



Written by [Joe Wolverton, II, J.D.](#) on July 24, 2023

## Michigan Appeals Court: Second Amendment Doesn't Apply in 'Sensitive Places'

If you're in Michigan, consider this your notice that the Second Amendment does not apply in "sensitive places" within your state.

The Michigan Court of Appeals recently held that the University of Michigan (UM) campus — and all other schools in the state — is exempt from the protections of the Second Amendment regarding keeping and bearing arms. This is the second time in six years that the same court has confirmed its unconstitutional opinion.

Here's a bit of procedural history, as [published by \*The Detroit News\*](#):



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The ordinance [Joshua] Wade challenged at UM banned possession of a firearm, knife, sword or machete on property owned or leased by the University of Michigan, even if that individual has a concealed carry permit. An exception was made for law enforcement officers.

Wade filed suit after his request for a waiver was denied, arguing the policy violated his Second Amendment rights and was preempted by a state law that barred local governments from passing limitations on firearms.

The university argued the Second Amendment didn't apply to "sensitive places" like schools and that the university wasn't bound by the state law barring local firearms ordinances. The Court of Appeals in 2017 agreed.

Wade appealed that decision to the state's Supreme Court, which granted his application to appeal. After the U.S. Supreme Court's decision in the *New York State Rifle & Pistol Association v. Bruen* case was handed down in June 2022, the Michigan Supreme Court reversed its decision, remanding Wade's case to the Court of Appeals with instructions to reconsider the case in light of the *Bruen* opinion.

In its opinion in *Bruen*, the U.S. Supreme Court held that the United States' "historical tradition of firearm regulation" must be taken into consideration when deciding whether restrictions on the carrying of firearms meet historical and constitutional muster.

Upon the rehearing of his case, Wade argued that the state's Legislature "has distinguished between schools and universities, and a large university has more in common with a city than a school; therefore, the university cannot be considered a 'school' for purposes of identifying it as a 'sensitive place.'"

After reconsidering the facts of the case, the Michigan Court of Appeals once again held that the Second Amendment does not apply to "sensitive places" in Michigan; that schools are "sensitive places"; and that since the University of Michigan is a school, guns may not be carried on campus,



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regardless of permits to do so.

The decision, written by appellate Judge Mark Cavanagh and joined by Judge Deborah Servitto, held that schools may make their own firearms policies, regardless of whether those policies violate the Second Amendment's protections of the people's right to keep and bear arms.

Notice, if you will, that in the court's decision to ignore the Second Amendment, there is an exception carved out for law enforcement. Police may carry weapons on campus. Here is the description of the mission of the University of Michigan Police Department, as [published on its website](#): "The University of Michigan Police Department (UMPD) is a full-service community-oriented law enforcement agency dedicated to promoting a safe and secure environment for students, faculty, staff and visitors."

Logically, one assumes that the exception to the no-gun policy granted to the police was issued so that guns could be used by the police to facilitate the promotion of "a safe and secure environment" on campus, as that is a significant aspect of the mission of the school's police force.

According to [data provided by the UMPD](#), there are approximately 63 police officers on their force. [Data provided by the University of Michigan](#) reveal that there are approximately 51,225 students enrolled for the fall semester. Additionally, the university reports that there are 7,719 faculty members on the Ann Arbor campus. The number of other campus employees was not provided.

That equals to about 936 students and faculty per police officer. That's just fewer than 1,000 people to be protected by one armed man or woman. Wouldn't the noble and certainly critical mission of maintaining the safety of the university's 58,944 students and faculty be made much easier if those among that population with state-issued concealed carry permits were allowed to bring their firearms onto campus?

That would be the logical conclusion of the court's purportedly logical exemption from the gun ban for law enforcement.

Certainly there will be those who argue that police are trained to use their weapons and civilians are not. That's likely true of many people who carry weapons. However, in Michigan, an applicant must not only be 21 years old and a resident of the state, but take an eight-hour training course on the safe use of handguns, as well as pass the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check (NICS).

Now, the plain truth of the matter is that Wade qualified for a concealed carry permit in Michigan. Although we can't say with certainty, perhaps he (and others issued the same permit) feels safer on campus with another gun available above the one per 936 people allowed by the University of Michigan today. Wouldn't anyone feel safer? Isn't the goal of the UMPD to maintain the safety of the school's community? Surely, law enforcement officers would welcome the assistance of citizens legally allowed to carry firearms actually being permitted to carry those firearms!

Regardless, the U.S. Constitution protects the right of the people to keep and bear arms from any infringement. [Article I, Section 6](#) of the Constitution of the State of Michigan likewise recognizes the right of every citizen of that state "to keep and bear arms for the defense of himself and the state." Neither the federal nor the state constitution requires citizens of their respective jurisdictions to seek permission from the government to exercise their right to keep and bear arms. That such infringements have been made is evidence of the people's toleration of tyrants.

That a court in the United States of America would designate any place as too "sensitive" to be under



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the aegis of the Second Amendment reveals that the judges of that court do not understand the history or the purpose of the protection of the people's right to keep and bear arms, and how the forbidding of such makes *every space* more sensitive to senseless acts of armed violence.

Cesare Beccaria explained this very clearly: “[A law forbidding the wearing of firearms] certainly makes the situation of the assaulted worse, and of the assailants better, and encourages rather than prevents murder, as it requires less courage to attack unarmed than armed persons.”

And as for Wade's assertion that a university is not a school: If school is where one receives *education*, the reader can decide, but Wade probably has a strong case.

The solution in Michigan is to elect candidates for the state's Legislature and governor who are committed to restoring to Michiganders their natural rights by repealing any restrictions on the right to keep and bear arms.

The solution in the United States is for states, which are the ultimate arbiter of the power of the federal government, to refuse to enact or enforce any act of the federal government — including regulations issued by unelected and unaccountable bureaucrats — that is not “in pursuance” of the powers granted to the federal government in the U.S. Constitution.



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