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MUNICIPAL ORDINANCE - FLORIDA

Bell v. City of Winter Park, Fla.

United States Court of Appeals, Eleventh Circuit - March 20, 2014 - F.3d - 2014 WL 1088346

Plaintiffs brought action against municipality, alleging that ordinances concerning picketing or protesting near dwelling units violated their free speech rights, and seeking injunctive relief as well as damages. The United States District Court for the Middle District of Florida denied plaintiffs' motion for preliminary injunction and granted municipality's motion to dismiss. Plaintiffs appealed.

The Court of Appeals held that:

- Ordinance prohibiting picketing or protesting within 50 feet of any dwelling unit did not on its face violate free speech rights, but
- Ordinance allowing person residing in a dwelling unit to post "no loitering" sign and allowing city officer to enforce such prohibition on its face violated free speech rights.

Municipal ordinance, prohibiting picketing or protesting within 50 feet of any dwelling unit, and prohibiting picketing or protesting in any park, public street, public right-of-way, or sidewalk where such activity impeded or interfered with rights of others to travel in safe manner, did not on its face violate free speech rights, since ordinance did not regulate speech on basis of content or viewpoint and thus was content-neutral, and ordinance withstood intermediate scrutiny in that it served government interest in protecting well-being, tranquility, and privacy of the home, and in protecting the unwilling listener, it was narrowly tailored to achieve those ends, and it left open alternative channels of communication.

Municipal ordinance, allowing person residing in a dwelling unit to post "no loitering" sign and allowing city officer to enforce such prohibition against loitering within 50 feet of dwelling, on its face violated free speech rights, in that ordinance permitted private citizens to have municipality regulate speech on traditional public fora for any reason, and it provided no standards for enforcement, leaving officers free to enforce prohibition on basis of content or viewpoint of an individual's speech

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