

UNITED STATES COURT OF APPEALS

, *Diei v. Boyd, et al.*

RECOMMENDED FOR PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 24a0219p.06

> No. 23-5771

Appeal from the United States District Court for the Western District of Tennessee at Memphis.
No. 2:21-cv-02071 John Thomas Fowlkes, Jr., District Judge.

Argued: May 2, 2024

Decided and Filed: September 17, 2024

Before: LARSEN, READLER, and DAVIS, Circuit Judges.

COUNSEL

ARGUED: Greg H. Greubel, FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION, Philadelphia, Pennsylvania, for Appellant. Caitlyn Luedtke Elam, UNIVERSITY OF TENNESSEE, Knoxville, Tennessee, for Appellees. **ON BRIEF:** Greg H. Greubel, Katlyn A. Patton, JT Morris, Paul A. Ruiz, FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION, Philadelphia, Pennsylvania, for Appellant. Caitlyn Luedtke Elam, UNIVERSITY OF TENNESSEE, Knoxville, Tennessee, for Appellees. Jennifer Safstrom, VANDERBILT LAW SCHOOL, Nashville, Tennessee, for Amicus Curiae.

OPINION

CHAD A. READLER, Circuit Judge. While enrolled in pharmacy school, Kimberly Diei was the subject of professionalism complaints regarding her social media posts. Following an

investigation, a committee at the school voted to expel Diei. She responded by filing suit under 42 U.S.C. § 1983, primarily asserting violations of the First Amendment. The district court dismissed remand.

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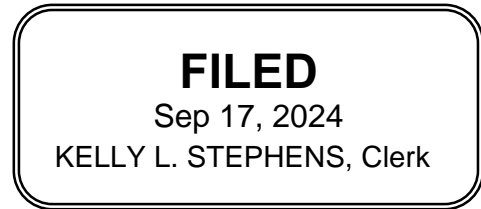
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 23-5771

KIMBERLY DIEI,
Plaintiff - Appellant,

v.

RANDY BOYD, et al.,
Defendants - Appellees.



Before: LARSEN, READLER, and DAVIS, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Western District of Tennessee at Memphis.

THIS CAUSE was heard on the record from the district court and was argued by counsel.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED IN PART, REVERSED IN PART, and REMANDED for further proceedings consistent with the opinion of this court.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Kelly L. Stephens", written over a pink background with a colorful, abstract pattern.

Kelly L. Stephens, Clerk