

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

PAUL HUNT,

Plaintiff,

vs.

CIVIL NO. 16-272 MCA/KK

BOARD OF REGENTS OF THE UNIVERSITY
OF NEW MEXICO; SCOTT CARROLL, M.D.,
in his individual and official capacities; JOHN DOE
AND JANE DOE MEMBERS OF THE COMMITTEE,
FOR STUDENT PROMOTION AND EVALUATION,
in their individual and official capacities; TERESA A.
VIGIL, M.D., in her individual and official capacities;
and PAUL ROTH, M.D., in his individual and official
capacities,

Defendants.

AFFIDAVIT OF PAUL HUNT (No. 1)

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

1. I am the Plaintiff in this lawsuit.
2. I am a medical student at the University of New Mexico School of Medicine (SOM).
3. In November, 2012, I was 24 years old. I was a full time student at SOM.
4. Following the United States presidential election in November, 2012, I posted on my personal Facebook account a statement which was critical of celebration of President Obama's re-election, critical of the Republican Party, and critical of abortion. *See Exhibit A.*
5. The Facebook post was not directed at any individual.
6. The Facebook post contained no references to the University of New Mexico, nor any references to SOM. I did not identify myself as a student at UNM or SOM.



7. The Facebook post contained no threats towards any person or organization.

8. On November 15, 2012, I was in my tutorial section for Genetics and Neoplasia, when a person from the Health Science Center's Registrar's office escorted me to the office of Eve Espey, MD. Dr. Espey was the Associate Dean of Students for SOM.

9. Dr. Espey handed me a printed copy of my Facebook post and demanded that I "explain this posting."

10. I began to say that I wanted people to understand how truly wrong abortion is.

11. Dr. Espey cut me off and threatened to suspend me "under [her] emergency powers as Dean of Students."

12. Dr. Espey then advised that she received three complaints from students who had apparently read the Facebook post, and provided copies of the post to her. She also advised that she had reported me to the Committee on Student Performance Enhancement (CSPE) as a second offender, based on a prior incident. The prior occurrence, which took place two months earlier, involved a discussion that began in an a clinical class. Specifically, I had voiced my opinion that the medical literature suggested that routine infant circumcisions were not medically necessary procedures. Following that class, I sent Dr. Stephanie Nevarez y Fernandez, M.D., my preceptor for Foundations of Clinical Practice who was teaching the class, an email to explain my opinion regarding circumcision. Dr. Nevarez y Fernandez apparently had been offended by my email. Dr. Espey invited me to discuss the issue and I sent a written apology, as requested by Dr. Espey, to Dr. Nevarez y Fernandez. At the time, Dr. Espey explicitly told me that I was "not in trouble," and that nothing official would be placed on my record regarding this incident. I was surprised that Dr. Espey intended to report me as a second offender to CSPE.

13. At the conclusion of my meeting with Dr. Espey regarding the Facebook post, she told me I would have to appear before CSPE. She said that CSPE might expel me from SOM, suspend me from SOM, order neuropsychological testing, or impose some other form of punishment because of the Facebook post. A copy of the letter dated November 15, 2014, indicating that CSPE was conducting an investigation into the Facebook post as a violation of both the UNM Respectful Campus Policy and UNMSOM's Social Media policy, that I would have to appear at a hearing, and that I should prepare a written statement, is attached hereto as **Exhibit B**.

14. Dr. Espey also cautioned me that if I appeared before CSPE and argued the first amendment (she referred to it as a "free speech angle") that "things will go very poorly" for me. Dr. Espey did not offer me any information regarding sources of support or assistance in dealing with CSPE. Rather, Dr. Espey told me she has "immense sway" in how CSPE makes its findings.

15. Deeply concerned by this event, I sought out Gregory Franchini, MD, a member of the SOM faculty, to ask for his guidance. Dr. Franchini told me that CSPE did not allow anyone to represent or accompany a student who was in a CSPE hearing – not a lawyer, not a faculty member, not a fellow student. He said I would have to appear by myself and I should consider writing a statement of apology that I could read at the hearing. I also consulted with Mr. Bradley Singer, then a third-year medical student, in his capacity as then Student Chairman of the Committee for the Advancement of Professionalisms and Ethics (CAPE). He advised me that the best course of action was to "throw [myself] on [my] sword," demonstrate remorse and apologize to avoid any severe repercussions. I was deeply concerned about the possible consequence of being expelled or suffering some other consequence that could affect my medical school education. As a result, I consulted with Dr. Espey, Dr. Franchini, and Mr. Singer in the

drafting of the statement I would read at the hearing. This appeared to be the best course of action to avoid being penalized in any way that would affect my ability to obtain a medical degree.

16. On November 20, 2012, I appeared before CSPE. While I was waiting, one of the administrative staff asked me, "I'm sorry, I'm just curious – is this where they decide whether or not you get to stay in school? I often see students leaving crying."

17. When I entered the conference room there were about twenty people seated around a large conference table. I recognized some as SOM faculty and some as SOM students.

18. I read the statement I had written acknowledging my "guilt" and asking CSPE for help to overcome my "deficiencies"

19. When I was finished, Victor Strasburger, M.D. began the questioning. He asked me, "how do you feel about Jews?"

20. I was not aware that I would have to defend myself against a charge of anti-semitism. I answered his question to the best of my ability, advising that I had no such prejudice.

21. Dr. Strasburger then asked me how I felt about African Americans. I again advised that I had no such prejudice. Thereafter, I was asked a series of questions related to my view on violence against doctors who perform abortions and other abortion-related subject matter.

22. My appearance before CSPE lasted about thirty to forty-five minutes.

23. On January 24, 2013, the Chairman of CSPE, Scott Carroll, M.D., notified me in writing that "the committee substantiated that your Facebook post was in fact unprofessional conduct due to violations of the UNM Respectful Campus Policy (2240) and the UNM School of Medicine Social Media Policy." A copy of that letter is attached hereto as **Exhibit C**. In sum the

letter states that instead of dismissing me from SOM, the committee was imposing “a professionalism enhancement prescription composed of two components: an ethics component and a professionalism component, each with its own mentor.” Specifically, the ethics component required that I meet with Cynthia Geppert, MD PhD for a period of two to four months, during which time I would be assigned readings and would ultimately be required to write a “reflective” paper on patient autonomy and tolerance. The letter indicated that the final product would be presented to CSPE, who would determine whether the paper satisfied this ethics requirement.

The professionalism requirement contained four parts and would be mentored by Tim Nelson, M.D. : 1) I was required to write a “reflective” paper on “public expression of political beliefs by physicians, which would be presented to CSPE for its approval in a three to six month time frame; 2) drafting of an apology letter to CSPE which had to be submitted within one month; 3) rewriting of the Facebook post “in a passionate but professionally appropriate way” which had to be submitted to CSPE in a six to eight month time frame; and 4) attend meetings on a monthly basis with Dr. Nelson for a period of one year.

24. In addition, the letter indicated that CSPE had voted to require notation of a professionalism violation in my Dean’s Recommendation Letter which is a mandatory part of residency training program applications, that I could petition its removal at some unspecified future date, and that if I had any more similar transgressions like the Facebook post, I would be in danger of being expelled from SOM.

25. After CSPE ordered me to undergo “professionalism enhancement training,” I met twelve times during the next twelve months with Timothy Nelson, M.D., who was assigned to be my “professionalism mentor.”

26. Dr. Nelson told me that any attempt to appeal the decision of CSPE would be fruitless.

27. I was instructed to meet with Sally Fortner, M.D., who would be another professionalism mentor. She told me it would look good to CSPE if I took her course, "Crucial Confrontations," so I took her class.

28. I was instructed to meet with Cynthia Geppert, M.D., PhD in her office at the Veterans Administration Hospital. She is an ethics advisor to SOM. She was assigned to be one of my ethics mentors. She told me it was of no importance to her if SOM had violated my constitutional rights. Instead, her focus was to teach me how to comport myself as a "professional."

29. In November, 2013 CSPE required me to re-write the Facebook post. I met with Dr. Nelson and Sheila Hickey, M.D. Dr. Hickey had succeeded Dr. Espey as Associate Dean of Students. They approved my re-write. CSPE rejected it. *See Exhibit D.*

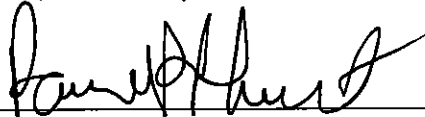
30. I re-wrote the re-write of the Facebook post, and on April 22, 2014, Dr. Carroll notified me that CSPE had accepted the re-write of the re-write. *See Exhibit E.*

31. On April 22, 2014, CSPE notified me that my professionalism enhancement prescription was completed.

32. The same day, Dr. Carroll emailed me and advised that I should not petition to have the notation of professionalism violation removed from my student file until I had completed Phase II of my medical education and was ready to be promoted to Phase III. A copy of that email is attached hereto as **Exhibit F**. I expect to be promoted to Phase III in September, 2017. Therefore, based on what I have been told by multiple faculty members (Dr. Carroll, Dr. Espey, Dr. Hickey, and Dr. Fortner) who advised me not to petition until Phase III is about to

begin, I plan to petition in August, 2017 and at the time ask that the notation be removed. I do not know what the criteria or standards are for removing the notation, because to the best of my knowledge the SOM and the University do not publish these standards anywhere.

Further, Affiant sayeth not.



PAUL HUNT

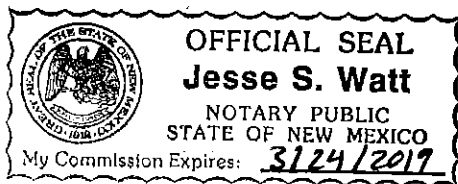
SUBSCRIBED AND SWORN to before me this 29th day of April, 2016,
by **PAUL HUNT**, who is personally known to me and/or made proper identification of himself to me with an appropriate government issued photo identification.

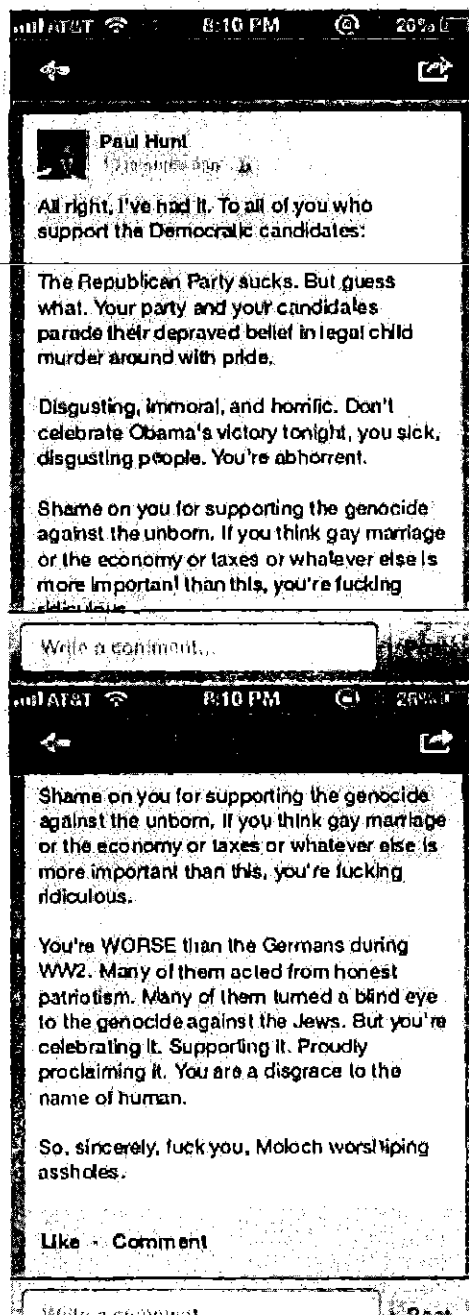
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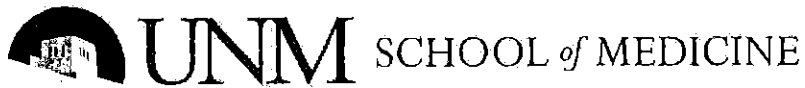


NOTARY PUBLIC

My commission expires: 3/24/2019







Committee for Student Promotion and Evaluation
Scott Carroll, MD, Chairperson

November 15, 2012

Paul Hunt
10816 Buckboard St NW
Albuquerque, NM 87114-5463

Dear Mr. Hunt,

Dr. Espy, the Dean of Students, has formally referred you to the Committee for Student Performance and Evaluation (CSPE) due to allegations of unprofessional conduct related to recent posts you made to Facebook regarding your opposition to abortion and the recent election results. While you have every right to your political and moral opinions and beliefs, there is still a professionalism standard that must be maintained as a member of the UNM medical school community. According to the UNM Respectful Campus Policy (2240):

Individuals at all levels are allowed to discuss issues of concern in an open and honest manner, without fear of reprisal or retaliation from individuals above or below them in the university's hierarchy. At the same time, the right to address issues of concern does not grant individuals license to make untrue allegations, unduly inflammatory statements or unduly personal attacks, or to harass others, to violate confidentiality requirements, or engage in other conduct that violates the law or the University policy.

The Respectful Campus Policy also applied to communication through social media outlets such as Facebook as stated in the UNMSOM Social Media Policy:

UNMSOM does not routinely monitor personal websites or social media outlets, however any issues that violate any established UNM Policy will be addressed. Violation of this or any UNM policy may result in disciplinary action, up to and including dismissal from UNM.

CSPE will be conducting an investigation into the allegations at its November 20th meeting at 3pm and we would like you to prepare a statement regarding the allegations and be prepared to answer questions from the committee members. Please notify the Office of Student Affairs by 5pm on Monday, November 19th if you are





Committee for Student Promotion and Evaluation
Scott Carroll, MD, Chairperson

unable to attend the meeting. Please see the attached copies of the Respectful Campus Policy and the Social Media Policy.

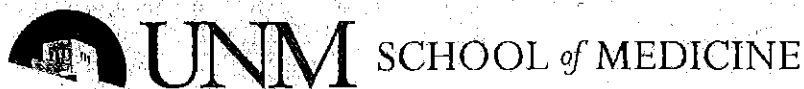
Sincerely,

A handwritten signature in black ink, appearing to read "Scott Carroll, MD". The signature is fluid and cursive, with a small "MD" at the end.

Scott Carroll, MD
Chair, CSPE

Cc: Student file

B2



Committee for Student Promotion and Evaluation
Scott Carroll, MD, Chairperson

January 24th, 2013

Paul Hunt
10816 Buckboard St. NW
Albuquerque, NM 87114-5463

Dear Mr. Hunt,

Thank you for attending the November 20th meeting of the Committee for Student Promotion and Evaluation (CSPE) to address allegations of unprofessional conduct related to your Facebook posts (see attached screen shots). After an extensive discussion, the committee substantiated that your Facebook post was in fact unprofessional conduct due to violations of the UNM Respectful Campus Policy (2240) and the UNM School of Medicine Social Media Policy.

However, instead of dismissing you from the school of medicine, the committee has chosen to impose a professionalism enhancement prescription composed of two components; an ethics component and a professionalism component, each with its own mentor.

The ethics component, which will focus on patient autonomy and the virtue of tolerance, will be mentored by Cynthia Geppert MD PhD. Dr. Geppert will assign readings and supervise a reflective writing assignment on patient autonomy and tolerance. The final product will be presented to CSPE in two to four months. CSPE will evaluate the final product to determine if it satisfies this component of your prescription. Please contact Dr. Geppert at cgeppert@salud.unm.edu as soon as possible to begin the prescription.

The professionalism component, which has four parts, will be mentored by Tim Nelson, MD. Part one is a reflective writing assignment on the public expression of political beliefs by physicians with final product presented to CSPE in a three to six month timeframe. Part two is an apology letter, due to CSPE in one month. You will then have the option of presenting the apology letter to your classmates, select individuals or no one as you chose. Part three is to rewrite your original Facebook post in a passionate, but professionally appropriate way with the final product due to CSPE in a six to eight month time frame. Finally, part four is to have ongoing meetings, at least monthly, with Dr. Nelson for the next 12 months. All written products will be submitted to CSPE within the specified windows at which time CSPE will determine if they satisfy this component of your prescription.

In addition, CSPE also voted to require notation of your professionalism violation in your Dean's Recommendation Letter provided to residency training programs. However, you may choose to petition CSPE to remove the notation at some point in the future. Also, please be aware that any





Committee for Student Promotion and Evaluation
Scott Carroll, MD, Chairperson

further professionalism lapses will result in referral to CSPE and may result in adverse action such as dismissal from the UNM School of Medicine. Further, if you fail to fulfill the ethics and professionalism requirements set forth in this letter, you may be subject to adverse action, including dismissal from the School of Medicine.

As noted in the UNMSOM Promotions and Due Process Policy, "If the student believes that the decision imposing corrective action (educational prescription) is fundamentally flawed, unfair or otherwise inappropriate, the student can request review by the Senior Associate Dean of Education (Dr. Craig Timm). The student shall present his or her reasons for disputing the action in writing. The Senior Associate Dean of Education may meet with the student and may discuss the matter with members of the CSPE and other faculty, as the Senior Associate Dean deems appropriate. The decision of the Senior Associate Dean of Education is final for the School of Medicine and for the University of New Mexico."

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Carroll, MD".

Scott Carroll, MD
Chair, CSPE

Cc: Student file

C2

To the supporters of Democratic candidates;

I have many disagreements with the Republican Party, and to be honest, I find some of their positions as ill-conceived and detrimental as the most ardent Democrat. However, I find myself disturbed in the defense of the party and the rejoicing in its victory tonight. This is, of course, because as one of its core positions, the Democratic Party supports the legality of the murder of children. This belief, by some, is worn with shame. However, too often, supporters of the Democrats parade their support of this particular issue as a high virtue. It is lauded with great pride.

This act of abortion, feticide, murder, pregnancy termination – whatever you wish to call it – is disgusting and immoral. Human beings at their most innocent and vulnerable are being killed. Many of you are celebrating President Obama's re-election with great joy because of his support for the continued legality of abortion, and frankly, this exuberant jubilation disgusts me. I have many friends who think that legal means have been exhausted, and that there is essentially no difference between Republicans and Democrats on this issue. Republicans use it to get votes, and the legality of abortion is firmly entrenched. I disagree, but I sympathize with this position and understand why someone would vote Democratic accordingly. However, every other issue, healthcare reform, marriage equality, the economy, or taxes, pales in comparison to the murder of 1.3 million human beings every year.

To those who support the Democratic Party specifically because of its position on abortion, I say to you, "Shame!" Many have stood by in history during genocide and other mass murders with tacit approval. Some have stood by in fear to speak up for their own lives and safety. Others participate and goad on. I urge those of you engaged in promoting and continuing this atrocity to reconsider your positions.



* 1st rewrite rejected

Paul Robert Hunt, MS1
10816 Buckboard Street NW
Albuquerque, NM 87114-5463
prhunt@salud.unm.edu
(505) 967-6714

To the Committee on Student Promotions and Evaluation,
Care of Dr. Scott Carroll, M.D.;

With the recent news of President Obama's victory in his re-election campaign, I find myself very disheartened. The democratic process is fundamental to our republic, but the rule of the majority does not always result in the most equitable outcomes. Sometimes, tremendous injustices can result from the choices and desires of voters. Injustices in healthcare access, war, and civil rights were among many issues that led Democratic voters to the polls, and I find myself in agreement with these causes. Despite having voted to the contrary, I understand why someone would choose to vote for President Obama on this basis.

However, support for a far greater injustice than any of these, abortion, is what led many Democratic voters to the polls on Election Day. It simply astounds me that people who otherwise support the preservation of human life by protecting it with the law, providing healthcare to the needy, and avoiding unnecessary wars, also support the legal ability of physicians to end the lives of the most innocent and vulnerable of their patients. Some Democratic voters oppose abortion, but voted for President Obama as the better option. A legitimate criticism from some of them that must be noted is that former Governor Romney's stance on the issue, having changed over the years, could very well be from political convenience rather than moral conviction. President Obama, however, voted multiple times in the Illinois State legislature against legal recognition for the rights of infants born alive during late-term abortions. For the entirety of his political career, he has consistently projected a moral stance where he favors the legal right to abortion as a necessary provision of comprehensive healthcare of women. For this reason specifically, many people went to the polls in support of him.

It is an immense tragedy that a man whose presidency will be remembered for providing access to healthcare to many Americans also supports permitting the healthcare system to directly and intentionally end the lives over one million unborn American children each year. It is also disheartening to see so many Americans jubilant over this victory specifically because it protects their legal right to abortion.

I describe myself as pro-life. More than simply opposing abortion, I oppose war, including recent and extant American military conflicts. I favor widespread access to healthcare with government support and funding. I favor government programs to provide life-sustaining food to the poor. I support compassionate policies to aid immigrants from other countries, documented or otherwise. I oppose the state-sanctioned execution of criminals, of whom a non-negligible percentage have been innocent of the crimes of which they have been accused. The government should protect the American people and preserve the life of its most vulnerable



citizens. To me, this includes not only undocumented immigrants, the indigent, and prisoners, but also the unborn.

Undoubtedly, a member of *Homo sapiens, in utero*, is a human organism. It is human life. All of us, from the mightiest political leader on the planet to the mostly lowly and powerless of us, went through this phase of development. All human life deserves to be protected. It is true that both sides in the debate are seeking greater social justice. One side wishes to empower women in various difficult circumstances to be free to make whatever choice they need to concerning their own health. One side wishes to protect the life of a vulnerable person. When an abortion is desired, the right of a woman to bodily autonomy directly clashes with the right of the human being inside of her to live. A portion of our population has chosen to believe that the right of a woman to make her own decisions about her body negates her child's right to live. I cannot accept this.

Pathos is one of the primary tools of classical rhetoric. Appeals to emotion, however, are a logical fallacy. Yet, I find, in almost any discussion, humans do not tend to base their decisions on pure reason. I myself am easily swayed by my emotions about a particular topic rather than cold philosophy. The moral philosophy of the abortion debate is a personal interest of mine, and I believe that it firmly falls on the side of protecting the life of the fetus. However, as our lives are immersed in tangible experiences, I do not believe that most people who support the legal right to abortion will or should be swayed by an argument that attempts only to use classical logic.

Hence, to those who support the Democratic party platform, please reconsider, remembering what causes you to support amnesty for undocumented Mexican immigrants to the United States, what causes you to support universal healthcare, what causes you to oppose American interventionism throughout the world, what causes you to oppose cutting Social Security or the Supplemental Nutrition Assistance program, and what causes you to oppose the death penalty. In all of these, completely compatible with Democratic values, there is a strong desire to respect the sanctity of human life and preserve it, even at a high cost. I believe this empathy for the downtrodden should also be granted to the unborn. If we can grant compassion to hungry Americans, to Americans who cannot afford physicians, to Mexican immigrants seeking a better life, and even to murderers on death row, then how can we not muster the compassion let our own most innocent children simply continue to exist?

This apparent contradiction causes me to have a heavy heart. For this empathy, my desire that all might live, a desire which drove me to medicine as a vocation, I cannot support the decision to re-elect a man who wishes to continue to permit the termination of the lives of more than 1.2 million unborn children every year.

