

FOR IMMEDIATE RELEASE – November 17, 2011

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We regret to report that on November 15, 2011, the North Carolina Court of Appeals upheld a lower court decision to dismiss film scholar Terri Ginsberg's lawsuit against North Carolina State University (NCSU). The Court, despite finding that several University officials were uncomfortable with Dr. Ginsberg's speech concerning the Palestinian-Israeli conflict, held that there was no causal link between that speech and the University's sudden decision not to hire her for a tenure-track position days later. The Court's opinion was in error for several reasons. It misapplied the summary judgment standard and made factual determinations about disputed issues that should have been decided by a jury. Specifically, it ignored voluminous evidence Dr. Ginsberg supplied calling into question the University's claims about its stated reasons for her non-hire, as well as circumstantial evidence suggesting that hostility to Dr. Ginsberg's speech motivated the decision. Among the most troubling claims the Court accepted without question was NCSU's contention that Dr. Ginsberg was too qualified for the position, despite the fact that NCSU's own policy documents state that it hires the best tenure-track professors it can, and despite the fact that before her speech about Palestine/Israel, the University was enthusiastic about Dr. Ginsberg's candidacy.

For the Court to accept without analysis the University's claims about Dr. Ginsberg's non-hire when those claims were vigorously disputed not only usurped the role of the jury in the justice system, but rendered the North Carolina Constitution's free speech section, which is even stronger than its federal counterpart, meaningless in the employment setting.

Dr. Ginsberg will now request a review of the ruling by the North Carolina Supreme Court.