



North Carolina Court of Appeals Rules that Constitution Prevents Davidson Campus Police from Arresting DWI Suspect

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The North Carolina Court of Appeals recently overturned a DWI conviction in State v. Yencer, 696 S.E.2d 875 (N.C. Ct. App. 2010), on Establishment Clause grounds because the police officer who arrested the Defendant was a Davidson College campus police officer. According to the court, Davidson is a "religious institution" and the delegation and subsequent exercise of state police power by an officer employed by such an institution violates the strictures of the Establishment Clause of the U.S. Constitution. The decision relied on prior North Carolina cases, State v. Pendleton, 451 S.E.2d 274 (1994) and State v. Jordan, 574 S.E.2d 166 (N.C. Ct. App. 2002), which held that the state could not delegate discretionary government authority, including the authority to make arrests or investigate crimes, to the campus police departments of Campbell and Pfeiffer Universities because they were "religious institutions." Pendleton, 451 S.E.2d at 278.

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