

3 February 1978

FOR IMMEDIATE RELEASE

In a path-breaking decision with profound implications for all women, Magistrate Latimer decided that sexual harassment can be sex discrimination in education. His decision reads:

"It is perfectly reasonable to maintain that academic advancement conditioned upon submission to sexual demands constitutes sex discrimination in education...When a complaint of such an incident is made, university inaction then does assume significance, for on refusing to investigate, the institution may sensibly be held responsible for condoning or ratifying the employee's invidiously discriminatory conduct." (p.6)

No court has recognized this before. He also concluded that such a claim of discrimination can, at least in some circumstances, be presented directly to a federal court, without first having to complain to the overburdened Department of Health, Education and Welfare. He rejected Yale's contention that no university receiving federal funds could be held responsible for discrimination except by complaint to HEW.

In making these decisions, the judge excluded the claims of some of the plaintiffs. This is a common practice when cases raising new legal claims are first presented, as the courts try to work out how to treat novel claims. In this case, three plaintiffs were excluded because they were not direct victims of sexual harassment. One was excluded because they were not direct victims of sexual harassment. One was excluded because she has graduated, not because her complaint might not have been valid if she were still a student. One was excluded because the judge did not think that she had complained about her incident enough. In none of these cases did the judge make any decision on the facts of the claims.

These exclusions raise several questions. Are only direct victims hurt by a system that condones sexual harassment? Do women stop being hurt by Yale's inaction the moment they graduate?

Should a woman be required to complain to a nonexistent procedure before she can be allowed to complain about its nonexistence?

The plaintiff who satisfied the judge's criteria - a direct victim, still a student, who complained vigorously - exemplifies his definition of that injury of sexual harassment for which he is willing, as a matter of law, to hold the university responsible. Others might carry it further. But this first recognition that Yale University is responsible under federal law for its treatment of women who complain about sexual exploitation in education is little short of revolutionary.

Official Yale reports of this case contain misrepresentations of the judge's decision. The Yale Weekly Bulletin of Jan 23-30 states:

"The Magistrate did not reach a decision on the merits of the claim of the sixth plaintiff, and declined to rule at this time on Yale's position that the claim should be dismissed..."

A letter from President Gray to a member of the Grievance Committee and to parents who have inquired about the lawsuit repeated the erroneous statement. Magistrate Latimer specifically says:

"Plaintiff Price's complaint may not be dismissed on its face. (p.10)...For reasons stated above, the instant motion to dismiss is accordingly hereby granted as to plaintiffs Alexander, Olivarius, Reifler, Stone and Winkler, and denied as to plaintiff Price." (Emphasis ours)

Contrary to Yale's claims, the judge did make a decision on Yale's motion to dismiss the case of the sixth plaintiff.

On January 31, 1978 Judge Newman officially accepted Magistrate Latimer's opinion.