

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 79-CI-0437

DR. JOSEPH MURRAY HAYSE

PLAINTIFF

VS.

INJUNCTION

FILED

JAN 15 1992

BOARD OF TRUSTEES OF THE
UNIVERSITY OF KENTUCKY and
DEAN JOHN B. STEPHENSON

DEFENDANTS

FRANKLIN CIRCUIT COURT
JANICE MARSHALL, CLERK

IT APPEARING that on November 9, 1989, the Supreme Court of Kentucky reversed the judgment heretofore entered in favor of the Defendant, Board of Trustees of the University of Kentucky with respect to the equitable relief sought by Plaintiff, Dr. Joseph Murray Hayes, with direction that such Defendant be enjoined to consider the application of Plaintiff for promotion to the rank of Associate Professor, with tenure, ab initio under the rules and regulations pertaining thereto at the time tenure was denied him,

AND IT FURTHER APPEARING that Plaintiff's complete dossier in support of his application for promotion to Associate Professor, with tenure, has been part of the record of this action since the completion of the trial in February, 1986,

IT IS HEREBY ORDERED AND ADJUDGED

1. That the Plaintiff's application for promotion and complete dossier original documents shall be removed from the record and furnished to Counsel for the Defendant, Board of Trustees of the University, to be used as the official file and dossier for an ab initio consideration of Plaintiff's application under the rules and regulations pertaining to the granting of

promotion to Associate Professor, and the granting of tenure, as they were duly enacted and in effect in 1978.

2. That said dossier shall include:

- a) The complete vita of Dr. Joseph Murray Hayes.
- b) the letter of recommendation from Dr. Robert O. Evans, then Director of the University Honors Program.
- c) all letters of recommendation from the faculty of the University Honors Program.
- d) all letters of evaluation from scholars outside the University of Kentucky who were familiar with Dr. Hayse's abilities.
- e) a letter of recommendation from the Honors Program Student Advisory Committee, with the teaching evaluation summaries provided by Dr. Evans and approved by Dean John B. Stephenson.
- f) all copies of annual Faculty Performance Reviews and Distribution of Effort Agreements for the years Dr. Hayse was employed as an Instructor and as an Assistant Professor in the University Honors Program, said Reviews and Agreements have been provided by Dr. Evans and approved by Dean Stephenson.
- g) copies of Dr. Hayse's scholarly work, as listed in the vita, including work in progress which was part of the dossier in 1977-78.

3. That the Clerk of this Court be, and she hereby is, authorized and directed to remove from the record the documents and exhibits mentioned in the preceding paragraph and furnish same to Counsel for Defendant, Board of Trustees; that the Clerk be, and she hereby is, directed to be caused to be placed in the record of this action a detailed itemization of the exhibits and documents furnished to Counsel for Defendant, Board of Trustees, signed by the Counsel to whom the documents and exhibits are furnished, and dated on the date when furnished;

4. That, in accordance with the University's Governing Regulations and Administrative Regulations, duly enacted and in effect in 1978, the following procedures shall be followed:

- a) the Dean of Undergraduate Studies shall review the file for completeness, add his endorsement or commentary, and send the file to the Vice-President for Academic Affairs.
- b) the Vice-President for Academic Affairs shall review the file for completeness and forward it to the Academic Area Advisory Committee on Humanities and Arts. The Vice-President shall also maintain the file and a record of all proceedings.
- c) The Area Advisory Committee shall review the dossier, evaluate the applicant's scholarly research (including the "work in progress") and report their findings to the Vice-President for Academic Affairs. If the Area Advisory Committee feels they lack sufficient expertise in Dr. Hayse's particular field, they may request the Vice-President to appoint an ad hoc committee of specialists to advise them. In such case, their report must include the opinion of the members of the ad hoc committee.
- d) Upon reviewing all the evidence and recommendations, the Vice-President shall add his recommendation and forward the file to the President of the University of Kentucky.
- e) The President shall make a recommendation to the Board of Trustees of the University of Kentucky.
- f) The Board of Trustees shall approve or disapprove the application.

That the ab initio consideration of the application of Dr. Hayse's for promotion to the rank of Associate Professor, with tenure, shall be carried out pursuant to the preceding procedures, except that David Durant, Chairman of the Department of English, shall undertake the responsibilities of the Dean of Undergraduate Studies, and that Robert Hemenway, Chancellor, Lexington Campus, shall undertake the responsibilities of the Vice-President for Academic Affairs.

It is understood that the members of the Area Advisory

Committee (Arts & Humanities) are, as follows:

Jeremy Popkin (Chairperson)	Bruce Eastwood
Daniel Breazeale	Joseph R. Jones
Oscar Dathorn	John Tuska (Alternate)

5. That no person who participated in the review process for the promotion to Associate Professor or the granting of tenure to the Plaintiff, Dr. Joseph Murray Hayse during the 1977-78 academic year, nor any person who has participated in any capacity in the ensuing civil action, shall take any part, or attempt in any way to influence, the Board of Trustees. Counsel for the Defendant, Board of Trustees, shall carry out the functions specified herein, but no more;

6. That all persons involved in the procedure shall be bound by the rules and regulations of the University pertaining to promotion to Associate Professor and the granting of tenure according to the rules in effect in 1978;

7. That Administrative Regulation II-1.0-1 IV shall be followed as the appropriate criteria for evaluation of Plaintiff's application for promotion to the rank of Associate Professor, with tenure, all persons charged with the review; that Administrative Regulation II-1.0-1 IV provided, as follows:

IV. Criteria of Evaluation for Faculty Appointment and Promotion

A. Areas of Activity

Four areas of activity are important in the evaluation of faculty for appointment and promotion: (1) teaching, including both formal classroom activities and informal influence on students' growth; (2) research and other creative productivity; (3) professional status and activity; and (4) University and public service.

Since all appointments and promotions will be made on the basis of merit, a detailed statement on each of these areas will

that Administrative Regulation II, C provided:

Whenever a recommendation to promote is disapproved at any level, this fact must be reported back to the preceding levels with supporting reasons and an opportunity provided for a thorough discussion of the recommendation among the concerned parties.

That by reason thereof, the Dean of Undergraduate Studies, the Vice President, members of the Area Review Committee, and any person serving on an ad hoc committee shall make their evaluations and recommendations in writing, stating the reasons for their judgment. These statements shall be made a part of the official dossier, and copies of them shall be furnished to attorneys for all parties; that Counsel for Defendant, Board of Trustees, is directed to cause to be filed in the record herein a true copy of each of such statements;

12. That the clerk be, and she hereby is, directed to forward an attested copy of this Order to attorneys for the Defendants:


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Gay M. Elste
Office of Legal Counsel
Room 2, Administration Building
University of Kentucky
Lexington, Kentucky 40506-0032

Chauncey s. R. Curtz
Debra H. Dawahare
Penny R. Warren
Wyatt, Tarrant, & Combs
Lexington Financial Center
Lexington, Kentucky 40507

and to attorney for Plaintiff:

William C. Jacobs
173 North Limestone Street
Lexington, Kentucky 40507

It is so ordered this 14 day of December, 1992.


JUDGE, FRANKLIN CIRCUIT COURT
ROGER L. CRITTENDEN