

Contested Values and Constitutional Lacunae: Sambo, the Sig Eps, and Surreptitious Speech Codes

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Freedom of speech is a romantic concept that can be seductive for both scholars and students. It is sometimes easy to forget that the protection of the First Amendment is not self-executing; it must be affirmatively asserted, and it often requires litigation to enforce. Moreover, even those principles and implications articulated by the courts are often disregarded by officials, high and petty, when other values are deemed more convenient under circumstances of the moment. This essay examines such a confrontation that never reached the courtroom, a case study that illustrates the constitutional conundrum faced and experienced far more frequently than those landmark opinions presented in casebooks and classrooms.

Campus speech codes present a prime example of the continuing conflict between the cherished values of freedom and equality in tension. Institutions of higher education generally embrace diversity among students and seek to provide an environment in which all can pursue an education without discrimination; yet, colleges and universities are among the most important cultural sites for the uninhibited expression and consideration of all social, political, and scientific ideas. While the courts have consistently and without exception struck down campus speech codes as violating the First Amendment,¹ administrators two decades later continue to pursue policy goals that on their face and as applied privilege some values and suppress the expression of others.

The case study presented here involved the display of a Sambo statue at a fraternity house during “Rush Week” on the University of Arkansas campus and the subsequent response by University administrators. Although appearing rather trivial on the scale of free speech issues, the incident received national

and international attention at the time, and it is currently considered as a relevant example for college administrators.² While it might be unfamiliar to most readers, it serves to demonstrate the ways in which First Amendment protections are ignored with impunity, as well as the interpretive nexus of racial iconographs, thereby providing a nuanced example with applicability to understanding the praxis of freedom of expression in the larger context.³

Sambo and the Sig Eps

On Friday, August 18, 1995, Carlton Bailey, an African-American Associate Professor at the University of Arkansas School of Law, said he received an early evening call from Milton Henderson, a recent law graduate, who telephoned from the apartment of Mr. Andre Valley, a current law student. "Milton and Andre were upset about a statue that was sitting on the railing at the Sigma Phi Epsilon House," Bailey said. He noted, "The statue was described as black in color with a sign that read 'Sambo' on the left front breast. Neither could believe what they saw and solicited advice as to what could/should be done. I offered to take a picture of the statue and confirm its public display by Sigma Phi Epsilon."

Professor Bailey then went to the Sigma Phi Epsilon house and took four pictures of the Sambo statue. He stated that as he was taking the picture someone inside the house "yelled the 'N word' at him and that as he was leaving "a chair came out of the window and landed two feet" from him. Professor Bailey then went to the UA Department of Public Safety and requested to speak with a particular African-American officer, Gary Crain. When Crain arrived, Bailey showed him the picture of the "Sambo" statue and said he "wanted to make a complaint but wanted him to confirm the statue, chair in the yard, and persons present." Professor Bailey and Officer Crain then went to the fraternity house where Bailey told the housemother "about the statue, the 'N' words, and the chair."⁴

Professor Bailey also attempted to contact Deb Euculano, Assistant Dean of Students, and he later received a telephone call from Vice Chancellor Lyle Gohn, to whom he also related the facts as described above.

According to a "Chronology of Events" provided by Vice Chancellor Gohn, after talking with Professor Bailey that evening, Gohn "went directly to the fraternity house and met with the chapter president and vice president." Without further investigation, Gohn "informed the officers that the behavior was totally unacceptable, inappropriate and intolerable at the University of Arkansas." He unilaterally placed the fraternity on probation and said the "chapter was directed to remove the figurine immediately from the property and for it never to be brought back or used at any fraternity event or function." He also directed the fraternity "to make appropriate statements and apologies" to the rushees who were present and to contact Professor Bailey and "take actions to correct the situation."

On the following day, August 19, 1995, Vice Chancellor Gohn "addressed the entire chapter on their inappropriate and intolerable behavior and restated the immediate actions," and "the chapter officers made appropriate statements and apologies" to rushees that day. On 22 August 1995, Gohn sent a memorandum to Mark Shaver, President of Sigma Phi Epsilon, restating his position that, "The figurine is to be removed from the property and never brought back or used at any fraternity event or function. In other words, get rid of it immediately." He also directed that "the individual(s) who placed the figurine on the front ledge, threw the chair out the window and allegedly yelled 'nigger'" to meet with the Dean of Students.

Ten days later, on August 29, 1995, C. Donald Schumacher, Assistant Dean of Students for Judicial Affairs, sent a memorandum to Mark Shaver, President of Sigma Phi Epsilon, informing him that Schumacher had "received all the information related to the incident which occurred on August 18, 1995, and which was referred to this office by Professor Carlton Bailey. These

allegations may be in violation of the University Code of Conduct, Article II, F and O4."⁵ The two cited sections are:

F. Physical abuse, threats communicated in any manner against a person or property, harassment, coercion, acts which are injurious or which hold another person against his or her will and/or conduct which threatens or endangers the health or safety of any person.

O.4. Present clear and impending threat to the safety of individuals, to University property, or to the University community generally.

Before the University could take any further action, news of the Sambo incident was first reported in the media with an announcement from the Sigma Phi Epsilon national headquarters on August 31 that it was suspending the University of Arkansas chapter's charter for two years. Declaring that the fraternity "will not tolerate violation of our standards and values," National Executive Director Kenneth Maddox said, "The undergraduate chapter's alumni board and the national fraternity moved swiftly to suspend the chapter's charter, and our Fayetteville-area alumni are strongly in support of these actions."⁶ Unlike the University, the national fraternity's suspension was not state action that implicated the First Amendment but an internal management decision to blunt the charge of racism and minimize a public relations disaster for the fraternity's standing with parents, alumni, and the general public. That should have provided closure for all involved, but it did not.

University officials continued to investigate the facts of the incident, but Schumacher said he could not comment on the information he would take to the Board. However, comments by Deb Euculano, the University's Greek Affairs Coordinator, raised additional concerns about the administration's position when she admitted "situations like this sometimes arise where an action or display is not a violation of University policy but is nonetheless not

appropriate.”⁷ On Thursday, September 7, 1995, it was announced that the Sigma Phi Epsilon case would be heard through the University judicial system, and, according to the "Chronology," Dr. Gohn said, "This behavior is unacceptable, intolerable and not condoned by the University of Arkansas. We are proud of our growing diversity and will continue to educate our constituents of our expectations and our acceptance and respect of differences - in race, in culture, in beliefs and in life styles." Vice Chancellor Gohn's statement seemed to clearly indicate that the offense was directly related to the display of the Sambo statue and the alleged yelling of the epithet.⁸

The "Sanctions of the Ad-Hoc Administrative Hearing Board," dated September 8, 1995, make clear that the University charges included more than the throwing of a chair at an individual and dealt with the messages communicated or perceived by the Sambo statue and the epithet. The Board found the entire fraternity chapter "responsible as charged," explaining that the "actions of your organization have *gravely offended* the entire University of Arkansas community. The behavior exhibited by your organization has demonstrated ignorance or *disregard of accepted community standards*; disregard of the safety, welfare, and *feelings of others . . .*" (emphasis mine) Here, the University appeared to be acting on a theory of guilt by association, holding the fraternity responsible for the acts of an individual member, although case law clearly rejects such attributions of responsibility by association.⁹

The fraternity was directed to "make a public written apology to Professor Bailey and to the University community," and told that it would be provided guidance and regularly reviewed as to whether "it has demonstrated significant progress and performance toward *the attainment of the ideals, values, and objectives of the University of Arkansas . . .*" (emphasis mine) The chapter was directed to develop "measurable behavioral objectives," to perform "significant community service." Further, the fraternity was prohibited from showing "any identification of Sigma Phi Epsilon outside the house. Identification will include pins, shirts, letters on the building, and all other signs."

There can be little doubt that the Ad-Hoc Hearing Board considered more than the act of an individual throwing a chair. It clearly designed the sanctions to deal with the attitudes perceived to be represented by the Sambo statue that prompted Professor Bailey to photograph the statue and express concerns about it and the alleged yelling of "nigger" at Professor Bailey. In so doing, it acted to punish and prohibit constitutionally protected expression. Even if the University had contended that the sanctions were based solely on the throwing of the chair, the entire record of the incident and the sanctions make clear that the statue and the epithet were considered in that process. In such an instance, the Supreme Court has said, "Moreover, even assuming that the record precludes the inference that appellant's conviction might have been based solely on his words, we are still bound to reverse if the conviction could have been based upon both his words and his act." *Street v. New York*, 394 U.S. 576 at 587 (1969).

Although UA Chancellor Dan Ferritor had stated in our past correspondence that the University has no "speech code," University representatives were obviously punishing speech under the pretense of punishing associated conduct. Perhaps, the University might pretend that the Sambo statue and the epithet were not considered covered by the Judicial Code and were not considered in their findings of fact and subsequent sanctions, but the widespread public perception is that they were the *essential* elements in the offense. See, for example, "Ark. Frat to Appeal 'Sambo' Sanction," *The Commercial Appeal*, September 11, 1995: 4A;; "Black Lawn Statue Display Gets Fraternity Suspended," *The Orlando Sentinel*, September 10, 1995: A26; "Fraternity Suspended over Racist Statue," *The Washington Times*, September 10, 1995: A2; "Fraternity's Charter Suspended after Use of 'Sambo' Statue," *The Commercial Appeal*, September 9, 1995: 2B; "UA Suspends Sigma Alphas [*sic*] Over Sambo," *Arkansas Democrat-Gazette*, September 09, 1995; "Frat to Address Issue about Statue," *The Commercial Appeal*, September 8, 1995: 2B; "Frat Loses Charter Over 'Sambo' Incident," *Arkansas Democrat-Gazette*,

September 07, 1995; "Fraternity denies racial insult," *The Commercial Appeal*, September 5, 1995: 2B.

The sanctions themselves were focused on changing racial attitudes through some type of sensitivity-training process.¹⁰ Even more telling is the letter from the Black Law Students Association criticizing the University sanctions as being insufficient and making no mention of the chair throwing in their letter of complaint addressed to the Chancellor and published, in part, in the student newspaper.¹¹ Furthermore, the scope and severity of the sanctions are, based on previous cases, obviously disproportionate for the act of throwing a plastic chair which, in fact, hit no one. To paraphrase Justice John Marshall Harlan dissenting, ironically, in *Plessy v. Ferguson*, 163 U.S. 537, 557 (1896), "Every one knows" the real reason behind the result, and "No one would be so wanting in candor as to assert the contrary."

The above cited comments and written statements by Dr. Gohn and the Sanction of the Ad-Hoc Hearing Board make clear that Sigma Phi Epsilon was being disciplined for the display of the Sambo statue and the yelling of the epithet -- expression protected by the First and Fourteenth Amendments. It would be quite naive to pretend that the ideas Professor Baily perceived to be expressed by the Sambo statue and the yelling of racial epithets are not hurtful to the sensibilities of those to whom they are directed, individually or collectively. Yet, I argue that the University was without power to censor or punish the fraternity for its speech, regardless of how offensive it is to some in the University community, and that such speech not only demands constitutional protection but that its protection is both appropriate and worth the cost.

After the Ad-Hoc Hearing Board assembled by Dr. Gohn issued its sanctions, Sigma Phi Epsilon appealed the decision to Chancellor Dan Ferritor.¹² On September 26, 1995, I sent a 26-page single-spaced letter to Chancellor Ferritor, briefing the relevant case law and arguing that he should

reverse the decision of the hearing board, both as a matter of law and a matter of public policy. The following day, he announced his decision on the matter.

In a letter to the fraternity, Ferritor couched his decision in the appropriate rhetorical garb, stating, “We must realize that concern, consternation, anger, sorrow, hurt, and sadness have occurred because of something very important to all of us – how we treat each other. I realize that we are each individuals with the right to think and speak as we want. No one, now or ever, on this campus should ever take that away from us.” He then continued, “But we are also a community of learners, people who live together in a community of growth and development, a community which not only allows ethnic, religious, and other diversity but also celebrates it.” Ferritor closed by announcing that he was upholding all of the sanctions imposed, with the sole exception on the ban against wearing or displaying the Greek letters SFE on campus.¹³

Chancellor Ferritor's decision was applauded editorially by the student newspaper and by a joint statement from the Black Law Students Association and several other black organizations. The fraternity officers expressed disappointment and said that they would be considering their only other option, an appeal to federal court.¹⁴

On Reading Sambo

Even if the University had the authority to investigate, charge, prosecute, and convict Sigma Phi Epsilon for the Sambo incident, which it did not, one of the more problematic assumptions underlying the University's imposition of sanctions against the fraternity is that it could know and in fact knew both the intent and the reception of the message. Such an assumption is inherently flawed with regard to the interpretation of the crude statue in question.

I. A. Richards suggested some 90 years ago, applicable to the interpretation of the Sambo statue, that meanings are in people, not in things, that meanings are not even in messages but in the experiences of those who interpret them and then assign

idiosyncratic meanings.¹⁵ While that is certainly true for verbal messages, at least words have the benefit of dictionary definitions, whereas expensive modern art and tawdry Sambo statues do not.

The incident at the Sigma Phi Epsilon house was not the first time that the Sambo icon had drawn objections as a racist symbol. Sambo's Restaurants, a 1,400-store chain founded in 1957, was criticized by civil rights activists for its décor and advertising that featured the Sambo character from Helen Bannerman's 1899 book, *The Story of Little Black Sambo*, characterized as "a seemingly innocuous tale of a spunky little boy who outwits a cadre of tigers, watches them turn into butter, then uses the butter to eat 169 pancakes," but which came to be seen as a symbol of racism.¹⁶ In an effort to remove the stigma and win back black customers, the company in 1981 began renaming its outlets "No Place Like Sam's," "Uncle Sam's Pancake House," and "Jolly Tiger," but it was soon facing bankruptcy and now no longer exists.¹⁷

It is unclear why the members of Sigma Phi Epsilon chose to place Sambo – a two-foot painted "lawn jockey" adorned with a cowboy hat and wearing a rushee nametag reading Sambo – on the porch of their fraternity house during Rush Week. Their defensive explanations offered in response to the charges are hardly convincing readings of the icon. They said "they meant no racial insult by having the Sambo figure in the yard,"

When told that some of the fraternity members had said they considered the Sambo statue to be a "positive, uplifting thing for black people," Professor Baily replied incredulously, "I'd like to start Black History Month in September, then. If they have a source of information that says Sambo is a positive, uplifting thing for black people, I'd like to see it. Now I'm being told that what I saw, I had misinterpreted. . . . If that's the case, and the statue is positive for black people, . . . why not keep the statue on the front porch?"¹⁸

There was some expression of support for the Sig Eps' interpretation among letters to the editor. Henry H. Hicks, Jr., recalled being read the story as a young child and said, "Far from being a put-down of black people, Sambo emerges as the intelligent foxy hero of the story." Bemoaning the "unfortunate" successful efforts to remove the story book from the schools, he added, "The politically correct put-down of the Sambo story betrays an oversensitivity to being black that has nothing to do with white racial attitudes. It is as though the politically correct class is paralyzed with fear that some basic racial truths might escape from the closet."¹⁹ In response, columnist Michael Leahy replied that "a surprising defensiveness has surfaced, characterized by a rash of tortured justifications, the most imaginative of which seems to be that none of us should be troubled because, historically, Sambo has not depicted a black man of African descent but, as this argument goes, a black Indian who is 'an intelligent foxy hero.' Right. Not even the frat boys tried selling all of this argument."²⁰

Meg Hays wrote to the *Arkansas Traveler*, the student newspaper, criticizing the University's response. "The Sigma Phi Epsilon house is a home to these young men, and they have a right to express themselves at home," she said, adding "The 'Sambo' statue was never meant to offend anyone. Besides, it did not harm anyone or anything by sitting on their porch."²¹ In adamant response to Ms Hays, Scott McCarty's letter to the newspaper asserted that the Sig Eps "*do not* have a right to express themselves if it is at the expense of the humanity and dignity of another human being." He then challenged the communicative effect of the statue: "Yes, the Sambo statue was merely sitting on the porch; however, it did in fact cause harm to those people it was intended to ridicule. The harm arises from the insensitivity of the residents as evidenced by their public display of the statue. If they had stepped outside their ethnocentric worldview for one moment, they would have realized what the 'Sambo' statue clearly represents."²²

There were numerous other letters and interviews expressing various opinions in the eyes of the beholders about the Sig Eps and Sambo, but the essential point is that there were almost as many readings of the Sambo statue as there are viewers. An editorial in the local newspaper surmised, “Perhaps the frat boys, in their fun-filled frat boy minds, did not feel they were being racist, but one does not always have to be aware of such things to make them so. To us, it was a racist statement, and to a lot of others it must have appeared to be one, too.”²³

Conclusions

I have written passionately elsewhere about my thoughts on hate speech and campus speech codes,²⁴ but let me make it clear that I yield to no one in my passionate commitment to social justice and the belief that it can be best achieved through reasoned discourse. My training in rhetorical and communication theory has helped me to understand why free speech is essential, and my argument is not only that sanctions imposed on Sigma Phi Epsilon by the University of Arkansas were patently unconstitutional under the First Amendment but that they were a bad idea as a matter of public policy. Even if these sanctions or speech codes generally were constitutional, they cannot be effective. Proscribing certain words or images does nothing to change the underlying thoughts; hate speech does not express the unthinkable, only the unreasonable. In fact, suppression of speech often exacerbates and intensifies the sentiments of those silenced by law, while denying to everyone the opportunity to seek and discover wisdom through debate and the clash of ideas. On the other hand, a convincing case can be made that fostering freedom of speech can result in greater tolerance among citizens with differing views.²⁵

So, why did the University of Arkansas administration ignore the commands of the First Amendment and the decrees of the federal courts consistently striking down such sanctions as they imposed on Sigma Phi

Epsilon? It appears to have done so because the decision to impose sanctions advanced other important goals, because support for those goals was more popular than defending speech and images perceived to be racist, and because they could do so with impunity.

The University had made a strong public commitment to increasing the diversity of the student body and devoted resources toward that laudable goal. Yet, diversity of ideas and viewpoints that might hinder the pursuit of measurable demographic diversity seemed to be ignored or sublimated. The statements of administrators such as Vice Chancellor Gohn, who ordered the removal of the Sambo statue, reflected an implicit affirmation of Herbert Marcuse's concept of "Repressive Tolerance."²⁶ To protect the sensibilities of the minority students on campus and promote "appropriate" viewpoints and to privilege conformity to its standards of civil conversation over expressions of "white privilege"²⁷ by fraternity boys, the administration punished and repressed competing and conflicting viewpoints from the dominant campus group. While University officials could have disavowed the perceived racist implications of the Sambo statue and offered an explanation of the institution's official viewpoint on diversity, they chose instead to suppress the view of those who thought otherwise.

There were certainly other courses of action available, including those embraced by other institutions of higher education. Blenda Wilson, President of California State University, Northridge, seemed to express such an understanding and make that choice. In describing the approach on her campus, she said, "What happens here is not only that there's tension but that it's a tension that as a university community we are charged to understand, to articulate, to respond to. We have a responsibility as a university not only to educate people in terms of knowledge, but to help create future citizens. It would be inappropriate and wrong for a university and community to purport to be a homogeneous community in which there is no tension over ideas." Wilson's arguments about approaching those tensions differently were a result

of her idea about education of students through expression rather than repression. “These will be the leaders and the citizens and the employees in a multiethnic, multicultural society. If we can provide a place where the tensions that come out of our past are understood better, then our graduates indeed will be able to lead in a moral and tolerant way,” she explained.²⁸

That the University of Arkansas acted as it did and faced no legal consequences provides an important example that scholars need to examine, to understand, and to teach. Although the undergraduate members and officers of the Sigma Phi Epsilon chapter were aware of their First Amendment rights and the potential for successfully defending those rights in federal court, that imagined possibility was not pursued.

Sigma Phi Epsilon would most certainly have prevailed under the precedent of *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University*, 773 F. Supp. 792; (E.D. Va., 1991), affirmed 993 F. 2d 386 (4th Cir. 1993). However, winning such a case would have been expensive, and it would unlikely have been decided before the officers graduated and the two-year suspension became moot. Moreover, neither the national fraternity nor the local alumni had any desire to defend an inert statue of Sambo, which would only call attention to the irresponsible behavior at issue, embarrass the adult members, and make future recruitment of enlightened undergraduates more difficult,

When we attempt to educate our students about freedom of speech, citations of cases and landmark decisions are not enough. We must understand and explain the process and the consequences attending the assertion and defense of First Amendment rights, including the basis of the value choices made by state agents *and* the necessary courage and likely consequences of decisions for those who assert their constitutional rights. The Sambo incident at the University of Arkansas is an excellent case study for such effective pedagogy.

Notes

¹ *Doe v. Michigan*, 721 F. Supp. 852 (E.D. Mich., 1989); *UMW Post v. Board of Regents of the University Of Wisconsin*, 774 F.Supp. 1163 (E.D.Wisc. 1991); *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University*, 773 F. Supp. 792; (E.D. Va., 1991), affirmed 993 F. 2d 386 (4th Cir. 1993); Arati R. Korwar, *War of Words: Speech Codes at Public Colleges and Universities* (Nashville, TN: Freedom Forum First Amendment Center, 1994).

² “White Fraternity Denies Racial Insult, Makes Public Apology,” *Jet*, 25 September 1995: 10; “Fraternity Suspended over Racist Statute in Yard,” *Pacific Stars and Stripes* (Japan), 13 September 1995: 11; *Stop the Hate Fraternity/Sorority Action Guide* (Bloomington, IN: Association of Fraternity Advisors and the Association of College Unions International, 2006).

³ This example is especially helpful, because most such instances of unconstitutional sanctions are never reported. Potential plaintiffs are often unaware of their First Amendment rights or without the financial resources to assert and litigate their cause. Most of these confrontations never receive even local media notice, so this controversy is a uniquely documented illustration.

⁴ Carlton Bailey, Report and Complaint, 21 August 1995.

⁵ This “Statement of Charges” does not specify the particular alleged behaviors considered as possible violations—display of the statue, the chair throwing, or the yelling of the epithet—nor which action might be covered under either section.

⁶ Mark Minton, “Frat Loses Charter over ‘Sambo’ Incident,” *Arkansas Democrat-Gazette*, 1 September 1995: 1, 4. The national fraternity also spent four days interviewing all of the chapter’s active members and reduced that number from 52 to 22 members. Keith Lindley, “Thirty Members Removed from House,” *Arkansas Traveler*, 15 September 1995: 1.

⁷ Ritta Martin, “University of Arkansas Judicial Head Says He’s Ready to Investigate ‘Sambo’ Statue’ Assault Charges,” *Northwest Arkansas Times*, 6 September 1995: 1.

⁸ On Friday, 8 September 1995, I sent an e-mail message to Dr. Suzanne Gordon, Dean of Students, asking, “what UA policies were violated by the Sambo statue and the name-calling?” In response, she agreed to send me a copy of the Judicial Code with the charges highlighted. When I received the Code the following week, the following sections in Article II were highlighted: “F. Physical abuse, threats communicated in any manner against a person or property, harassment, coercion, acts which are injurious or which hold another person against his or her will and/or conduct which threatens or endangers the health or safety of any person. [and] O.4. Present clear and impending threat to the safety of individuals, to University property, or to the University community generally.” It is unclear from the above which of the three charges--the statue, the chair throwing, or the epithet--was thought to be covered by either of the above sections. I assume that the chair throwing might have covered by §O.4, and, perhaps, the statue and the epithets were considered “harassment” under §F.

⁹ See, *Larson v. St. Francis Hotel*, 83 Cal. App. 2d 210; 188 P.2d 513 (Cal. App. 1948); *National Association for the Advancement of Colored People v. Claiborne Hardware*, 458 U.S. 886 (1982).

¹⁰ In addition to the First Amendment concerns raised in detail, I also think the provision in the sanctions prohibiting the display of fraternity emblems also violates the First Amendment by suppressing speech.

¹¹ Keith Lindley, “Judicial Board Makes Its Decision,” *Arkansas Traveler*, 11 September 1995: 1.

¹² “SPE Appeals Decision,” *Northwest Arkansas Times*, 14 September 1995: 1A; “Sig Eps Appeal UA Suspension; Decision on Fate Up to Ferritor,” *Arkansas Democrat-Gazette*, 14 September 1995: 6B; “Fraternity Submits Sanctions Appeal,” *Arkansas Traveler*, 15 September 1995: 1, 4.

- ¹³ Daphne Davis, "Chancellor Backs Censure of Sig Eps," *Arkansas Democrat-Gazette*, 28 September 1995: 3B; Keith Lindley, "Chancellor Returns His Appeal Decision," *Arkansas Traveler*, 29 September 1995: 1, 3.
- ¹⁴ Editorial, "To Uphold or Not, No Real Option Here," *Arkansas Traveler*, 29 September 1995: 2; Black Law Student Association, Letter to the Editor, "Sigma Phi Epsilon: Support for Chancellor," *Arkansas Traveler*, 2 October 1995: 2; Scott Flanagan, "UA Officials Uphold Frat's Suspension," *Northwest Arkansas Times*, 28 September 1995: A1, A7.
- ¹⁵ C. K. Ogden and I. A. Richards. *The Meaning of Meaning: A Study of the Influence of Language Upon Thought and of the Science of Symbolism*. (New York, Harcourt, Brace & Co., 1923). See also, David Berlo, *The Process of Communication*, (New York: Holt, Rinehart and Winston, 1960)
- ¹⁶ Annette John-Hall, "Rewriting Past Wrongs," *Philadelphia Inquirer*, 13 November 1996: D01.
- ¹⁷ "Sambo's to Alter Northeast Names," *The New York Times*, 11 March 1981: D4; Philip H. Dougherty, "Sambo's Switches Agencies," *The New York Times*, 28 July 1981: D17; N.R. Kleinfeld, "Loan Restructuring Sought by Sambo's," *The New York Times*, 26 November 1981: D4; Adam Mayers, "Renaming Brands Even If Offensive Can Take Years," *Toronto Star*, 6 February 1989: B3; Jeff Danziger, "Graphic Images and Propaganda and Ideology," *Christian Science Monitor*, 16 October 1992: 13.
- ¹⁸ Keith Lindley, "Sigma Phi Epsilon Accused of Racism," *Arkansas Traveler*, 6 September 1995: 1.
- ¹⁹ Henry H. Hicks, Jr., Letter to the Editor, "Sambo Was a Foxy Hero," *Arkansas Democrat-Gazette*, 12 September 1995.
- ²⁰ Michael Leahy, "That Us Versus Them Frat Culture," *Arkansas Democrat-Gazette*, 17 September, 1995.
- ²¹ Meg Hays, Letter to the Editor, "Sigma Phi Epsilon: UA Response Is Unfair," *Arkansas Traveler*, 13 September 1995: 4.
- ²² Scott McCarty, Letter to the Editor, "Sigma Phi Epsilon: UA Reaction Was Fair," *Arkansas Traveler*, 20 September 1995: 2.
- ²³ Editorial, "No More Sambo," *Northwest Arkansas Times*, 6 September 1995.
- ²⁴ Stephen A. Smith, "There Is Such a Thing as Free Speech, and Its a Good Thing, Too," in *Hate Speech* ed. Rita Kirk Whillock and David L. Slayden (Thousand Oaks, CA: Sage, 1995): 226-266.
- ²⁵ See generally, Lee C. Bollinger, *The Tolerant Society: Freedom of Speech and Extremist Speech in America* (New York: Oxford University Press, 1986).
- ²⁶ Herbert Marcuse, "Repressive Tolerance," in Robert Paul Wolff, Barrington Moore, Jr., and Herbert Marcuse, *A Critique of Pure Tolerance* (Boston: Beacon Press, 1969): 95-137.
- ²⁷ The concept of "white privilege" is thoroughly explicated in Theodore W. Allen, *The Invention of the White Race, Vol. I: Racial Oppression and Social Control* (New York: Verso, 1994 Vol. II: *The Origin of Racial Oppression in Anglo-America* (New York: Verso, 1997).
- ²⁸ John Chandler, "CSUN Leader Believes in Facing Tension, Not in Censorship," *Los Angeles Times*, 23 November 1994: B5.