

Bond Case Briefs

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MUNICIPAL ORDINANCE - OHIO

Cleveland v. McCardle

Supreme Court of Ohio - May 28, 2014 - N.E.3d - 2014 -Ohio- 2140

In separate cases, defendants were charged with violation of city ordinance that prohibited them from remaining in public square between hours of 10:00 p.m. and 5:00 a.m. without permit. The Cleveland Municipal Court denied their motions to dismiss. Both defendants entered no contest pleas, and execution of judgments was stayed in both cases pending their appeals. The Court of Appeals reversed and remanded. State filed discretionary appeal.

The Supreme Court of Ohio held that:

- Ordinance was content-neutral and thus would be subjected to intermediate scrutiny, and
- Ordinance did not violate First Amendment guarantee of free speech.

An ordinance establishing a curfew in a public park is constitutional under the First Amendment right to free speech if it is content neutral, is narrowly tailored to advance a significant government interest, and allows alternative channels of speech.

City ordinance, prohibiting persons from remaining in a public square between the hours of 10:00 p.m. and 5:00 a.m. without a permit, was content-neutral, and thus would be subject to intermediate scrutiny in determining whether it violated the First Amendment guarantee of free speech. Ordinance applied to all persons regardless of their message or their activities.

City ordinance, prohibiting persons from remaining in a public square between the hours of 10:00 p.m. and 5:00 a.m. without a permit, did not violate First Amendment guarantee of free speech. Ordinance advanced significant government interest of protecting the safety of those wishing to use the square after hours and protecting city's investment in that property, ordinance was narrowly tailored since it allowed unfettered and unrestricted access when curfew was not in effect, and left open alternative avenues of communication because it excluded adjacent streets, sidewalks, and bus shelters.