

# Ex-Stanford professor says court decision no surprise

By J.C. Griswold  
Times Tribune staff

Former Stanford University Professor H. Bruce Franklin, who was fired for his role in a 1971 anti-war demonstration and takeover of a campus computer center, said Monday he was not surprised the state Supreme Court refused to hear his appeal.

In an order made public Monday, the court unanimously denied

a hearing on Franklin's appeal of a lower-court ruling that upheld his firing. The high court allowed the decision to stand as a precedent for similar cases in California.

Franklin said he will talk with his lawyers this week and decide whether to appeal to the U.S. Supreme Court.

"I'm not ruling out the possibility for appealing it, but there is no sense of urgency in making my decision," said Franklin from his

home in New Jersey, where he is now teaching English literature at Rutgers University.

His lawyer, Margaret Crosby of the American Civil Liberties Union in San Francisco, said allowing the lower court's opinion to stand was an injustice.

"I think the appeals decision will have a chilling effect on California teachers," she said.

The lower court's ruling means that teachers do not share the

same rights to free speech as other citizens, Crosby said.

"The Court of Appeal took the opportunity to say that they didn't want teachers in sit-ins or participating in protests," she said. "The university should be a place for free political speech."

At a 1971 anti-Vietnam War rally, Franklin urged students to "shut down" the computer center, where a plan for an amphibious in-

vasion of Indochina was being tested.

After a vote, students occupied the center and pulled out some wires, but moved out when police arrived. Franklin did not enter the center but confronted a policeman and protested an order to break up a demonstration outside the building.

His firing, approved by a faculty committee and then Stanford President Donald Lyman, was the first

of a tenured professor in the university's history.

It was upheld Sept. 20 by the 6th District state Court of Appeal in San Jose, which said Franklin had engaged in "disruptive" conduct that was not protected by the constitutional right to freedom of speech.

"The constitutional freedom to speak does not license a teacher to

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Cobb  
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Times Tribune photo by Greg Webb

## SM County recommendation Grand jury says Hale should resign if sale damages credibility

By Steve Taylor  
and Cinde Chorness  
Times Tribune staff

San Mateo County Planning Director David Hale should be asked to resign if a recent controversy over a condominium sale impairs his effectiveness and credibility, the county grand jury recommended in an annual report issued Monday.

The watchdog panel also suggested a five-member appeals board be established to hear disputes between county building inspectors and unhappy builders, many of whom have complained recently about inspectors' actions.

These ideas are among 51 recommendations in the 1985 grand jury's final report.

The document touches upon various topics, ranging from the controversial Devil's Slide bypass to the idea that county libraries may be paying too much for new books. Hale became a subject of attention when he agreed to pay the city of San Francisco criminal charges for his condominium

second buyer for \$280,000.

The profit ultimately was returned to Hale, who used it to pay off a loan, according to the grand jury report.

News reports of the incident spawned some calls for Hale's ouster — particularly from Skyline and Coastside area landowners who are unhappy with Hale's strict enforcement of San Mateo County's planning regulations, which include condominium conversion rules.

Hale declined to quit, but both he and his boss, Environmental Management Director Paul Koenig, said Hale might quit later if the furor interfered with Hale's work.

While not judging Hale's actions in San Francisco, the Grand Jury questioned if news reports of the matter have made Hale ineffective.

It recommended that Hale's status "be reviewed continuously for a period of at least one year."

"If this review indicates that the credibility and/or effectiveness ... has been impaired by the reporting of the settlement, (Koenig) should reconsider his decision and request (Hale's) resignation," the report stated.

Koenig said Monday he believes



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substantially disrupt and interfere with the normal operations of his or her employer," said the opinion by Justice Nat Agliano.

"... Speech which results in disruption, which materially interferes with school activities, or impairs discipline, is not constitutionally protected against an employer's response."

Agliano said Franklin's advocacy of a shutdown of the computer center "was directed to and likely to incite immediate material disruption of the university's work."

He said Franklin's "loud, emotional disagreement" with a police order to disperse outside the center "could only serve to prolong the existing state of campus disorder."

In a separate opinion, Justice Harry Brauer said Franklin's conduct had been destructive to the university's role as a "marketplace of ideas" and had encouraged students to risk arrest.

"If that is protected speech, if a university is compelled to retain such a man in its employ, and retain him in the capacity of mentor, the Constitution of the United States is the instrument of its self-destruction," Brauer said.

ACLU lawyers Crosby and Alan Schlosser asked the state Supreme Court to grant a hearing and reverse the ruling.

They said freedom of speech protects even "disruptive" advocacy of civil disobedience by one who is speaking as a private citizen, outside the employer-employee relationship.

Franklin "was addressing a matter of intense national concern," they said. "He was speaking in areas of the Stanford campus appropriate for expression. He was speaking totally outside of the context of his duties as a faculty member."

Franklin said Monday that he is not the one who will suffer from the ruling.

"The ones who will suffer are those who will not have the opportunity to hear views that they normally don't hear," he said. "The type of speech that needs to be protected most in this country is that speech that challenges the people in power."

Franklin continues to be active politically, speaking and appearing at demonstrations against the arms race, opposing U.S. intervention in Central America and protesting apartheid in South Africa.

He said he does not regret making the 1971 speech.

"I wish I could have done more about Stanford's involvement in the Vietnam War," he said.

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