

Bond Case Briefs

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MUNICIPAL ORDINANCE - OHIO

Ohioans for Concealed Carry, Inc. v. Oberlin

Court of Appeals of Ohio, Ninth District, Lorain County - January 9, 2017 - N.E.3d - 2017 WL 74977 - 2017 -Ohio- 36

Nonprofit gun rights advocate group filed suit against city, seeking declaratory and injunctive relief, and award of costs and attorney fees, based on challenge to constitutionality, under Home Rule Amendment, of ordinances prohibiting possession of firearms in city parks and recreation areas.

While suit was pending, ordinances at issue were repealed. The Court of Common Pleas entered summary judgment for city and denied group's motion for award of attorney fees and costs. Group appealed.

The Court of Appeals held that:

- Amended city ordinance prohibiting "unlawful" possession, use or discharge of any type of a firearm within city park or recreation area was appropriate exercise of city's police power;
- No justiciable controversy remained after offending ordinances were repealed;
- Fact issues precluded summary judgment for city on group's request for attorney fees and costs; and
- Trial court lacked jurisdiction over claim, raised for first time on summary judgment, that codified ordinance was unconstitutionally vague.

Amended city ordinance prohibiting "unlawful" possession, use or discharge of firearm within city park or recreation area complemented, rather than conflicted with general law protecting right of citizen to possess and carry firearm, and thus, was appropriate exercise of its local police power, within meaning of Home Rule Amendment.