



## LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

*LOCKE V. DAVEY* (2004)

MONDAY, SEPTEMBER 25, 2006

### OVERVIEW

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This month we spotlight the landmark Supreme Court case *Locke v. Davey* (2004). In this case, the Court ruled that states do not violate the Free Exercise Clause by denying state funds to college students pursuing degrees in theology.

### RESOURCES

- <http://www.oyez.org/oyez/resource/case/1631/>
- <http://www.firstamendmentcenter.org/news.aspx?id=12755>
- [http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=02-1315#Scene\\_1](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=02-1315#Scene_1)

### ACTIVITY

High school student Joshua Davey wanted to go on to college. Like many kids his age, he was looking for financial help to do so. He applied for an academically-competitive Promise Scholarship, a fund sponsored by taxpayers in his home state of Washington. He soon got the good news that he had won the scholarship. His happiness was short-lived, however. The state took back the money when it learned of his intended major, theology. The Washington state constitution, like that of 36 other states, specifically bans the use of public money to fund religious instruction. Davey chose to forfeit the money and enroll in a private Christian college.

Davey, however, believed his First Amendment rights to free religious exercise were being violated. If the state of Washington provided college financial aid to students pursuing secular areas of study, Davey reasoned, then it should provide that same money to students pursuing religious courses of study. He eventually took his case to the US Supreme Court.

The Court disagreed with Davey and ruled that states could deny public scholarship money to students being trained for the ministry. The Court held that states have a long-standing interest in keeping the government distinct from religion. “Since this country’s founding, there have been popular uprisings against [using] taxpayer funds to support church leaders, which was one of the hallmarks of an ‘established’ religion,” wrote Chief Justice William H. Rehnquist. “Indeed, majoring in devotional theology is akin to a religious calling as well as an academic pursuit.”

The Court determined that there was no infringement on free exercise because individuals were still free to pursue their desired courses of study and religious careers: “It imposes neither criminal nor civil sanctions on any type of religious service or rite...It does not deny to ministers the right to participate in the political affairs of the community. And it does not require students to choose between their religious beliefs and receiving a government benefit. The state has merely chosen not to fund a distinct category of instruction.”

### QUESTIONS

1. What did Davey plan to study in college?
2. Why did the state of Washington deny Davey scholarship money?
3. Why did Davey claim his rights had been violated?
4. How did the Supreme Court rule, and why?
5. In his dissenting opinion, Justice Antonin Scalia wrote, “Let there be no doubt: This case is about discrimination against a religious minority.” Do you agree? Why or why not?



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## ANSWERS

1. He planned to study theology.
2. The Washington state constitution bans the use of public money to fund religious instruction.
3. Davey believed that the state's action was a violation of his First Amendment right to freely exercise his religion, because he was denied the scholarship money on the basis of his planned course of study. He argued that if the state offered money to students studying secular subjects, that it must fund the study of theological as well.
4. The majority of the Court found no violation of Davey's First Amendment rights. States had a long-standing interest in keeping the government and church separate, and funding religious instruction had been historically interpreted as "establishing" a religion. Further, the policy of not funding religious instruction did not impose any penalties or restrict Davey's rights to freely exercise his religion.
5. Answers will vary.