

THE MORAL LIBERAL

DEFENDING THE JUDEO-CHRISTIAN ETHIC, LIMITED GOVERNMENT, & THE AMERICAN CONSTITUTION.

This Month in FIRE History: Victory at Valdosta State

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Last September, FIRE celebrated a [major victory](#) when former Valdosta State University (VSU) student T. Hayden Barnes won a federal civil rights lawsuit against former VSU President Ronald Zaccari. Not only was the victory a vindication of Barnes' rights, but it also represented a major step forward for the fight for freedom on campus.

Barnes' [case](#) began in the spring of 2007, when he publicly protested plans to spend \$30 million of student fee money to build new parking garages on VSU's campus. As a committed environmentalist, he believed that the parking garages would do little to alleviate traffic problems on campus while adding significantly to the problem of pollution. In order to make his concerns known, Barnes posted flyers around campus and contacted university administrators and student government officials, including [President Zaccari](#) himself. When Barnes learned that Zaccari was upset by his flyers, he removed them and apologized. However, soon thereafter, Barnes posted a [collage](#) on his Facebook page which included pictures of Zaccari, a parking deck, a bulldozer excavating trees, and an asthma inhaler. The collage also included phrases such as "No Blood for Oil" and "S.A.V.E.—Zaccari Memorial Parking Garage," a sarcastic reference to statements Zaccari had made about his "legacy" at VSU.

Unfortunately, Barnes' collage was a step too far for Zaccari. After it was posted, Barnes was notified in a [letter](#) that he had been "administratively withdrawn" from VSU. The letter explained that "as a result of recent activities directed towards me by you, included [sic] but not limited to the attached threatening document [the Facebook collage], you are considered to present a clear and present danger to this campus." In order to be considered for re-admission, Zaccari mandated that Barnes submit certifications of his mental health and undergo ongoing therapy. Barnes [turned](#) to FIRE for help, and we put him in touch with noted First Amendment attorney and FIRE Legal Network member Robert Corn-Revere.

As our video on the case explains, Hayden Barnes' story was one of the worst in FIRE's ten-year history. Not only was VSU home to one of the most restrictive [free speech zones](#) in the country, but also the violations perpetrated against Barnes' First Amendment and due process rights were egregious and indefensible.

The school's actions earned VSU a spot on FIRE's [Red Alert List](#) and made the university the center of an extensive public awareness [campaign](#). Faced with this significant public pressure from FIRE, President Zaccari [announced](#) his early retirement in November 2007. Two months later, in January 2008, Barnes [filed a lawsuit](#) against the university, President Zaccari, the Board of Regents of the University System of Georgia, and other VSU administrators, in the U.S. District Court for the Northern District of Georgia. That fall, following the introduction of a new president at VSU, the school [reversed](#) its free speech zone policy.

Finally, last September, the U.S. District Court for the Northern District of Georgia [ruled](#) in favor of Barnes, finding that Zaccari had clearly violated Barnes' constitutional right to due process. The court also found Zaccari personally liable for damages, piercing his "qualified immunity" as a government official. According to federal law, public officials are entitled to a "qualified immunity" against personal liability for damages only if their actions do not violate "clearly established" law of which a reasonable person in the official's position would be aware. In the Barnes case, the court found that Zaccari had knowingly violated Barnes' rights and was therefore liable for his actions. As Azhar [pointed out](#) in the wake of the decision, the ruling had repercussions far beyond the case itself:

By holding that Zaccari lost his qualified immunity by ignoring clearly established law of which a reasonable official in his position would be aware (and of which his legal counsel in fact warned him), the court has sent an unmistakable message to university officials around the country: Fly right, or pay up.

Piercing qualified immunity is an important part of FIRE's larger legal strategy to make college officials respect free speech, due process, and freedom of conscience, whether they want to or not. In light of the victory in *Barnes v. Zaccari*, FIRE [sent out certified letters](#) to the presidents and general counsels at nearly 300 schools, warning them to respect student rights or face similar consequences.

Our work in this case didn't end last September, and FIRE continues to fight for Hayden Barnes' rights as the appeal comes before the United States Court of Appeals for the Eleventh Circuit. Earlier this year, we [filed an amici curiae brief](#) with the Eleventh Circuit asking the federal appellate court to uphold the September 2010 ruling. FIRE's brief was joined by an impressive [coalition](#) of groups, including the American Booksellers Foundation for Free Expression, the American Civil Liberties Union of Georgia, the American Council of Trustees and Alumni, the Cato Institute, the Electronic Frontier Foundation, Feminists for Free Expression, the Individual Rights Foundation, the Libertarian Law Council, the National Association of Scholars, the National Coalition Against Censorship, the National Youth Rights Association, Reason Foundation, the Southeastern Legal Foundation, and Students For Liberty.

As we celebrate our victory last September, we look forward to continuing our work on this case and are hopeful that the message sent to college administrators last September rings true as well in the the Eleventh Circuit—honor students' rights or pay the price.

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