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MUNICIPAL ORDINANCE - MISSOURI

Unverferth v. City of Florissant

Missouri Court of Appeals, Eastern District, Division I - September 10, 2013 - S.W.3d - 2013 WL 4813851

Appellants received red light camera tickets from city stating that they had committed a “Violation of Public Safety (Failure to Stop at a Red Light)” in violation of a city municipal ordinance (the “Ordinance”). Appellants challenged the validity of the Ordinance in a six-count petition. Appellants alleged the Ordinance violated their due process rights and the privilege against self-incrimination, sought declaratory judgment regarding the validity and constitutionality of the Ordinance and its enforcement, and asserted a claim of civil conspiracy against city and American Traffic Solutions (“ATS”). Claims of unjust enrichment were also asserted against city and ATS.

The appeals court reversed and remanded that portion of the trial court’s judgment declaring the Ordinance valid and dismissing because it was enacted with proper authority and is consistent with state law. Appellants pleaded that city exceeded its authority under its police power to enact the Ordinance because the purpose of the Ordinance was to raise municipal revenue and not to regulate traffic or promote safety. Whether the Ordinance is a revenue-generating scheme advanced under the guise of city’s police power is a factual question not appropriate for resolution on city’s motions to dismiss.

In addition, Appellants adequately pleaded, and the appeals court held, that the Ordinance conflicts with Missouri law because it regulates moving violations without requiring the municipal court to report the violation to the Director of Revenue as required by Missouri statute. The appeals court reversed the judgment of the trial court dismissing Appellants’ claim for declaratory judgment because the Ordinance conflicts with state statutes regulating moving violations.

With regard to Appellants’ claims relating to procedural due process, Appellants adequately pleaded that the Ordinance denied them notice, a fair hearing and adequate procedural protections as required under Missouri Supreme Court Rules and Article I, Section 10 of the Missouri Constitution. Whether the Ordinance, as enacted or applied, violated Appellants’ procedural due process rights is a factual question that is not appropriate for resolution on city’s motions to dismiss. Appellants are entitled to pursue discovery and present facts in support of their properly pleaded allegations. Accordingly, the appeals court reversed that portion of the trial court’s judgment dismissing the allegations contained in Counts I and IV relating to the denial of adequate procedural protections, notice, and fair hearing, and remand those issues to the trial court for proceedings consistent with this opinion.