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MUNICIPAL ORDINANCE - INDIANA

Gul v. City of Bloomington

Court of Appeals of Indiana - December 22, 2014 - N.E.3d - 2014 WL 7243326

Alexander Gul believes that modern day lawn maintenance practices are harmful to the environment. As a result, he refused to mow his lawn to comply with an ordinance requiring that the height of grass in one's yard may not exceed eight inches.

He appealed the trial court's order granting summary judgment in favor of the City of Bloomington on Gul's complaint against Bloomington appealing an administrative conclusion that Gul had violated the grass height ordinance.

Gul argued that the ordinance at issue (1) violated his freedom of conscience under the Indiana Constitution; (2) violated his freedom of expression under the United States and Indiana Constitutions; (3) was facially invalid because it conflicted with two Indiana Code provisions; and (4) was void for vagueness under the federal Due Process clause.

The Court of Appeals held that:

- Article 1, Section 3 of the Indiana Constitution (freedom of conscience) was intended to apply to religious, rather than non-religious, matters of conscience;
- Even if the freedom of conscience provision includes non-religious matters of conscience, it protects only the right to hold one's own opinions, and does not protect the right to act on one's own opinions in contravention of the law;
- The decision to refrain from mowing one's yard does not constitute expression that is protected by the First Amendment to the United States Constitution;
- The city's determination that Gul had abused his right to expression was rational, and thus not a violation of Article 1, Section 9 (freedom of expression) of the Indiana Constitution;
- The ordinance did not mandate use of an administrative proceeding, and thus there was no violation of Indiana Code section 36-1-6-9; and
- The ordinance was not unconstitutionally vague as a result of its failure to define "grass."

"After cutting through Gul's arguments, we affirm." Ugh.