

Bond Case Briefs

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MUNICIPAL ORDINANCE - NORTH DAKOTA

City of Fargo v. Roehrich

Supreme Court of North Dakota - August 5, 2021 - N.W.2d - 2021 WL 3411833 - 2021 ND 145

Defendant was convicted in the District Court of harassment in violation of city ordinance. Defendant appealed.

The Supreme Court held that:

- Ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process;
- Ordinance was not unconstitutionally vague as applied to defendant; and
- First Amendment did not protect defendant’s conduct.

City harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process, although term was not defined by statute; ordinance required the defendant to have the intent to frighten or harass to be found guilty, and the combination of the specific intent element with the required conduct of repeated phone calls or other electronic communication with no legitimate purpose created minimum guidelines for the reasonable police officer, judge, or jury and limited the dangers of arbitrary and discriminatory application, and provided a reasonable person with adequate and fair warning of the prohibited conduct.

City harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process as applied to defendant; while defendant may have initially called city police officers with the purpose of legitimate communication regarding his son’s car accident, he made hundreds of telephone calls to three officers over a period of two years, and many of the calls had no purpose of legitimate communication, and calls were repetitive and included name calling and profanity, allegations the officers were liars or corrupt and did not know how to do their jobs, and other similar statements.

First Amendment did not protect defendant’s conduct in making harassing phone calls to city police officers and did not prevent conviction for violating city harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication,” where defendant made hundreds of telephone calls to three officers, he was told to stop calling numerous times, he was sent a cease and desist letter, and he continued to call the officers after being told to stop, and defendant stated in multiple voicemail messages that he would continue to call the officers until he was charged with harassment.