

From: lawschool-2023 <lawschool-2023-bounces@lists.stanford.edu> on behalf of Tirien Steinbach <tsteinbach@law.stanford.edu>

Date: Thursday, March 9, 2023 at 7:02 AM

To: Tirien Steinbach <tsteinbach@law.stanford.edu>

Subject: [lawschool-2023] Today at SLS

Dear SLS Community –

Today, [Federal Judge Kyle Duncan](#) (Fifth Circuit) will be speaking at an event on the topic of *The Fifth Circuit in Conversation with the Supreme Court: Covid, Guns and Twitter*. While Judge Duncan is not expected to present on his views, advocacy or judicial decisions related directly to LGBTQ+ civil rights, this is an area of law for which he is well known. Numerous [senators](#), [advocacy groups](#), [think tanks](#), and [judicial accountability groups](#) opposed Kyle Duncan's nomination to the bench because of his legal advocacy (and public statements) regarding marriage equality, and transgender, voting, reproductive, and immigrants' rights. However, he was confirmed in 2018. He has been invited to speak at SLS by the student chapter of the Federalist Society.

A coalition of SLS students have expressed their upset and outrage over Judge Duncan's invitation to speak at SLS. For some members of our community, Judge Duncan, during his time as an attorney and judge, has "repeatedly and proudly threatened healthcare and basic rights for marginalized communities, including LGBTQ+ people, Native Americans, immigrants, prisoners, Black voters, and women," and his presence on campus represents a significant hit to their sense of belonging.

As a member of the SLS administration, and in my role as Associate Dean for Diversity, Equity, and Inclusion, I write to share my office's goals and roles in this situation:

1. **To listen to community members and work to support a culture of belonging for all** – where people feel that their unique contributions are recognized and respected. "Belonging" does not negate disagreement, nor discomfort - those are necessarily part of how we learn and grow as a community dedicated to teaching and training a diverse group of future lawyers and leaders. However, creating "belonging" does mean acknowledging and rectifying historic and current ways that whole groups have been excluded or marginalized within law schools and legal practice, often based on racial/ethnic identity, disability, socioeconomic status, religion, veteran status, age, and LGBTQ+ and gender identities. Creating a culture of belonging in a law school also requires exploring the many challenging ways that the law is so often an exercise in balancing “freedom to” and “freedom from,” or aligning intentions and impacts.
2. **To support and model principles of free speech and academic freedom** – SLS is committed to promoting intellectually rigorous open inquiry, aligned with the University's statement on Academic Freedom: “Stanford University's central functions of teaching, learning, research, and scholarship depend upon an

atmosphere in which freedom of inquiry, thought, expression, publication and peaceable assembly are given the fullest protection.” Moreover, as a law school, SLS is particularly invested in upholding First Amendment principles and protections, and has a responsibility to seriously consider the danger of actions that have the potential to chill speech. And while there may be differing views on how best to address speech that is abhorrent to some or most people, one generally agreed upon way to address harmful speech is through MORE speech, rather than censoring speech (that is within the bounds of constitutionally protected speech).

Today, SLS will not censor Judge Duncan’s, nor the students’ hosting him, nor stifle free speech by canceling this engagement. This would be antithetical to our school’s principles of free speech, academic freedom, AND creating a culture of belonging. Moreover, I believe cancellation would not result in actually quieting or stopping speech or a speaker that many may find offensive or harmful, rather it would only amplify it (as we have seen played out on campuses and in media across the country). Instead, SLS supports this event going forward, and also supports the rights of students to protest this event, in keeping with University [policies](#) including those against disrupting speakers. We are also providing alternative space and programming for community members for whom their sense of belonging is undermined by this event taking place (thank you to the Levin Center for coordinating with Outlaw on alternative programming).

I do not expect all of the SLS community to agree with this approach, yet I hope that even those who disagree will better understand these decisions today, and continue to engage and advocate for greater understanding in the future. I also hope that we, as an SLS community, can continue to explore the question I posed to students at orientation: “What would it look like for SLS to create belonging WITHOUT othering?” We are not there yet, and may never be, however, to me that is still a question worth exploring in the work to advance diversity, equity and inclusion.

As some of you know, my SLS office shelves are filled with ampersands (the & symbol for "and"). When I am asked about them I tell people that, in studying and practicing law, I was trained to think and speak "either/or," however, I have found over time that the answers to many important questions are "both/and." Both/and can be uncomfortable or frustrating when seeking clarity and direction, yet, for those committed to principles of diversity, equity, and inclusion - to creating communities where all people see and feel that they belong - both/and is not only helpful, it is necessary. Today, my hope is for this community to embrace the ampersand, BOTH/AND – and practice using the skillful communication and active listening tools we will need to understand, to advocate, and to be part of creating the inclusive, diverse, just, and fair world we aspire to build.

As always, I welcome your thoughts, concerns, suggestions, and reflections.

In community -

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Pronouns: she/her/hers

Please feel free to make an appointment via Calendly!: <https://calendly.com/tsteinbach>

I am at SLS generally at SLS Tuesdays, Wednesdays, & Thursdays, otherwise remote (via Zoom). Please email me to set an appointment!