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MUNICIPAL ORDINANCE - OHIO

State v. Vaduva

Court of Appeals of Ohio, Second District, Greene County - June 10, 2016 - N.E.3d - 2016 WL 3219670 - 2016 -Ohio- 3362

Pro se defendant was convicted by jury in Municipal Court of panhandling in violation of city ordinance.

Defendant appealed.

The Court of Appeals held that:

- Definition of "panhandling" in ordinance requires a request for money, items of value, or a donation to be for the requestor's personal use;
- Trial court's omission of personal use element in its jury instructions created a manifest miscarriage of justice; and
- Court of Appeals would decline to review defendant's waived constitutional challenge to ordinance.

Definition of "panhandling" in city ordinance prohibiting a person from requesting verbally, in writing, or by gesture or other actions, "money, items of value, a donation, or other personal financial assistance", requires a request for money, items of value, or a donation to be for the requestor's personal use, and does not include requests for money for a charity.

Misinformation provided to jury during closing arguments in panhandling trial, and trial court's omission of the personal use element in its jury instructions, created a manifest miscarriage of justice, warranting reversal of conviction and remand; jury was led to believe that one engages in panhandling under city criminal ordinance by simply making any request for money, and defendant was requesting money for charity.

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