

Bruce Franklin case drags on

Settlement not in sight 13 years after prof's dismissal

By Paul Engstrom
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Like a stubborn wound that won't heal, the case of political activist H. Bruce Franklin — the only tenured professor ever fired from Stanford University — has lingered for 13 years.

It continues long after the anti-war clashes that sparked his termination in 1972 for allegedly inciting an illegal student sit-in on campus. It drags on even as bitter memories of the Vietnam War are fading.

And despite a court hearing scheduled for Thursday on Franklin's lawsuit against Stanford, a settlement still may be years away. The American Civil Liberties Union vows to take his case to the California Supreme Court if the 6th District Court of Appeal in San Jose upholds his dismissal.

At issue is whether the English professor, now 51 years old and teaching at Rutgers University in Newark, N.J., overstepped the bounds of academic freedom in January and February of 1971.

"What we're arguing is that there is an obligation on the part of Stanford to inform faculty that what they say at political rallies could result in their termination," said Margaret Crosby, a staff attorney with the ACLU of Northern California. "Bruce Franklin was singled out for punishment when in fact there was a very active anti-war movement throughout the entire community."



H. Bruce Franklin is seeking reinstatement at Stanford and unspecified damages in a suit scheduled for a hearing Thursday in the 6th District Court of Appeal. Picture was taken in 1972.

Dave Heilbron, a San Francisco attorney representing Stanford, counters that urging a crowd to perform an illegal act isn't constitutionally protected. "It seems pretty clear — and the university has said — that it is a violation of a faculty member's duty to incite students to disruption, which is prohibited by campus law."

"A university must be free to discipline the incitement of large-scale disruption," Heilbron added. "Otherwise, the university could not long survive as a

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Franklin's case still in court 13 years after dismissal

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center of unregimented thought."

Franklin gained notoriety in 1965 with a speech at Stanford in which he favored a blood drive for Vietnamese victims of U.S. bombings. He later participated in a number of marches and rallies, but it was two speeches he gave on campus six years later that prompted a faculty advisory board to recommend his dismissal on a 5-2 vote.

Immediately after one of the speeches — on Feb. 10, 1971 — students occupied the computer center at Stanford to protest the U.S. invasion of Laos. More than 100 riot police were called in. Demonstrators caused an estimated \$200 in damages.

Invasion plan charged

Franklin had charged that Stanford Research Institute was using the center to run a program called Gamut-H, which he said was a classified plan for the invasion of North Vietnam. University officials, however, maintained that Gamut-H was an unclassified

simulation that would enable the Marine Corps to evaluate its airlift capabilities.

In January 1978, Santa Clara County Superior Court Judge John Flaherty upheld Franklin's dismissal. His ruling was based in part on the so-called Brandenburg decision issued in 1969 by the U.S. Supreme Court, which said the Constitution does not protect a speech that incites lawless activity.

Flaherty sent the case back to Stanford for a second hearing because one of three speeches cited by the university as grounds for firing Franklin was not incitive, the judge ruled. On a 6-0 vote, the faculty advisory board again voted to recommend dismissal — a decision Flaherty upheld in March 1981, setting the stage for Thursday's hearing before a panel of three appellate judges.

Volumes of transcripts

So far, the case has generated 600 briefs and 40 volumes of transcripts with testimony from 111 witnesses.

According to Franklin, many in academia have rallied to his cause. However, the 65,000-member American Association of University Professors in Washington, D.C., which fights threats to academic freedom nationwide, isn't alarmed.

"We did not find that judgment (for dismissal) so substantively or procedurally flawed that it warranted an investigation," said Jordan Kurland, the association's associate general secretary. There were no "significant unresolved issues" in the case, he said.

Rutgers hired Franklin in 1975. It promoted him to distinguished rank four years ago and has honored the one-time factory worker, tugboat mate and lieutenant in the Strategic Air Command with several achievement awards. He has written or edited 14 books.

Suit asks reinstatement

Franklin, whose suit asks for reinstatement at Stanford and unspecified damages, claims the univer-

sity decided before the computer center sit-in to sack him, because of his outspokenness and admittedly socialist views. He also believes Stanford erred when it cited a clause in his tenure agreement — "manifest and substantial neglect of duty" — as the basis for firing him.

"I see this case as a whole pattern of repression that has led us to the situation in the mid-1980s where it has become difficult for people to take positions that contradict the prevailing ideology," he said last week from his home in Montclair, N.J.

But according to Heilbron, the university's attorney, "there is nothing whatever in the record to suggest that anybody decided to dismiss Mr. Franklin prior to the series of events that occurred."

"There is no way that the university intended to or did punish Mr. Franklin because of his political beliefs."