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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JEREMY SONNIER,

Plaintiff,

vs.

CIVIL ACTION NO. \_\_\_\_\_

DR. JOHN CRAIN, in his official capacity as Interim President of Southeastern Louisiana University, JIM McHODGKINS, individually and in his official capacity as Assistant Vice President for Student Affairs at Southeastern Louisiana University, THOMAS CARMICHAEL, individually and in his official capacity as Police Officer for University Police Department at Southeastern Louisiana University,

Defendants.

08-4800  
SECT B MAG 4

VERIFIED COMPLAINT

Comes now Plaintiff Jeremy Sonnier, by and through counsel, and for his cause of action against Defendants named herein, avers the following:

**INTRODUCTION**

1. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff Jeremy Sonnier brings this civil rights action, seeking injunctive relief, declaratory relief, and nominal damages against Defendants Dr. John Crain, in his official capacity as Interim President of Southeastern Louisiana University, Jim McHodgkins, individually and in his official capacity as Assistant Vice President for Student Affairs at Southeastern Louisiana University, and Officer Thomas Carmichael, individually and in his official capacity as Police Officer for University Police Department at Southeastern Louisiana University.

2. This action is premised on the United States Constitution and concerns the deprivation of Plaintiff's fundamental right to free speech and expression.

3. Defendants' actions have deprived and will continue to deprive Plaintiff of his fundamental right to free speech and expression as provided in the First and Fourteenth Amendments to the United States Constitution.

4. Each and every act of Defendants alleged herein was committed by Defendants named herein, and each and every act was committed under the color of state law and authority.

### **JURISDICTION AND VENUE**

5. Pursuant to 28 U.S.C. §§ 1331 and 1343, this Court has jurisdiction over Plaintiff's claims. Pursuant to 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction over Plaintiff's request for declaratory relief.

6. Pursuant to 28 U.S.C. § 1391(b), venue is proper in Eastern District of Louisiana, because all claims arise out of this district and Defendants reside in this district.

### **PLAINTIFF**

7. Plaintiff Jeremy Sonnier ("Sonnier") resides in Lafayette, Louisiana.

### **DEFENDANTS**

8. Defendant Dr. John Crain ("Crain") is Interim President of Southeastern Louisiana University ("SLU"). In his official capacity, Crain oversees all aspects of the university. This includes oversight of policies that regulate and control expression and other activities taking place on the SLU campus.

9. Defendant Jim McHodgkins ("McHodgkins") is Assistant Vice President for Student Affairs at SLU. In his official capacity, McHodgkins is responsible for regulating

expressive activities on the SLU campus, and approving any request to engage in expressive activity on the SLU campus.

10. Defendant Thomas Carmichael (“Officer Carmichael”) is a police officer with the University police department at SLU. In his official capacity, Officer Carmichael is charged with enforcing SLU regulations, including those regulations that pertain to expressive activities on the SLU campus.

## **STATEMENT OF FACTS**

### **Desired Speech of Sonnier**

11. Sonnier is a professing Christian and a traveling evangelist for his faith. As a tenet of his religion, Sonnier conveys his beliefs and convictions to others in public.

12. In sharing his faith, Sonnier often travels to public universities and speaks on sidewalks and other public ways on campus where he has access to college students. He has spoken to college students on hundreds of different campuses all over the country.

13. Sonnier’s message is one of hope and salvation that he believes his particular religion offers. He makes no attempt to solicit funds or membership to any organization. Sonnier only seeks an opportunity to share his beliefs about Christianity.

14. Sonnier has no intent to harass anyone, encourage violence, or to express himself in any way other than in a peaceful manner.

15. Sonnier tries to engage students in respectful conversation. He desires dialogue and rational discussion about the teachings and benefits of Christianity.

16. On some occasions, Sonnier likes to make use of signs and/or t-shirts in an effort to generate conversations.

17. Also, Sonnier frequently hands out religious pamphlets on college campuses as a means of communicating his Christian message.

### **Character and History of SLU Campus**

18. SLU is a state-funded public university located in Hammond, Louisiana.

19. SLU began in 1925, and started as a grass roots movement by the people of Hammond and surrounding areas who recognized a need for an institution of higher learning in order to further the educational, economic, and cultural development of southeast Louisiana.

20. Over the years, increasing enrollment has forced SLU to obtain more and more property in the City of Hammond. Today, SLU is Louisiana's third largest university, has an annual enrollment of approximately 15,000, and a sprawling campus that covers approximately 365 acres in the city.

21. The SLU campus blends in with the City of Hammond. Outside of a few sparse signs, there are no demarcations signifying where SLU ends and City of Hammond begins.

22. A city street, University Avenue, runs east/west and through the middle of the SLU campus, dividing the campus into a main area to the south and a north campus to the north of the street.

23. The main portion of the SLU campus is primarily bounded by city streets, University Avenue to the north, North General Pershing to the west, North Oak to the east, and West Dakota to the south. Some campus facilities sit just outside of these boundaries.

24. The North Campus of SLU, located due north of University Avenue, is also bounded by North Oak to the east.

25. Several privately-owned businesses and facilities, like Quik-Stop, Smoothie King, and a local Knights of Columbus, are located on University Avenue in the same area as the campus.

26. Privately-owned businesses and residences are also peppered along North Oak, North General Pershing and West Dakota streets on the sides opposite of the SLU campus.

27. The sidewalks situated on the perimeter of the SLU campus are indistinguishable from City of Hammond sidewalks.

28. The portion of University Avenue and sidewalks that lie outside of SLU campus are indistinguishable from the portion of University Avenue and adjoining sidewalks that lie within the bounds of SLU campus.

29. At SLU, there are no fences or barricades on the perimeter of the campus that prevent members of the general public from having access to the campus.

30. The SLU campus is open to the public at large and allows individuals not associated with the university to have free access on to the grounds.

31. SLU extends the same welcome to visitors as it does students, and attracts thousands of visitors every year.

32. SLU frequently hosts events open to the public and involve the surrounding community, like football games at Strawberry Stadium, concerts and basketball games at University Center, baseball games at Alumni Field, Fanfare celebration of the arts and humanities, events at Community Music School, and programs through the Family Enrichment Center.

33. Visitors are also free to avail themselves of many of the facilities found on the SLU campus, such as University Center, War Memorial Student Union, Sims Memorial Library, and North Oak Park Recreation Complex.

34. The SLU campus contains many open accessible areas on the grounds, consisting of sidewalks, park areas with benches and tables, grassy knolls, pedestrian malls, and other public ways. It is common for individuals not affiliated with SLU to come onto the grounds for various reasons, including walking, jogging, and picnicking.

35. The open accessible spaces on the grounds of the SLU campus are suitable for expression and the exchange of ideas.

36. Historically, SLU has not imposed any restrictions on the expression of outside speakers in the open areas of the campus. Since the inception of SLU, up and until 2004, the most the administration ever required was for outside speakers to advise of their presence immediately before they engaged in expressive activity.

### **SLU Speech Policy**

37. On January 5, 2004, SLU promulgated a policy regulating the expression of outside speakers, entitled University Policy on Public Speech, Assembly and Demonstrations (hereinafter referred to as “speech policy”).

38. The speech policy is still in place today at SLU and reads as follows:

#### **UNIVERSITY POLICY ON PUBLIC SPEECH, ASSEMBLY AND DEMONSTRATIONS**

Southeastern Louisiana University recognizes that freedom of speech and assembly are basic and essential to both intellectual and social development. These freedoms, guaranteed by the First and Fourteenth Amendments to the United States Constitution, shall be enjoyed by the university community at

Southeastern. Free discussion of ideas of either controversial or non-controversial nature shall not be curtailed.

These freedoms, however, are not absolute. Colleges and universities have well-established rights to regulate time, place, and manner so that activities do not intrude upon or interfere with the academic programs and administrative processes of the university. The university may designate one or more areas on campus where individuals may assemble and engage in speech activities. All speech and assembly activities must be conducted in accordance with university regulations.

### **TIME**

In accordance with US Federal Court decisions, the University has the right to regulate the time of speech or assembly activities. A two (2) hour time period will be provided to individual(s) and/or organizations for these purposes at Southeastern. Speech/assembly activities will be limited to one two hour time limit per seven-day period, commencing the Monday of each week.

### **PLACE**

The university has designated the following sites for public discussion and/or peaceful public assembly or demonstration: (1) the steps in front of the Student Union Annex and the grassy area immediately in front of the steps and bounded by the sidewalk; (2) the grassy area in front of the Claude B. Pennington, Jr. Student Activity Center; (3) Presidential Plaza area north of the Student Union, as areas where public speech and assemblies may be conducted by students without prior administrative approval. Individual(s) or organizations wishing to use such areas will be required to register the public speech or assembly a minimum of seven (7) days in advance through the office of Assistant Vice President of Student Affairs.

Public assembly, discussion or demonstration shall not disturb or interfere with any program, event, or activity approved prior to the public assembly, discussion or demonstration; shall not unreasonably disturb or interfere with normal operations and activities of the university; and will not be scheduled during other major events already scheduled on campus. Use of the area shall not include activities which could constitute non-permissible solicitation or which would be an infraction of the university sign policy in regards to indiscriminately handing out materials to passers-by.

### **MANNER**

1. Any individual(s) or organization may publicly assemble or demonstrate in a peaceful manner after attaining the permission of the Assistant Vice President of Student Affairs or his or her designee.

1. An application to assemble publicly or demonstrate must be made seven (7) days in advance on a form provided by the Assistant Vice President of Student Affairs and shall contain:

(a) the applicant's name, address, phone number, social security number and date of birth;

(b) the proposed location, date and time for the assembly or demonstration;

(c) the anticipated number of participants; including a list of authorized representatives of the organization who will be present along with their addresses, phone numbers, dates of birth, social security number and their purpose for being there, i.e. speaking, helping with set-up, etc. (ID cards will be provided to these individuals);

(d) the purpose of the assembly or demonstration;

(e) the signature of the applicant or, if an organization, its authorized representative.

3. The Assistant Vice President of Student Affairs shall approve an application properly made under section 2 unless there are reasonable grounds to believe that:

(a) the applicant is under a disciplinary penalty prohibiting publicly assembling or demonstrating;

(b) the proposed location is unavailable or inappropriate at the time requested;

(c) the proposed date and time are unreasonable;

(d) the assembly or demonstration would unreasonably obstruct pedestrian or vehicular traffic;

(e) the speech will constitute a clear and present danger to the institution's orderly operation, to students, faculty or staff, or property, through advocacy of immediate action.

4. The manner approved for the public assembly or demonstration will include but is not limited to the following conditions.

(a) Individual(s) or organizations will be restricted to the place described in the registration and are not allowed to leave that area to conduct their assembly.

(b) No harmful acts, destruction or defacement of property, or physical assaults of persons will be allowed. This includes threats and/or intimidation aimed at particular individuals and creating in them a realistic fear for their personal safety or the security of their property.

(c) No use of amplification devices is allowed.

(d) The speech may not be projected onto private areas, such as resident hall rooms or classrooms and thereby creating captive audiences who cannot guard their privacy by avoiding the speech.

## **FEES**

The freedom of ideas is limited only by certain practical constraints, necessitated by such considerations as securing the safety of person and property and the need to prevent disruption of the learning environment. The use of Southeastern Louisiana University Administration staff; University Police, city of Hammond Police, Tangipahoa Sheriffs Deputies, Louisiana State Police, or a private security



company in connection with the event is at the sole discretion of the University in determining both the need for, and the strength of the security detail. The sponsoring individual(s) or organization is responsible for the cost of this security beyond that normally provided by the University, specifically those administrators/officers who must be assigned directly to the event and/or away from their normal operational duties.

A breakdown on these fees will be provided to the individual(s) or organization prior to the event's approval. These fees must be paid in advance to Southeastern's Controller's Office and a receipt must be presented to the Assistant Vice President of Student Affairs prior to the day of the event.

### **SANCTIONS**

Individuals and/or organizations who fail to follow these policies and procedures may be subject to penalties, which may include banishment from campus, payment of damages, fines, etc. Violators will be referred to Judicial Affairs for adjudication.

### **NON-ENDORSEMENT/NON-GUARANTEE**

All views expressed by any individual or organization are those of the speaker and not, necessarily, of Southeastern Louisiana University. References made to any products and/or services are not guaranteed by the University.

### **VIDEO/AUDIO TAPING**

Southeastern reserves the right to video and/or audio tape any public speech, assembly, or demonstration held on its campus or at any of its satellite sites.

39. Per the speech policy, SLU has designated certain spots that they deem to be particularly appropriate for expression on the campus, namely, the steps in front of the Student Union Annex in a grassy area mainly in front of the steps bounded by the sidewalk, the grassy area in front of the Claude B. Pinkton, Jr. Student Activities Center, and the Presidential Plaza area north of the Student Union. In these areas, individuals unaffiliated with the university enjoy the same freedom to speak as individuals affiliated with the university.

### **Incident on November 19, 2007**

40. On November 19, 2007, Sonnier, along with a few friends, visited SLU campus for the specific purpose of expressing his Christian message to students.

41. Sonnier wished to speak in any open area of the campus of SLU where students could be found, including:

- Perimeter sidewalk next to North General Pershing;
- Perimeter sidewalk next to North Oak;
- Perimeter sidewalk next to West Dakota;
- Sidewalks surrounding University Center (basketball arena);
- Sidewalks surrounding Alumni Field (baseball stadium);
- Sidewalks surrounding Strawberry Stadium (football stadium);
- Park area south of Student Union; and
- Presidential Plaza (pedestrian mall) north of Student Union.

42. Initially, Sonnier positioned himself in the Presidential Plaza area, one of the very areas designated by SLU for speech purposes. He held up a sign and tried to speak to some of the students in the vicinity.

43. Soon thereafter, Sonnier was approached by Officer Carmichael with the SLU police department.

44. Officer Carmichael proclaimed: “We have a free speech alley most anyone [can] come and say whatever they want...”

45. Sonnier asked about where he could find this “free speech alley,” but Officer Carmichael informed that he must first clear his speech through McHodgkins, the Vice President of the Division of Student Affairs.

46. Sonnier inquired about what would happen if he continued with his speech. To which, Officer Carmichael responded that he would be considered “disruptive.”

47. Being perplexed by the charge of disruption, Sonnier asked the officer: “Are there classrooms right here that are being disrupted?” Without answering the question, Officer Carmichael commented: “Well, we have complaints.”

48. Officer Carmichael demanded Sonnier produce identification and follow university procedures.

49. Sonnier and Officer Carmichael discussed the prospect of him going to see McHodgkins while others in his group stayed behind. Officer Carmichael indicated that the others could stay as long as they refrained from speaking.

50. Officer Carmichael requested the identification of Sonnier’s friends.

51. Officer Carmichael informed that McHodgkins was on a lunch break, but reiterated that that Sonnier and his friends must discontinue all expressive activity until permission was obtained.

52. Sonnier sought clarification of this order: “Are we going to be arrested if we don’t stop doing...this activity right here?” And Officer Carmichael confirmed that they would be arrested: “If it comes to that, I will; yes. But it will be not for the activity; it will be for disrupting student education at an educational institution.”

53. Sonnier wondered out loud: “How is standing here with a sign disrupting education? They can’t hear the sign.” Officer Carmichael replied that he is not going to argue about it.

54. Sonnier and his friends laid down their signs.

55. While Officer Carmichael continued to obtain identification of Sonnier’s friends, a few students stopped and observed the interaction. Sonnier engaged one of those students in a conversation.

56. Sonnier and the student began to debate a theological point, and Officer Carmichael interrupted: “Alright, this is not a classroom. This is turning in...It’s a demonstration. And we’re not going to permit the demonstration without us having that written permission, okay?”

57. Sonnier pointed out that they were just having a conversation, but to no avail. Officer Carmichael instructed that they would do all their talking in McHodgkins’ office.

58. Sonnier was very concerned about the officer mischaracterizing his speech. He asked: “So, we’re breaking the law by standing here talking to people?” Officer Carmichael remarked: “I have a right to bar you from the university if I choose to ... it’s ... you’re being disruptive. Now, I’m trying to, you know, handle this... .”

59. Sonnier stressed again: “We’re not disrupting anything.” But Officer Carmichael disagreed with that assessment: “You are because there are people here who are not agreeing with you ....”

60. Officer Carmichael ordered Sonnier to go to McHodgkin's office. Sonnier was willing to go, but he wanted to know the breadth of the restriction imposed on him. Out of all his travels to different universities, he had never encountered anything like this before.

61. Sonnier queried: "So, what if we stand here on the sidewalk of a public university? Are you saying we'll be arrested if we continue to stand here?" Officer Carmichael answered: "You may very well be. You're in violation of a Louisiana statute at this point. So, that's what I'm trying to avoid. You either be with me or be against me."

62. Sonnier responded that he was for free speech. Officer Carmichael interjected: "Well, I think most of us are for free speech. But, when your speech becomes offensive to other people, then it becomes a problem."

63. At that point, Sonnier was escorted to McHodgkins' office.

64. Following introductions, McHodgkins backed Officer Carmichael's actions and informed Sonnier about the speech policy.

65. McHodgkins further informed Sonnier that he would not be able to obtain permission to speak on campus that day.

66. Upon confirming that he would not be allowed to speak anywhere on campus that day, Sonnier and his friends left the SLU campus.

67. Sonnier wanted to go back to an open area of the campus and continue dialoguing with students, but he refrained for fear of arrest.

68. Sonnier would have gladly spoken in any open area on the SLU campus had he been allowed to do so, whether it be the Presidential Plaza, the park area south of Student Union, one of the perimeter sidewalks around the campus, or one of the sidewalks surrounding the

athletic facilities. But Sonnier refrained from engaging in any form of expression, even conversation, in any of these areas, for fear of arrest.

### **Impact of SLU's Speech Policy**

69. In the body of the speech policy, SLU recognizes that the freedom of speech is essential to the purpose of the university. And, for that reason, affirmatively provides for the protection of expression, even if deemed controversial.

70. SLU further recognizes that any regulation on speech would have to be limited to "time, place, and manner," and only to assure "that activities do not intrude upon or interfere with the academic processes of the university."

71. Despite SLU's express recognition of free speech rights, and their limited capacity to curtail them, SLU, with the speech policy, proceeds to place severe restrictions on expression that have no bearing on intruding on or interfering with academic programs or administrative processes.

72. SLU's speech policy serves to chill and deter Sonnier's expression. Many of the provisions adversely affect his speech.

73. SLU requires any outside individual speaker to obtain permission to engage in any form of expression. Sonnier objects to this requirement as being unduly burdensome and on religious grounds. It is repugnant to Sonnier that he, as an individual citizen, must obtain governmental permission to talk to a student about his Christian faith.

74. SLU imposes a two-hour time period on the expression irrespective of existence of any conflict with use of the area sought. This limitation serves to defeat Sonnier's expressive purpose because he requires more than two hours to adequately convey his message. When he

goes to college campuses, he typically stays from four to six hours on a given day, which gives him the necessary time to generate interest in his message and carry on meaningful dialogue.

75. SLU only allows a speaker to speak once during a seven-day period irrespective of existence of a conflict of use of the area sought. This requirement impacts Sonnier's expression because his message often entails follow-up on the next day. Sonnier likes to start a conversation and then pick back up the next day after a person has had time to ponder his comments and read his information. Also, practically speaking, Sonnier desires to spend at least two or three days on any college campus, including SLU.

76. SLU requires any individual speaker to supply seven-day advance notice of their expression. This affects Sonnier's message because he does not necessarily know where he will be seven days in advance. Weather could dictate him needing another day. Also, Sonnier often likes to speak to the issues of the day which require the ability to be spontaneous. This requirement eliminates all spontaneous speech.

77. SLU limits where on campus a speaker can speak to three specific places on the campus. There are many other open areas on the SLU campus where Sonnier would like to speak. He basically wants to share his message in any open area where students can be found, such as the perimeter sidewalks, sidewalks around the sports facilities, and park area south of Student Union, but he is prevented from speaking in all of these public places under any circumstances.

78. SLU requires that any outside speaker provide his name, address, phone number, social security number and date of birth. SLU further seeks information about the purpose of the speech. These requests deter Sonnier because he does not want to divulge his identity or personal information just to share his religious beliefs. He is particularly concerned about unnecessarily providing his social security number. And it is intimidating for him to describe the purpose of his speech to a governmental entity.

79. SLU also has a provision that allows it to levy fees on a speaker. Sonnier cannot afford to pay a fee for his speech.

80. For fear of arrest, Sonnier has not returned to the SLU campus for the purpose of expressing his viewpoints since his ouster in November of 2007. If not for the speech policy, and the actions of Defendants, Sonnier would return to SLU to share his message.

81. The fear of arrest severely limits Sonnier's constitutionally-protected expression on the open accessible grounds on the SLU campus.

82. The impact of chilling and deterring Sonnier from exercising his constitutional rights on public ways on the SLU campus constitutes irreparable harm to Sonnier.

83. Sonnier does not have an adequate remedy at law for the loss of his constitutional rights.

### **CAUSE OF ACTION**

84. SLU's speech policy on its face acts as an invalid prior restraint on speech, and is discriminatory as construed and applied to the individual speech of Sonnier, as it concerns his use of oral communication, signs, and literature distribution on the SLU campus. As such, the



policy is a violation of Sonnier' right to freedom of speech under the First and Fourteenth Amendments to the United States Constitution.


### **PRAYER FOR RELIEF**

WHEREFORE, Sonnier respectfully prays for relief in that this Court:

- A. Assume jurisdiction over this action;
- B. Enter a judgment and decree declaring that the speech policy of SLU, pertaining to speech of non-university speakers on open areas of public university, is unconstitutional on its face and as applied to Sonnier's expression because it violates his right of freedom to speech as guaranteed to Sonnier and others by the United States Constitution and operation of federal laws;
- C. Enter a preliminary and permanent injunction enjoining defendants, their agents, officials, servants, employees, and all persons in active concert or participation with them, or any of them, from applying the SLU speech policy so as to restrict constitutionally-protected speech of non-university speakers, including Sonnier, on open public areas on the SLU campus;
- D. Award Plaintiff Jeremy Sonnier an award of actual and/or nominal damages in an amount deemed appropriate by this Court;
- E. Grant to Plaintiff Jeremy Sonnier an award for his costs for litigation, including reasonable attorney's fees and expenses, pursuant to 42 U.S.C. § 1988; and
- F. Grant such other and further relief as appears to this Court to be equitable and just.

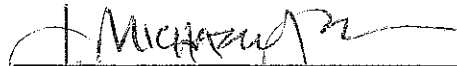
**VERIFICATION OF COMPLAINT**

I, Jeremy Sonnier, a citizen of the United States and a resident of Lafayette, Louisiana, hereby declare that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

  
\_\_\_\_\_  
JEREMY SONNIER

Respectfully submitted,

BY:



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