

IN THE COURT OF CLAIMS OF OHIO

ROBERT K. TAZUMA : Case No. 2002-10534-AD  
Plaintiff : MEMORANDUM DECISION  
v. :  
UNIVERSITY OF AKRON :  
Defendant :

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{¶1} On or about January 12, 2002, plaintiff, Robert K. Tazuma, applied for admission into graduate school at defendant, University of Akron. On his application form, plaintiff conveyed his intention to take courses in social work and/or psychology, but not pursue a graduate degree in either field. Defendant's Associate Dean of the Graduate School, Lathardus Goggins, sent plaintiff a letter on January 15, 2002 informing him of the following:

{¶2} "You have been granted SPECIAL NON-DEGREE admission to Social Work. Your admission has been limited to this category because you have indicated on your application that you do not plan to pursue a certificate or graduate degree at this time.

{¶3} "Should you want to enroll in a certificate or degree program you will have to reapply to the Graduate School and request official transcript(s) be sent to this office from the institution(s). You should consult with an advisor to determine whether or not courses taken as a SPECIAL NON-DEGREE student will apply to your degree."

{¶4} After receiving his acceptance into defendant's graduate school as a SPECIAL NON-DEGREE admission, plaintiff wanted to

enroll in two courses for the Spring 2002 semester. Plaintiff identified these courses as Health Care Planning and Policy and Organizational Behavior. The Health Care Planning and Policy course was offered through defendant's Social Work department. The Organizational Behavior class was offered through defendant's Psychology department. Plaintiff explained he was advised by an unidentified employee or employees at the University Registrar's office that it was necessary to first obtain permission from each department before he could complete enrollment in the two courses he wanted to take. It is unclear by what medium or method plaintiff was given this advisement regarding permission from the unidentified University Registrar staff.

{¶5} According to plaintiff, he went to the University's Social Work College and Psychology College and obtained permission to enroll in each class. Plaintiff related, subsequently he appeared at the University Registrar's office to fill out registration forms for both the Social Work course and the Psychology course. Plaintiff stated he filled out the registration forms and waited in line for his turn to complete the enrollment procedure by having his formal class registrations entered by defendant's registration computer entry employee. Plaintiff stated, "(w)hen it was my turn I gave the completed registration forms to the registration computer entry person." At some time during this in person registration process, plaintiff maintained he decided he did not want to enroll in the Psychology course. Therefore, plaintiff asserted he submitted registration paperwork for the Social Work class only to defendant's registration entry employee. Plaintiff declared when his registration was entered he was then given a class schedule (presumably for the Social Work course only) and arranged for tuition payment (presumably for the Social Work course only).

{¶6} Apparently, plaintiff reasoned he had enrolled in one class for the Spring 2002 semester, the Social Work course.

However, plaintiff professed he received a bill from the University regarding the Psychology class, a course he had never attended and believed he had not enrolled in. Plaintiff stated this bill for the Psychology class also contained a statement indicating plaintiff had withdrawn from the course. Upon receiving this information, plaintiff related he went to the University Registrar's office and insisted he had not withdrawn from the Psychology course. Plaintiff asserted he received notification from employees at the Registrar's office that a "tag" should be associated from a withdrawal record if an in person class withdrawal had occurred. Plaintiff stated a "tag" could not be found with the record of his withdrawal from the Psychology course. Plaintiff left the Registrar's office with the issues regarding withdrawal and tuition owed for the Psychology course unresolved.

{¶7} Plaintiff contended he neither enrolled nor withdrew from the Psychology course. Plaintiff has alleged it is established practice at defendant's University that course registration is conducted either in person by students at the University Registrar's office or on-line through the Internet. Plaintiff denied registering for the Psychology course either in person or by computer. Additionally, plaintiff opined he was withdrawn from the Psychology course by personnel in defendant's Psychology department. No evidence was offered to establish proof of plaintiff's opinion. Plaintiff asserted he was wrongfully billed for a percentage of the total tuition for the Psychology course. No evidence has been presented to show plaintiff ever tendered payment for the portion of tuition he was billed.

{¶8} After being billed for 30% of the Psychology course tuition, plaintiff requested a refund adjustment by filing a petition with the University's Fee Adjustment Appeals Committee (Committee). The Committee investigated plaintiff's claim by contacting the University's Psychology department to obtain information regarding plaintiff's enrollment in the Psychology

course. Karen Todaro, secretary to the University's Psychology department, was interviewed by the Committee. Todaro apparently related she does process student course registrations, but only pursuant to a student's request. The Committee found plaintiff had requested to be enrolled in the Psychology course and his request for registration was processed by Todaro on January 16, 2002. The Committee further found University departments "are able to register students into classes." Consequently, plaintiff was not required to register in person at the Registrar's office when he was already enrolled in a particular course by a specific University department. Furthermore, the Committee discovered records established plaintiff was withdrawn from the Psychology course on January 22, 2002. A record review showed the course withdrawal request was made in person. Based on this information the Committee decided plaintiff was responsible for 30% of the tuition cost for the Psychology course, \$692.20.

{¶9} Plaintiff persistently denied he enrolled in the Psychology course. Plaintiff asserted essential information regarding his registration in the Psychology course was never forwarded to him by any of defendant's personnel in the Psychology department. Plaintiff filed this complaint seeking to recover \$692.20, the amount of tuition expense it was determined he owed for late withdrawal from the Psychology course. It appears plaintiff has not paid any part of the tuition expense to defendant. Plaintiff did not offer any explanation or grounds to show how he is entitled to recover the damage amount claimed.

{¶10} Defendant asserted it followed proper procedure in regard to the circumstances of this particular claim. Defendant denied any of its personnel acted improperly concerning the course work registration process. Defendant denied any acts or omission of the University staff caused any damage to plaintiff. Defendant denied any liability in this matter.

{¶11} Defendant asserted plaintiff did register for the

Psychology course, Organization Theory (3750:54-001) on January 16, 2002 through the University's Psychology department. Defendant acknowledged course registration is usually done either by the student in person at the registrar's offices or on-line through the Internet. However, defendant declared particular University departments have the capacity to register students and this capacity was exercised in plaintiff's case on January 16, 2002. Defendant professed its records show plaintiff was registered for Organization Theory (3750:54-001) on January 16, 2002, by the University's Psychology department secretary, Karen Todaro.

{¶12} Defendant submitted a statement from Karen Todaro regarding her role in the present controversy. Todaro related the following:

{¶13} "Part of my responsibilities as department secretary is to register students for classes when requested to do so by the student. When asked, I immediately take the required information from the student and process the request at that time. When the scheduling has taken place, I acknowledge to the student that they have been scheduled for that particular class. Under no circumstances do I register a student for a class without their request to do so."

{¶14} This evidence suggests plaintiff did in fact request in person to be registered for Organization Theory. Furthermore, the statements of Todaro imply plaintiff was informed he had been registered for Organization Theory.

{¶15} Defendant related plaintiff was withdrawn from Organization Theory on January 22, 2002, six days after he was registered for the class. Pursuant to the University's withdrawal policy, plaintiff was financially responsible for 30% of the class tuition based on the date he was withdrawn from the course. Defendant stated "no written documentation is required to support any such withdrawal of students within the time period in which (plaintiff) was withdrawn." Defendant denied plaintiff was

withdrawn from the Organization Theory class because he did not attend any class sessions.

{¶16} When plaintiff subsequently appealed the 30% assessment for tuition to defendant's Fee Adjustment Appeals Committee, defendant denied the Committee violated any procedures in reviewing plaintiff's appeal. Defendant contended the Committee acted correctly, and consequently, plaintiff has no right to essentially pursue an appeal of the Committee's decision.

{¶17} Defendant filed a copy of a memorandum drafted by Assistant University Registrar, Wendy L. Welday, concerning plaintiff's registration situation. Welday related she sat on the Fee Adjustment Appeals Committee which heard plaintiff's appeal of the tuition assessment for the Organization Theory course. Additionally, Welday identified herself as the individual who performed research activities regarding plaintiff's fee appeal. She claimed University registration records show plaintiff was registered into Organizational Theory on January 16, 2002, by Karen Todaro in the University Psychology department. Also, Welday found through records that plaintiff was registered into Health Care Planning and Policy Issues on January 16, 2002 by Mary Lou Simon in the University's School of Social Work. University records established plaintiff was registered for two classes on January 16, 2002 by personnel in the Psychology department and Social Work department.

{¶18} Furthermore, Welday disputed plaintiff's contentions concerning his January 16, 2002 visit to the University Registrar's office and his references about registering for one class only. Welday explained since plaintiff was already registered for classes when he allegedly went to the Registrar's office, there was nothing for personnel at the Registration counter to process regarding course enrollment. Welday declared if an employee operator at the Registrar's office had attempted to register plaintiff for Organization Theory and/or Health Care Planning and Policy Issues,

"an error message would have appeared informing the operator that the courses already exist on the student's schedule." Consequently, Welday asserted the operator would have been able to inform plaintiff of a preexisting class schedule. Additionally, Welday proclaimed if plaintiff had appeared in person on January 16, 2002 to register for classes at the Registrar's office, then a record of an attempted registration would exist. According to Welday, there is no record in the system to show plaintiff attempted to register for classes on January 16, 2002.

{¶19} Finally, Welday disputed plaintiff's rendition concerning his withdrawal from the Organization Theory course. Welday professed University records established the Registrar's office operator processed plaintiff's withdrawal from Organization Theory on January 22, 2002, during the second week of classes. Because January 22, 2002 was prior to the 15<sup>th</sup> day of the school term, pursuant to internal policy students are not required to provide signatures to process withdrawal requests. Welday described the procedure by noting, "[s]tudents can simply walk up to the Registration operator with their photo ID, ask to be withdrawn, and their request is processed. Also Welday related "[n]o written documentation is kept on withdrawal requests until approving signatures are required."

{¶20} Welday indicated all information she had accumulated was forwarded to the Fee Adjustment Appeals Committee. The Committee determined sufficient evidence was produced to show plaintiff had requested both admission to and withdrawal from the Organization Theory course. After consideration, the Committee decided the 30% assessment for the class tuition was appropriate under the circumstances.

{¶21} Plaintiff filed a response insisting he was completely unaware he had been actually registered for classes when he went to the University Social Work and Psychology departments to seek what he believed was permission to register for course. Plaintiff

denied he was told he had been registered for courses while visiting the two departments. Plaintiff related he called the University Registrar's office on January 22, 2002 to inform the Registrar that he had not intended to enroll in the Organizational Theory course. It is plaintiff's belief he was then withdrawn from the course as a result of the January 22, 2002 phone call. Plaintiff reiterated he was never informed he had been registered for classes by defendant's personnel. Plaintiff reasserted it was never his intent to register for the Organizational Theory course. Plaintiff contended he expressed this intent by handing over registration paperwork for the Social Work course only.

{¶22} After reviewing all the facts of the present claim, the court concludes it has no jurisdiction over decisions of defendant's Fee Adjustment Appeals Committee. This court does not act as an appellate court regarding internal policy determinations regarding course enrollment and fee assessment. Furthermore, in light of the evaluation considered by the Committee, plaintiff is estopped from arguing the issue of whether or not he actually enrolled in the Organizational Theory class.

{¶23} Assuming under review it is subsequently determined jurisdiction exists to decide this claim on the merits, the court finds evidence exists to show plaintiff was validly registered in the Organization Theory course. Consequently, a binding contract existed between defendant and plaintiff with requisite intent proven.

{¶24} A trial court is required to defer to academic decisions of a college unless it perceives "\*\*\* such substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment. \*\*\*" *Bleicher v. Univ. of Cincinnati College of Medicine* (1992), 78 Ohio App. 3d 302, 308, quoting *Regents of the Univ. of Mich. v. Ewing* (1985), 474 U.S. 214, 225. "The standard of review is not merely whether the court would have decided the matter

differently but whether the faculty action was arbitrary and capricious." *Bleicher, supra*. See *Bd. of Curators of Univ. of Mo. v. Horowitz* (1978), 435 U.S. 78, 91. Plaintiff in the instant claim has failed to prove the determination of defendant's Fee Adjustment Appeals Committee was arbitrary or capricious.

{¶25} When a student enrolls in a university, pays tuition and attends classes, the relationship between the student and the university is contractual. *Behrend v. State* (1977), 55 Ohio App. 2d 135. Defendant's rules concerning payment and refund of tuition fees are incorporated into all contracts entered into between defendant, university, and students pursuing a course curriculum. In order to recover on a claim for any type of tuition reimbursement, plaintiff bears the burden of proof, by a preponderance of the evidence, to establish and set forth facts showing his entitlement to such recovery. *Carey v. Bowling Green State University* (1994), 93-14392-AD, unreported. Under the contract entered into between plaintiff and defendant, plaintiff was liable for 30% of the tuition cost based on his withdrawal date. Plaintiff has failed to prove a breach of contract occurred or alternatively no contract existed. Plaintiff has failed to prove he is entitled to any amount of tuition reimbursement claimed based first, but not entirely, on the fact he failed to tender any payment which represents he has not sustained any damages.

{¶26} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶27} IT IS ORDERED THAT:

{¶28} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶29} 2) Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk

Order cc:

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RDK/laa  
3/28  
Filed 4/9/03  
Sent to S.C. Reporter 4/29/03