
MUNICIPAL ORDINANCE - NORTH DAKOTA

Smith v. Isakson

Supreme Court of North Dakota - July 22, 2021 - N.W.2d - 2021 WL 3083472 - 2021 ND 131

Defendant convicted, following bench trial, of violating city ordinance prohibiting the sale of merchandise on public grounds without a permit filed a pro se petition for writ of supervision, alleging violation of his right to jury trial.

The Supreme Court held that:

- Defendant was not entitled to jury trial under Sixth Amendment, but
- He was entitled to jury trial under North Dakota constitution.

Defendant charged with violating city ordinance prohibiting the sale of merchandise on public grounds without permit was not entitled to jury trial under the Sixth Amendment, since the offense was characterized as infraction, and carried a maximum potential fine of $1000, without any possible prison term.

Defendant charged with violating city ordinance prohibiting the sale of merchandise on public grounds without permit was entitled to jury trial under North Dakota constitution; when North Dakota constitution was adopted in 1889, laws permitted cities to comprehensively regulate sales in public places, and jury trial was guaranteed for violation of such laws because potential penalties included incarceration for up to three months and fines of up to $100, and constitution extended right to jury trial to all crimes for which the right was preserved when constitution was adopted.

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