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Ph.D. case appealed to court

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In oral arguments presented to the Appellate Division of the New York State Supreme Court on Friday, lawyers for Constance Benson, a former graduate student in religion whose dissertation failed in oral defense in February 1992, appealed the dismissal of a 1994 February decision by a lower court, arguing that procedural irregularities unfairly caused the failure of the dissertation.

Benson, who is the daughter of Lutheran missionaries, began her dissertation on the writings of German theologian Ernst Troeltsch, who is widely considered the father of modern religious pluralism and liberal Protestantism.

The nature of her research changed, however, when Benson claimed she found documents proving Troeltsch to be an anti-Semite.

Benson filed her first claim of University misconduct in June with the New York Supreme Court, only to have her case dismissed on the long-standing precedent of courts granting schools academic autonomy.

In court on Friday, Benson's lawyer, Donald Bernstein, denied that his client was appealing the University's decision to fail the dissertation, but was contesting the procedure by which the University had reached that decision.

"We are not asking you to intervene in an academic pursuit, but in a procedural matter," Bernstein told the five-judge panel.

In his 15-minute argument, Bernstein pointed out what he said were two procedural irregularities.

The first issue Bernstein addressed was the composition of the six-person dissertation review committee, which he said violated the explicit instructions of former Dean of the Graduate School of Arts and Sciences Roger Bagnall.

In a brief filed earlier with the court, Bernstein wrote that the committee had originally been composed of two Columbia professors and three faculty members from the Union Theological Seminary (UTS). Bagnall, however, had asked that either UTS Professor of Chris-

tian Ethics Beverly Harrison or UTS Professor of Church History David Lotz be replaced with a Columbia professor so that the committee would have the mandated three Columbia faculty members for a proper dissertation committee.

Instead of complying with Bagnall's instruction and replacing either Harrison or Lotz, however, Bernstein claimed the committee appointed a third Columbia faculty member, University Professor Fritz Stern, an expert on late-19th century Germany, without replacing either UTS professor.

Because any dissertation defense committee must be approved by the dean, Bernstein said Benson's committee was illegitimate.

"The dean disapproved of the committee of six. It harmed my client. She now had a situation where the vote was 3-3," Bernstein said.

The committee voted 3-3 on Feb. 21, 1992, with half of the committee voting to fail the dissertation, and half voting for an incomplete, a passing grade in which Benson would have had one year to make substantial revisions.

Benson had earlier claimed that Stern and Lotz, who is an ordained Presbyterian minister, had lead the criticism of her dissertation, and were personally biased against her claim of Troeltsch's anti-Semitism.

The committee chair, Columbia Professor of Religion Wayne Proudfoot interpreted the tie vote as a fail, a decision Bagnall later confirmed.

Jack Auspitz, a representative from the University Office of General Counsel, on Friday defended the University's actions, adding that Stern was added to the committee so that Harrison could be retained at Benson's request.

Harrison was one of the three professors

who voted to grant Benson an incomplete.

Bernstein's second claim revolved around the what he termed the "arbitrary and capricious manner" in which Bagnall reviewed the committee's decision.

Bernstein said Bagnall handed down his decision to fail Benson after interviewing only one committee member, without reading Benson's dissertation.

According to the brief filed by Auspitz, however, Bagnall, who as dean would normally have the final word in a dissertation, has no obligation to read the dissertation, since he lacks the academic specialization to consider it as the committee would.

Additionally, Auspitz claimed that "the choice to examine the vote was a reasonable exercise of the dean's discretion and so is beyond review."

Bernstein said he was asking the court to force the University either to grant a new defense for Benson or to grant her an incomplete.

"We would be content with an incomplete grade, or we would even go so far as to ask to start the defense procedure over again," Bernstein said.

Other University administrators dismissed Benson's claims.

In an interview on Friday, University Provost Jonathan Cole, who at one point personally reviewed the committee's and dean's decisions, said Benson's claims were unjustified.

"It's been reviewed at every review process internal to the University. We have settled on what we think is the appropriate response, and she feels otherwise, so she took it to an external venue in the courts. It's her right and she's pursuing it, and I think she holds an incorrect position," Cole said.

Bernstein said a decision is expected within one to three months.



PHOTO EDITOR—DAYNA ALPINE

With the threat of rain, AIDS Quilt organizers wrapped up portions of the Quilt that were featured on College Walk.