



By now, many are aware of the statements that ignited this controversy. Professor Ward Churchill is the author of an article called “‘Some People Push Back’: On the Justice of Roosting Chickens.” The article compares the civilians who died in the World Trade Center attacks to an infamous Nazi bureaucrat, Adolf Eichmann, one of the primary architects of the Holocaust. The article also commends the “gallant sacrifices” of the September 11 hijackers. In recent days, Churchill has followed up these statements by declaring that America “needs” more attacks like September 11. Unsurprisingly, these statements have caused a strong reaction. In response to the controversy, Churchill stepped down from his position as chair of CU-Boulder’s ethnic studies department. And on February 3, you issued a statement on behalf of the CU Board of Regents that stated: “Within the next 30 days, the Office of the Chancellor will launch and oversee a thorough examination of Professor Churchill’s writings, speeches, tape recordings and other works.”

In that statement, you wrote that CU will be asking two questions during this evaluation: “(1) Does Professor Churchill’s conduct, including his speech, provide any grounds for dismissal for cause, as described in the Regents’ Laws? And (2) if so, is this conduct or speech protected by the First Amendment against University action?”

While FIRE recognizes that there are allegations that Churchill has committed acts of academic fraud, we will deal primarily with the controversial political expression that has been at the center of this controversy. With regard to the accusations of wrongdoing unrelated to Churchill’s political expression, we wish only to note that Professor Churchill is entitled to due process and should be given sufficient notice and an opportunity to defend himself from these charges. We would further like to emphasize that accusations of unrelated wrongdoing should not be used as excuses to justify punishment of the professor for his political expression.

From a legal standpoint, there can be little doubt that even Churchill’s most controversial political statements are protected by the First Amendment. Supreme Court case law makes it quite clear that “[i]f there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U.S. 397 (1989). The Supreme Court has been unwavering in this stance and has protected many highly offensive forms of expression. In *Terminiello v. Chicago*, 337 U.S. 1 (1949), the Court reversed a disturbing-the-peace conviction of a notorious racist and anti-Semite. Justice Douglas wrote in that case that speech is protected even when its purpose is to “induce a condition of unrest, create dissatisfaction with conditions as they are, or even stir people to anger.” In another important civil rights case, *Gooding v. Wilson*, 405 U.S. 518 (1972), the Court reversed the conviction of a citizen who called a police officer a “white son of a bitch” and added, “I’ll kill you.” In



experienced the horrors of Nazism firsthand. But whatever contempt I may have for Professor Churchill's opinions, I believe it would be tragic if this incident were allowed to erode one of the most beautiful and fundamental principles of American society: free speech.

Thomas Jefferson once said, "Error of opinion may be tolerated where reason is left free to combat it." Professor Churchill's opinions regarding September 11 have been utterly rejected by the public at large, have caused public figures from across the political spectrum to unite in their outrage against him, and have led many of his own colleagues to condemn his statements. If he intended to generate sympathy for terrorists, the effect has been the opposite. We need not fear his words, and we must not allow our anger to cause us to betray our deepest moral and legal principles. Indeed, it is most important that at times like these we defend our fundamental liberties. Liberty faces a far greater threat from a rejection of the First Amendment than it does from the opinions of Ward Churchill.

The University of Colorado must respect Professor Churchill's constitutional rights—and the rights of all students and professors.

Sincerely,



Greg Lukianoff

Director of Legal and Public Advocacy

cc:

Todd Gleason, Dean of the College of Arts and Sciences, University of Colorado at Boulder