dean Ignatuk, OSU's legendary undergraduate moot court coach, would do the firing. On May 29, 2023, Dean Ignatuk, whose office had to bring in extra staff from a different office to handle all the complaints about DeNolf, met with and informed DeNolf that his contract would not be renewed – thus firing him. Dean Ignatuk did so after keeping DeNolf waiting in his outside office for 45 minutes. The non-renewal, which was opposed by Professor Bronner, was announced on OSU's website. President Zambrano contacted all donors, parents of current students, and alumni to inform them of OSU's actions and to apologize for any pain that they may have been subject to or any offense that they had taken.

(C)

Action of the District Court

DeNolf filed suit in federal district court claiming that Respondent violated his First Amendment rights when it fired him for complaints he made about the admissions policy. After a jury trial, the Honorable Daryl R. Fair entered judgment in favor of the Respondent.

III.

First Amendment Analysis

The issue before this Court is whether OSU violated DeNolf's right to freedom of expression under the First Amendment to the United States Constitution when it fired him. A threshold issue implicit in DeNolf's claim is the assertion that *Garcetti v. Ceballos*, 547 U.S. 410 (2006) does not apply to speech made pursuant to academic freedom. This is the first case in this Circuit to pose this issue. This Circuit is not, however, the first circuit to address this matter. We hold today that *Garcetti* does apply and that OSU did not violate the First Amendment.

Our analysis begins with *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968).¹

In that case, the Supreme Court held that speech about public matters—even by public employees—is presumed to be protected by the First Amendment unless it is potentially harmful or injurious to the efficiency of public work. *Id.* at 568. This reflects the fact that speech about matters of a public concern “occupies ‘the highest rung of the hierarchy [sic] of First Amendment values.’” *Connick v. Myers*, 461 U.S. 138, 145 (1983) (internal citation omitted). In *Connick*, the Court defined such matters as those that can “be fairly considered as relating to any matter of political, social, or other concern to the community.” *Id.* at 146. The fact that speech concerns a public issue does not automatically insulate it from disciplinary actions. *Rankin v. McPherson*, 483 U.S. 378, 388–92 (1987). A key factor in deciding free expression cases involving employee dismissals is determining the extent to which the comments address public concerns and the extent to which the general public was exposed to the speech in question. *Id.* at 389. Considerable deference is owed to employers in such case. Taken together, *Pickering* and *Connick*, protect speech where: (1) the speaker is speaking as a private person, (2) the speech relates to a matter of public concern, and (3) the speaker's interests outweigh those of the state. In essence, this approach instructs courts to determine where the speech occurred—namely, did it occur in the workplace—and whether it concerned a subject matter relevant to the employee's employment. *Garcetti*, 547 U.S. 410, 420–21 (2006). *Garcetti* clarified that the First Amendment does not protect speech about public issues that is made pursuant to a public employee's official duties. *Id.* at 421. This clarification relating to whether the speech that gave way to the controversy in *Garcetti* was made pursuant to a public employee's official duties is the key to this analysis and to deciding subsequent cases, such as the one brought by DeNolf. DeNolf's case adds a wrinkle that distinguishes it from existing Supreme Court precedent—namely, that it implicates speech by an academic who claims that his speech is protected by the doctrine of

¹ We note this case is one of *public employee* speech. Accordingly, the familiar *Pickering* standard (and progeny) applies. We do not consider heightened scrutiny (such as strict scrutiny), which is applicable only for non-employee public forum political speech (a situation not before us on the Record, and which was neither argued at the lower court, nor to this Court, thereby waiving such an argument on appeal). Thus, arguments calling for the application of strict scrutiny are not preserved and are not before this court.

academic freedom. *Garcetti* did not reach on matters related to academic freedom and in fact explicitly left that issue unresolved. *Id.* at 425.

Several of our sister circuits have decided similar cases. We are guided by their decisions. The Seventh Circuit has held that *Garcetti* applies to a number of scenarios. Most on point is *Renken v. Gregory*, 541 F.3d 769 (7th Cir. 2008) (applying *Garcetti* to a dispute arising from a university professor’s claim that his employer, the University of Wisconsin-Milwaukee, had retaliated against him after he criticized the university itself). In its decision, the Seventh Circuit found that *Garcetti* applied because “Renken made his complaints regarding the University’s use of NSF funds pursuant to his official duties as a University professor.” *Id.*, 541 F.3d at 775. The Second Circuit has arrived at a similar conclusion vis-à-vis whether *Garcetti* applies to teachers. See *Weintraub v. Bd. of Educ.*, 593 F.3d 196, 198 (2d Cir. 2010) (holding that a public-school teacher’s filing of a grievance against school officials for lack of discipline in the classroom “was in furtherance of one of his core duties as a public-school teacher . . . and [thus] had no relevant analogue to citizen speech”). Of significance is *Gorum v. Sessoms*, 561 F.3d 179 (3d Cir. 2009). In *Gorum*, the Third Circuit did not reject the notion that *Garcetti* does not apply to academic freedom, *Id.* at 186, so much as it found that academic freedom does not protect speech of a personal nature. 561 F.3d at 186–87. See also *Heim v. Daniel*, 81 F.4th 212, 234 (2d Cir. 2023) (finding that while *Garcetti* does not attach to cases of academic freedom a university may still prevail under the balancing prescribed in *Pickering*). We find convincing the fact that compelled the Third Circuit to conclude that Gorum’s actions were not protected by the First Amendment—the expression was not “speech related to scholarship or teaching.” *Id.* at 186. This is analogous to the case at hand. We are persuaded that our colleagues in the Second, Third, and Seventh Circuits are correct inasmuch as *Garcetti* and/or *Pickering* can be applied to cases involving facts such as the present case – especially where job duties are “not required by, or included in, the employee’s job description, or in response to a request by the employer.” *Weintraub*, 593 F.3d at 203.

The judgment of the District Court is AFFIRMED.

Justice Fridman Dissenting

As I see it, the most applicable post-*Garcetti* circuit rulings are *Heim v. Daniel*, 81 F.4th 212 (2d Cir. 2023), *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014), and *Adams v. Trs. of the Univ. of N.C. Wilmington*, 640 F.3d 550 (4th Cir. 2011). *Heim* found that “*Garcetti* does not bind [the Second Circuit in academic freedom cases] In other words, *Garcetti* leaves undisturbed our own pre-*Garcetti* authority in cases involving scholarship and teaching by professors at public universities.” 81 F.4th at 226. In *Demers*, the Ninth Circuit held that “*Garcetti* does not apply to speech related to scholarship or teaching.” 746 F.3d at 406 (internal citation and quotations omitted). Instead, it found that “such speech is governed by *Pickering v. Bd. of Educ.*, 391 U.S.

563 (1968).” *Id.* The Fourth Circuit had arrived at the same conclusion in *Adams*, finding that “*Garcetti* would not apply in the academic context of a public university.” 640 F.3d at 560–64. *Adams* asked:

(1) whether the public employee was speaking as a citizen upon a matter of public concern or as an employee about a matter of personal interest; (2) whether the employee’s interest in speaking upon the matter of public concern outweighed the government’s interest in providing effective and efficient services to the public; and (3) whether the employee’s speech was a substantial factor in the employee’s [adverse employment] decision. *Id.* at 560–61 (internal citation omitted).

In my opinion, we should follow *Adams*. Such a path would compel us to rule in favor of DeNolf. The facts show that DeNolf spoke both online and face-to-face as a private person about important public issues that affected him directly and not in his official capacity as an employee of OSU. As such, his speech is protected under *Pickering*. The Court has long recognized that speech on matters of public concern can be protected even when uttered at a place of employment. *See, e.g., Connick v. Myers*, 461 U.S. 138 (1983) (speech by assistant district attorney); *Rankin v. McPherson*, 483 U.S. 378 (1987) (speech by employee at county constable office). When DeNolf spoke in his official capacity as a lecturer, he did so in a class setting that addressed a subject relevant to the broader subject matter and with the protection afforded by academic freedom—a freedom that is vital to our health and survival of our democracy. I am persuaded that approaches taken by the Fourth and Ninth Circuits approach to *Garcetti* should guide us.

DeNolf was dismissed despite the fact that his speech did not explicitly mention any OSU policy and it has a citizen’s analogue, thus it is distinguishable from *Connick* and *Garcetti*. If we allow employers to punish such speech with reckless abandon who is next, and on what basis will speech be repressed? I am confident that my colleagues on this court would not seek my impeachment or discipline for remarks in a dissent or in conference. But there are those in government and business who equate criticism with treason, and they will be emboldened if we allow society to take the wrong path. One need only consider movements on both the left and right to punish professors who may express views with which they disagree in class or online in their professional work to appreciate the threat that faces us today. It goes far beyond DeNolf and OSU.

The District Court should be reversed.

Appendix I

Imagine an Equal World (with apologies to John Lennon)

Imagine there's true equality
It's easy if you try
No glass ceilings
Above us only sky
Imagine a level playing field for all

Imagine there's no quotas
It isn't hard to do
Nothing to set aside for
And no targets too
Imagine all the people living life equally

You may say I'm a dreamer
But I'm not the only one
I hope someday you'll join us
And the world will be fair for all

Imagine achieving critical mass
I wonder if you can
No need for non-neutral programs
A fair world for all
Imagine all the people being treated equally

You may say I'm a dreamer
But I'm not the only one
I hope someday you'll join us
And the world will be fair for all

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