Eleventh Circuit Upholds University's Speech Policies

The campus speech rules at Georgia State University (GSU) were recently challenged by a non-university speaker in a court case that ended up in the Eleventh Circuit Court of Appeals (the federal circuit that encompasses Alabama). In this case, Benjamin Bloedorn, a Christian evangelist, appeared on the GSU campus one day and began preaching. Ironically, the location chosen by Bloedorn for this activity was the very site previously designated by GSU as its free speech area. Bloedorn was approached by a university policeman, however, and informed that he would have to obtain a permit before he could use this area. When he refused to apply for a permit, he was arrested for trespass. He then sued the GSU president, as well as the university itself, for allegedly violating his First Amendment right to free speech.

The GSU speech policy stated that its sidewalks, pedestrian mall, and rotunda were limited for use by members of the university community and its sponsored guests. All non-university and/or non-sponsored speakers were required to use a designated free speech area and were required to give the university advance notice by applying for a permit no later than 48 hours before the event. They could then speak for an hour and a half in that area. The Eleventh Circuit noted that there is no requirement under the First Amendment that all public campus facilities be made available on an equal basis to university-related individuals and those not related to the university. GSU had a legitimate, cognizable interest in preserving its limited facilities and resources for its students, faculty, and staff and individuals sponsored by them. The policy for other speakers was viewpoint neutral, reasonable, and consistently applied. Moreover, the advance notice provision was reasonable to ensure that the university could arrange adequate safety patrols, if needed. Permits had been granted to nearly every individual who had applied.

The Eleventh Circuit upheld GSU's speech regulations as applied to non-sponsored speakers. *Bloedorn v. Grube*, 631 F.3d 1218 (11th Cir. 2011). It commented, relying on a Supreme Court decision almost thirty years ago, as follows:

> A university differs in specific respects from public forums such as streets or parks or even municipal theaters. A university's mission is education, and decisions of this Court have never denied a university's authority to impose reasonable regulations compatible with that mission upon the use of its campus and facilities. We have not held, for example, that a campus must make all of its facilities equally available to students and nonstudents alike, or that a university must grant free access to all of its grounds or buildings. *Widmar v. Vincent*, 454 U.S. 263, 102 S. Ct. 269, 70 L. Ed. 2d 440 (1981). 631 F. 3rd. at 1230.

Each free speech case must be analyzed in light of its own, particular set of facts. The *Bloedorn* case is of particular relevance, however, due to similarities between GSU's campus speech regulations and those in effect at the UAHuntsville campus.