

Dismissal of Researcher Upheld

The Wisconsin Court of Appeals has upheld the dismissal of a University of Wisconsin assistant professor, Xuebiao Yao, on the basis of misconduct relating to the sabotage of the experiment of another researcher, Edwin Chapman. Key evidence in the hearing relating to Yao's dismissal came from videotapes of the laboratory area that showed Yao handling two test tubes from Chapman's experiment and mixing the contents of the two tubes. Although Yao offered an explanation for the event captured on tape, the reviewing university committee found his explanation implausible and recommended Yao's dismissal.

Yao claimed, in his lawsuit challenging the dismissal, that Chapman mishandled the tapes and that the tapes contained gaps in coverage of the time frame in question. The court held that, although the alleged mishandling of the tapes may have affected the weight and credibility of the evidence, such mishandling did not mean the tapes lacked all probative value. Therefore, the tapes provided substantial evidence of wrongdoing by Yao. This evidence was deemed sufficient to uphold the university's decision, even though Yao offered evidence that contradicted the conclusions reached by the university based on the tapes. *Yao v. Board of Regents*, 649 N.W.2d 356 (Wis. App. 2002).

The court also noted that university empaneled a committee of nine of Yao's faculty peers who heard over five days of testimony on the issue of his misconduct. Yao was represented by two attorneys at these hearings. The committee rejected Yao's version of the events leading to his dismissal, and the court deferred to this conclusion, despite the devastating effect the "for cause" dismissal would have on Yao's otherwise promising career.