



July 26, 2024

Stuart R. Bell
Office of the President
University of Alabama
Box 870100
Tuscaloosa, Alabama 35487

Sent via U.S. Mail and Electronic Mail (president@ua.edu)

Dear President Bell:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by the University of Alabama's firing of instructor Jennifer Collins because of a Facebook post she made regarding the attempted assassination of former President and current presidential candidate Donald Trump. The First Amendment bars the university from punishing protected political expression—even that which some find inappropriate or controversial. Accordingly, we urge UA to promptly reinstate Collins to her teaching position.

Our concerns arise out of UA's response to posts Collins, an adjunct instructor in the College of Communications, made to Facebook about the attempted assassination of Trump, writing: "Someone is a really lousy shot because they not only missed his large ass but they missed AAALLL those people behind him too. Weird, huh? 🤔 Weird there was no blood until he grabbed his own face. Could he follow the assassination plan handbook any closer?? I think not."² Collins concluded the post with a parody of the song "Cell Block Tango" from the musical *Chicago*, writing "He had it coming, He had it comin,/He only had himself to blame.. If you'd

¹ For 25 years, the Foundation for Individual Rights and Expression (FIRE) has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our expanded mission and activities at thefire.org.

² *U. Alabama adjunct who said Trump 'had it coming' last weekend no longer employed*, THE COLLEGE FIX (July 22, 2024), <https://www.thecollegefix.com/u-alabama-adjunct-who-said-trump-had-it-coming-last-weekend-now-no-longer-employed/>. The recitation of facts here reflects our understanding of the pertinent information. We appreciate that you may have additional information to offer and invite you to share it with us.

have been there/If you'd have seen it/I betcha you would have done the same/Pop, six squish, uh-uh, trumpio,/dipshitz.”³

On July 20, conservative news website 1819 News published a screenshot of Collins’s post and identified her as an adjunct professor at UA.⁴ The next day, Alex House, associate director of communications and media relations at UA, told 1819 News Collins was a “former adjunct instructor and is not currently employed by the University.”⁵ The university did not explicitly say Collins was terminated in response to her Facebook post, but 1819 News reported she was removed from the university website following the initial report⁶ suggesting she remained employed by UA until then.

If the publicly reported facts are accurate, UA’s actions present grave constitutional concerns. It is well-established that the First Amendment constrains public universities from penalizing protected faculty expression,⁷ and equally well-established that it does not make a categorical exception for expression some deem offensive.⁸ This is, perhaps, especially true when expressing vitriol about public figures, including rhetorical hyperbole that may reference violence.⁹ In fact, the Supreme Court has made this point clear in a context quite similar to that in which Collins spoken.

In *Rankin v. McPherson*, a police department fired one of its employees who, after hearing that President Reagan had been shot, expressed contempt for his welfare policies by stating: “If they go for him again, I hope they get him.”¹⁰ The Court held the employee’s firing was unconstitutional, noting that whether listeners found her statement of “inappropriate or controversial character” was “irrelevant” to its constitutional protection.¹¹ This type of harsh

³ *Id.*

⁴ *Self-proclaimed University of Alabama adjunct professor lashes out over attempted Trump assassination — ‘He had it coming’*, 1819 NEWS (July 20, 2024), <https://1819news.com/news/item/self-proclaimed-university-of-alabama-adjunct-professor-lashes-out-over-attempted-trump-assassination-he-had-it-coming/>.

⁵ *Professor who made derogatory remarks on attempted Trump assassination no longer employed at University of Alabama*, 1819 NEWS (July 21, 2024), <https://1819news.com/news/item/professor-who-made-derogatory-remarks-on-attempted-trump-assassination-no-langer-employed-at-university-of-alabama/>.

⁶ *Id.*

⁷ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

⁸ See *Texas v. Johnson*, 491 U.S. 397, 414 (1989); see also *Cox v. Louisiana*, 379 U.S. 536, 557 (1965) (fears that “muttering” and “grumbling” white onlookers might resort to violence did not justify dispersal of civil rights marchers); *Cohen v. California*, 403 U.S. 15, 25 (1971); *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

⁹ *Watts v. United States*, 394 U.S. 705, 708 (1969) (draftee’s statement that “[i]f they ever make me carry a rifle the first man I want to get in my sights is L.B.J.” was First Amendment-protected rhetorical hyperbole).

¹⁰ 483 U.S. 378, 381 (1987).

¹¹ *Id.* at 387.

criticism is undoubtedly “core political speech,” where free speech protection is “at its zenith.”¹²

Collins’s post was no different from the police employee’s in *Rankin*. They both expressed disdain for a political figure in responding to an unsuccessful assassination attempt. While both statements may have been viewed as inappropriate, uncivil, and hateful, neither amounted to anything more than the use of unfortunate events to fashion hyperbole. As such, *Rankin* should inform UA in how to address this kind of situation—that is, it cannot licitly dismiss Collins for her controversial speech.

The First Amendment protects faculty when speaking as private citizens on matters of public concern.¹³ And that is exactly what Collins did. None of what she posted was within the scope of her employment duties as an adjunct professor; universities do not typically employ professors to use their personal social media accounts to give opinions on breaking political news.¹⁴ Likewise, the Trump assassination attempt is a paradigmatic example of a matter of broad public concern.¹⁵

Collins is not free from every consequence of her speech—including criticism by students, faculty, or the broader community. Criticism is a form of the “more speech” remedy that an institution obligated by law to uphold employee speech rights must necessarily prefer over censorship.¹⁶ However, the First Amendment limits the *types* of consequences that may be imposed, and who may impose them.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on August 9, confirming UA will reinstate Collins to her teaching position.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: James T. Dalton, Executive Vice President and Provost
Brian S. Butler, Dean of College of Communication and Information Sciences

¹² *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186-87 (1999) (quoting *Meyer v. Grant*, 488 U.S. 414 (1988)).

¹³ *Connick v. Myers*, 461 U.S. 138, 140 (1983).

¹⁴ *Lane v. Franks*, 573 U.S. 288, 240 (2014) (the “critical question” in determining whether speech was that of an employee or private citizen is “whether the speech at issue is itself ordinarily within the scope of an employee’s duties, not whether it merely concerns those duties.”).

¹⁵ *Snyder*, 562 U.S. at 453 (2011) (speech on a matter of public concern includes speech that “can be fairly considered as relating to any matter of political, social, or other concern to the community”).

¹⁶ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).