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PRESIDENT

December 5, 2005

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Sent by U.S. Mail and Facsimile (336-256-0408)

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As you can see from our Directors and Board of Advisors, the Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, freedom of religion, academic freedom, due process, and, in this case, freedom of speech and expression on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE is deeply concerned about the unconstitutionally restrictive speech policies of the University of North Carolina at Greensboro (UNCG). The university's Facility Use Policy, which designates only two small areas on UNCG's campus as "free speech and assembly" areas, chills expression on UNCG's campus and ignores constitutional guarantees of freedom of speech that UNCG, as a state-supported institution, is obligated to protect. At UNCG, protests, demonstrations,

Police approached her and demanded that she cease demonstrating outside the free speech areas.

free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die. [Emphasis added.]

UNCG's actions in regulating free expression create the very "atmosphere of suspicion and distrust" against which the justices warned.

Further, UNCG's establishment of free speech zones that restrict and corral free expression is legally insupportable. The only possible defense of UNCG's policy would be that it is a "reasonable time, place and manner" restriction as allowed by cases like *Ward v. Rock Against Racism*, 491 U.S. 781 (1989). There is nothing "reasonable," however, about transforming the vast majority of the university's property—indeed, *public* property—into a "censorship area," and in maintaining a system of onerous requirements by which students must abide in order to exercise their fundamental rights. Federal case law regarding freedom of expression simply does not support the transformation of public institutions of higher education into places where constitutional protections are the exception rather than the rule. Time and again, courts have determined that to be considered legal, "time, place, and manner" restrictions must be "narrowly tailored" to serve substantial governmental interests. The generalized concern for order that underlies the establishment of free speech zone policies is neither specific enough nor substantial enough to justify such restrictions.

FIRE, which recognizes the threat to liberty represented by free speech zones on public college or university campuses, has challenged the establishment of free speech zones at universities across the nation, including at West Virginia University, Seminole Community College in Florida, Citrus College in California, and Texas Tech University. In all of these cases the institutions challenged have either decided on their own to open up their campuses to expressive activities or have been forced by a court to do so. For instance, in FIRE's case at Texas Tech, a federal court determined that Texas Tech's policy must be interpreted to allow free speech for students on "park areas, sidewalks, streets, or other similar common areas...irrespective of whether the University has so designated them or not." *See Roberts v. Haragan*, 346 F. Supp. 2d 853 (N.D. Tex. 2004). UNCG would be well advised to take this into account in considering its own policies.

Please spare UNCG the embarrassment of fighting against the Bill of Rights—a statement of both law and principle by which the university is legally and morally bound. We urge UNCG to dismiss the charges against Allison Jaynes, to show the courage necessary to admit its error, to undo this unjust policy, and to tell the world that free speech at UNCG is to be celebrated, honored, and broadened—not feared, restrained, and hidden. Let your students exercise their basic legal, moral, and human rights; let them speak, assemble, and protest as their consciences dictate.

FIRE is committed to using all of its resources to abolish the unconstitutional limits on freedom of expression at UNCG. Because Allison Jaynes faces a hearing on this matter soon, we request a response on this matter by December 12, 2005.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. Shibley". The signature is written in a cursive style and is positioned above a solid black horizontal bar.

Robert L. Shibley
Program Manager

cc:

Erskine B. Bowles, President, University of North Carolina System
Jen Day Shaw, Dean of Students, University of North Carolina at Greensboro
Brett Carter, Assistant Dean of Students, University of North Carolina at Greensboro
Bruce J. Michaels, Director of Student Life, University of North Carolina at Greensboro
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