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Nittany Outdoor Advertising, LLC v. College Tp.

United States District Court, M.D. Pennsylvania - May 20, 2014 - Slip Copy 2014 - WL 2094335

Nittany Outdoor Advertising, LLC, and Stephanas Ministries filed a complaint seeking redress of College Township's denial of Nittany's applications to post three billboards bearing the Ministries's messages along East College Avenue.

Plaintiffs claimed that the Township's Sign Ordinance, under which the Township Zoning Officer denied Nittany's applications, violated the First Amendment of the United States Constitution and the Constitution of the Commonwealth of Pennsylvania. Plaintiffs sought damages as well as declaratory, injunctive and other equitable relief.

In support of its motion for summary judgment and permanent injunctive relief, Nittany argued that the Township's pre-amendment Sign Ordinance and amended Sign Ordinance violated the First Amendment and the Pennsylvania Constitution for multiple reasons, including the Ordinance's failure to meet the strict scrutiny standard applicable to content-based regulations, the Ordinance's preference for commercial over noncommercial speech (together, Nittany's "substantive" challenges), and the Ordinance's vesting of unbridled discretion in Township officials.

The District Court held that:

- Nittany lacked standing to pursue its substantive challenges to the Township's pre-amendment Sign Ordinance;
- Nittany's substantive challenges to the Township's amended Sign Ordinance fail on the merits;
- Nittany had standing to mount a facial challenge to the Ordinance on the grounds that the Ordinance invests Township officials with unbridled discretion;
- The Sign Ordinance vested unbridled discretion in Township officials; and
- Those aspects of the Ordinance implementing a permitting scheme, as well as the Ordinance's variance provision, are unconstitutional, and the court will enjoin enforcement of the permitting scheme in its current form.