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Did San Jose State retaliate against professor who posed for photo with Native American skull?

Anthropologist Elizabeth Weiss claims SJSU cut off her access to remains



SAN JOSE, CALIFORNIA – OCTOBER 1: Elizabeth Weiss, a professor in the

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What started as a backlash against a San Jose State University professor after a controversial Twitter post could turn into a legal showdown over academic freedom.

Anthropologist Elizabeth Weiss, who last year was roundly lambasted for disrespecting indigenous people when she posted a picture of herself holding a Native American skull with bare hands, has hit back at what she dubbed “a woke activist mob.”

This week, Weiss filed a lawsuit against university officials alleging that they retaliated against her and restricted her access to skeletal remains.

But critics of the tenured professor say her conduct was arrogant and appalling and the university was right to take a stand against the mistreatment of their indigenous ancestors.

Weiss first raised ire in 2020 when she published a book arguing against repatriating remains, saying the practice favors religion at the expense of science. Then last September, Weiss sparked outrage when she [posted the picture](#) of herself holding the skull with the caption, “So happy to be back with some old friends.”

Since then, the lawsuit alleges, the school, facing intense pressure from tribal leaders and others, has “embarked upon a poorly disguised campaign of retaliation” and “publicly tarred (her) as a racist.”

“I just hope this filing will help to protect my freedom of speech and my academic freedom and also send a message that it’s not OK to basically try to stifle speech that you disagree with,” Weiss said in a phone interview.



According to the suit, filed Monday in U.S. District Court, SJSU denied Weiss access to a collection of skeletal remains she had been tasked with curating for more than 17 years, going so far as changing the locks. The school, she said, issued a directive putting access to the remains in the hands of a new tribal liaison and the university's Native American Graves Protection and Repatriation Act (NAGPRA) coordinator, who helps facilitate the return of remains. While it was couched as applying to everyone, Weiss alleges that it was implemented to keep her out.

That move, she said, has hurt her ability to do her research. She also said she was cast as a white supremacist by the chair of her department during a Zoom session allegedly entitled, "What to do when a tenured professor is branded a racist."

The university had no response Tuesday to the lawsuit, saying in a statement only that it "is aware of the filing and is currently reviewing" it.

But to Val Lopez, chairman of the Amah Mutsun Tribal Band and tribal liaison to the UC system, limiting Weiss' access to remains was a necessary and just move.

"The university has a responsibility to change their policies for fairness, for equality, for respect and dignity of people," Lopez said, "and for them not to take any steps at all would be absolutely wrong."

"She was impacting the relationship with tribes, their trust, and any future relationship that campus would have with indigenous people would be destroyed," he continued. "She should have recognized that."

Before the firestorm, Weiss said, she won a merit award in 2019 from the College of Social Sciences and was praised during her last performance review for her work as the collections coordinator. And, she said, the anthropology department's website contained photos of researchers holding skeletal remains not unlike the one she posted to Twitter.

Her views, which she readily admits are controversial, were "never an issue," she said, until publication of her book prompted hundreds of academics to sign a letter condemning its "racist ideology." And when she taught classes about repatriation, she said she offered multiple perspectives and assigned varied readings.



David Snyder, executive director of the First Amendment Coalition, said that if the university can argue that it was simply carrying out a viewpoint-neutral rule in denying her access to the collection of remains, a judge might find that there was nothing improper. But if Weiss can prove that she was harmed based on her political views, she “may well have a case.”

The First Amendment, Snyder said, “protects unpopular views” so that political majorities can’t silence unpopular minority viewpoints.

Weiss is asking the court to stop the school from enforcing the directive and restore her access to the remains.

“We will see what happens,” she said. “I hope to be able to continue my academic research both on bones ... and to continue to write about the problems of stifling research through repatriation.”

The past few months, she said, have been tough. Posters for a talk she gave were repeatedly torn down, and someone drew a unibrow, mustache and armpit hair on a photo of her. A sign posted to her door called for a “boycott.”

“I do think that the university has created a hostile work environment for me,” she said.

But for Lopez, the whole episode is a painful reminder that the “domination of indigenous people never ended, it just evolved.”

“She brought it on herself,” he said. “She didn’t learn about how to understand and work with indigenous people.”

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