



FIRE

Foundation for Individual
Rights and Expression

September 8, 2022

Farnam Jahanian
Office of the President
Carnegie Mellon University
5000 Forbes Avenue
Pittsburgh, Pennsylvania 15213

URGENT

Sent via Next-Day Delivery and Electronic Mail (farnam@andrew.cmu.edu)

Dear President Jahanian:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus, writes with respect to recent online comments by Carnegie Mellon University (CMU) Professor Uju Anya which have garnered significant attention and numerous calls for administrative sanction. Anya's comments—concerning the then-impending death of England's Queen Elizabeth II—may be deeply offensive to many, but are unquestionably protected by CMU's strong and laudable free expression promises. We urge CMU to resist public pressure and live up to its commitments by refusing to investigate or punish Anya for her protected extramural expression.

Earlier today,¹ Uju Anya, a CMU Associate Professor of Second Language Acquisition, tweeted via her personal Twitter account: "I heard the chief monarch of a thieving raping genocidal empire is finally dying. May her pain be excruciating."² A Twitter user replied, "Why are you wishing our one and only queen Elizabeth dead?"³ Anya responded, "I'm not wishing her dead. She's dying already. I'm wishing her an agonizingly painful death like the one she caused for

¹ The following is FIRE's understanding of the pertinent facts based on public information. We appreciate you may have additional information to offer and invite you to share it with us.

² Uju Anya (@UjuAnya), TWITTER (Sept. 8, 2022, 9:12 AM), <https://twitter.com/UjuAnya/status/1567863337991512064>. Twitter has removed Anya's post after users reported it.

³ Ayòbámi (@ayrangers6), TWITTER (Sept. 8, 2022, 9:18 AM), <https://twitter.com/ayrangers6/status/1567864835148234752>.

millions of people.”⁴ Anya also tweeted, “If anyone expects me to express anything but disdain for the monarch who supervised a government that sponsored the genocide that massacred and displaced half my family and the consequences of which those alive today are still trying to overcome, you can keep wishing upon a star.”⁵

This afternoon, CMU released a statement criticizing Anya’s tweet and mentioning its commitment to free expression. Calls for Anya’s punishment have not abated, but we urge CMU to remain firm in support for free expression.⁶

Thousands of Twitter users have responded to Anya with their own speech—many criticizing her,⁷ while others supported her sentiment.⁸ This is the spirit of public debate and free expression, which CMU itself commits to.

Although the university is not legally obligated to do so by the First Amendment, CMU promises students and faculty the right to freedom of expression, committing that the university “values the freedoms of speech, thought, expression and assembly - in themselves and as part of our core educational and intellectual mission.”⁹ Additionally, the university’s Freedom of Expression policy states:

The very concept of freedom assumes that people usually choose wisely from a range of available ideas and that the range and implications of ideas cannot be fully understood unless we hold vital our rights to know, to express, and to choose. The university must be a place where all ideas may be expressed freely and where no alternative is withheld from consideration.¹⁰

CMU may not contravene these strong commitments solely because some—or even a great many—are offended or made uncomfortable by Anya’s protected speech. The Supreme Court has recognized that faculty at public universities do not “relinquish First Amendment rights to

⁴ Uju Anya (@UjuAnya), TWITTER (Sept. 8, 2022, 9:32 AM), <https://twitter.com/UjuAnya/status/1567868421156605957>.

⁵ Uju Anya (@UjuAnya), TWITTER (Sept. 8, 2022, 1:51 PM), <https://twitter.com/UjuAnya/status/1567933661114429441>. The aforementioned are the pertinent tweets FIRE is aware of by Anya as of 4:30 PM.

⁶ Carnegie Mellon University (@CarnegieMellon), TWITTER (Sept. 8, 2022, 4:39 PM), <https://twitter.com/CarnegieMellon/status/1567975991330615297>.

⁷ See, e.g., Jeff Bezos (@JeffBezos), TWITTER (Sept. 8, 2022, 12:51 PM), <https://twitter.com/JeffBezos/status/1567918581614247937>; Tim O’Neal (@toneal70), TWITTER (Sept. 8, 2022, 1:49 PM), <https://twitter.com/toneal70/status/1567933032492843010>; Kara Zupkus (@kara_kirsten), TWITTER (Sept. 8, 2022, 1:26 PM), https://twitter.com/kara_kirsten/status/1567927461001809920.

⁸ Tall Glass of OBI DIENT 🍷 (@Ugosmash), TWITTER (Sept. 8, 2022, 3:10 PM), <https://twitter.com/Ugosmash/status/1567953580665229313>; CEO 🍷 (@toosolidbril), TWITTER (Sept. 8, 2022, 2:41 PM), <https://twitter.com/toosolidbril/status/1567946286476984320>.

⁹ *Freedom of Expression*, CARNEGIE MELLON UNIV., <https://www.cmu.edu/policies/administrative-and-governance/freedom-of-expression.html> (rev. Feb. 2, 2007) [<https://perma.cc/4TEK-3KCF>].

¹⁰ *Id.*

comment on matters of public interest by virtue of government employment.”¹¹ That right to comment on matters of public concern encompasses vitriol about prominent public figures. In *Rankin v. McPherson*, the Supreme Court held that the First Amendment protected a police department employee who, upon hearing that President Reagan had been shot, expressed her contempt for his policies on welfare and remarked: “If they go for him again, I hope they get him.”¹² The Court explained that even if others find the statements to be of an “inappropriate or controversial character,” that is “irrelevant” to whether the statement addresses matters of public concern.¹³

Queen Elizabeth’s life, death, and actions spanning decades of world history are undoubtedly a matter of public concern worth discussing and debating. This is especially clear as major media outlets immediately published lengthy pre-written obituaries about her death,¹⁴ just as millions—including Professor Anya—took to social media to react to the news.¹⁵

Evidenced by the vociferous reaction to Anya’s tweet, many were offended by her extramural utterance. However, the subjectively offensive nature of speech alone does not make it unprotected, which involves “a legal, not moral, analysis.”¹⁶

The Supreme Court has repeatedly, consistently, and clearly held that expression may not be restricted on the basis that others find it to be offensive or disrespectful. While some ideas may be expressed through “relatively precise, detached explication,” some words “are often chosen as much for their emotive as their cognitive force.”¹⁷ Because “officials cannot make principled distinctions” between offensive and inoffensive speech, the First Amendment deprives government actors of that authority.¹⁸ This core First Amendment principle is why the government cannot outlaw burning the American flag,¹⁹ punish the wearing of a jacket emblazoned with the words “Fuck the Draft,”²⁰ penalize cartoons depicting a pastor losing his

¹¹ *Connick v. Myers*, 461 U.S. 138, 140 (1983). Although CMU is a private institution and thus not bound by the First Amendment to respect faculty expressive rights, it has committed to do so. Faculty reasonably expect the promise of “freedom of expression” to fall in line with established First Amendment case law.

¹² *Rankin v. McPherson*, 483 U.S. 378, 381 (1987).

¹³ *Id.* at 387.

¹⁴ See, e.g., Alan Cowell, *Queen Elizabeth II Dies at 96; Was World’s Longest-Reigning Monarch*, N.Y. TIMES (Sept. 8, 2022, 2:21 PM), <https://www.nytimes.com/2022/09/08/world/europe/queen-elizabeth-dead.html>; Jonny Dymond, *Death of Queen Elizabeth II: The moment history stops*, BBC NEWS (Sept. 8, 2022), <https://www.bbc.com/news/uk-59761477>.

¹⁵ Results of Search for “Queen Elizabeth,” TWITTER, https://twitter.com/search?q=Queen%20Elizabeth&src=typed_query (last visited Sept. 8, 2022).

¹⁶ *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 821 (S.D. Iowa 2019).

¹⁷ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹⁸ *Id.*

¹⁹ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag was protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

²⁰ 403 U.S. at 25.

virginity to his mother in an outhouse,²¹ or disperse civil rights marchers out of fear that “muttering” and “grumbling” white onlookers might resort to violence.²²

While some may find the timing or substance of speech about the deceased to be offensive, freedom of expression does not observe a mourning period. It applies whether speech about the recently departed takes the form of a venerating eulogy, scorn, or something in between. In ruling, for example, that the First Amendment protects protesters holding signs outside of soldiers’ funerals (including signs that read “Thank God for Dead Soldiers,” “Thank God for IEDs,” and “Fags Doom Nations”), the Court reiterated this fundamental principle, remarking that “[a]s a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”²³

This principle applies with particular strength to universities, dedicated to open debate and discussion. Take, for example, a student newspaper’s uses of a vulgar headline (“Motherfucker Acquitted”) and a “political cartoon . . . depicting policemen raping the Statue of Liberty and the Goddess of Justice.”²⁴ These words and images—published at the height of the Vietnam War—were no doubt deeply offensive to many at a time of deep polarization and unrest. Yet, the Supreme Court held that the disciplinary sanctions against the newspaper’s editor violated the First Amendment, as “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of ‘conventions of decency.’”²⁵ If the First Amendment principles—which are enshrined in CMU policy—protect vulgar and insulting language on campus, they certainly protect such language off campus, including Anya’s tweet. The answer to offensive or disagreeable speech is “more speech, not enforced silence.”²⁶

Anya’s speech is clearly protected by CMU’s free expression promises, which are in line with the First Amendment. CMU may, of course, exercise its own expressive right to criticize Anya’s speech—as it has done. However, it may not investigate or punish Anya for simply expressing her opinion.

We invite CMU to take this opportunity, with many watching, to reaffirm your university’s strong commitments to free expression.

Sincerely,



Sabrina Conza
Program Officer, Campus Rights Advocacy

²¹ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

²² *Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

²³ *Snyder v. Phelps*, 562 U.S. 443, 448, 461 (2011).

²⁴ *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 667–68 (1973).

²⁵ *Id.* at 670.

²⁶ *Whitney v. California*, 274 U.S. 357, 377 (1927).