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LAW ENFORCEMENT - NEW YORK

Police Benevolent Association of City of New York, Inc. v. City of New York

Court of Appeals of New York - November 20, 2023 - N.E.3d - 2023 WL 8007151 - 2023 N.Y. Slip Op. 05960

Law enforcement unions brought action against city for declaratory judgment that provision of city administrative code making it a criminal offense to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest was preempted by state laws governing arrest authority of police officers, establishing defense of justification, and criminalizing strangulation-related offenses, as well as for declaration that code provision was vague in violation of New York's Due Process Clause.

City moved and unions cross-moved for summary judgment. The Supreme Court, New York County, granted unions' motion in part, ruling that code provision was unconstitutionally vague. City appealed. The Supreme Court, Appellate Division, reversed, granted city's motion, denied unions' cross-motion, and declared that code provision was constitutional. Unions appealed.

The Court of Appeals held that:

- City code provision was not within field of criminal procedure, for purposes of field preemption;
- Statute criminalizing certain conduct involving obstruction of breathing during an arrest did not reflect legislative intent to preempt field;
- Statutes relating to defense of justification did not reflect legislative intent to preempt field;
- City code provision did not conflict with statute criminalizing certain conduct involving obstruction of breathing during an arrest;
- City code provision provided fair notice of specific conduct it proscribed; and
- City code provision provided clear guidelines for enforcement.

City administrative code provision making it a criminal offense for law enforcement officers to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest only incidentally touched upon matter of criminal procedure, and thus, New York legislature's establishment of integrated, comprehensive system of laws administering criminal procedure statewide, such as through statute governing arrest authority of police officers, did not preempt city code provision under doctrine of field preemption; city code provision defined substantive criminal offense without regulating matters of criminal procedure.

Statute making it a felony for police or peace officers to cause serious physical injury or death during an arrest by criminally obstructing breathing or using chokeholds to intentionally impede breathing did not reflect legislative intent to preempt field so as to preclude city code provision making it a criminal offense to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest, even though statute was motivated by legislature's belief that city police department's internal ban on use of chokeholds was ineffective; such belief suggested only that state determined departmental approach to eliminating chokeholds was insufficient, with no

indication that legislature meant to preclude any local laws consistent with statute, such as city's.

Provisions of Penal Law making defense of justification available in "any prosecution for an offense," including violations of local laws or ordinances, and specifically making such defense applicable to the "use of force in making an arrest" did not reflect legislative intent to preempt field of police use of force, so as to preclude city from enacting administrative code provision making it a criminal offense to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest; by making justification defense available in any prosecution for an offense, legislature left room for local governments to designate substantive offenses related to such conduct by police officers.

City code provision making it a criminal offense to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest did not conflict with statute making it a felony for police or peace officers to cause serious physical injury or death during an arrest by criminally obstructing breathing or using chokeholds to intentionally impede breathing, and thus, statute did not preempt city code provision by conflict, even though city code provision proscribed conduct that statute did not cover and did not require specific intent to impede breathing or infliction of serious physical injury or death; city code provision did not expressly or directly conflict with statute, as necessary for conflict preemption to apply.

City code provision making it a criminal offense to use certain methods of restraint in manner that restricted flow of air or blood while effecting an arrest did not conflict with statutes making defense of justification available in "any prosecution for an offense," including violations of local laws or ordinances, and specifically making such defense applicable to the "use of force in making an arrest," and thus, statutes did not preempt city code provisions by conflict; justification defense remained available in prosecutions for violations of city code provision.

City code provision making it a crime to "restrain an individual in a manner that restricts the flow of air or blood by...sitting, kneeling, or standing on the chest or back in a manner that compresses the diaphragm, in the course of effecting or attempting to effect an arrest" provided fair notice of specific conduct it proscribed, and thus, any medical imprecision of phrase "compresses the diaphragm" did not render provision void for vagueness under Due Process Clause; person of ordinary intelligence would understand "compress" to have common meaning of "to press or squeeze" or "to reduce in size, quantity, or volume," and would read statute to prohibit applying pressure in specified ways impeding person's ability to breathe by interfering with commonly-understood movement of diaphragm.

City code provision making it a crime to "restrain an individual in a manner that restricts the flow of air or blood by compressing the windpipe or the carotid arteries on each side of the neck, or sitting, kneeling, or standing on the chest or back in a manner that compresses the diaphragm, in the course of effecting or attempting to effect an arrest" provided officials, judges, and juries with clear guidelines for enforcement, and thus, provision was not void for vagueness under Due Process Clause; provision sufficiently defined conduct prohibited, namely, specific physical contact with particular areas of body in manner producing certain result, such that any determination of whether violation occurred was not left to enforcers' personal, subjective ideas of right and wrong.