
MUNICIPAL ORDINANCE - FLORIDA

Club Madonna Inc. v. City of Miami Beach

United States Court of Appeals, Eleventh Circuit - August 1, 2022 - 42 F.4th 1231

Fully-nude strip club filed § 1983 action against city raising First and Fourth Amendment challenges, along with preemption challenges, to city ordinance requiring nude strip clubs to follow a record-keeping and identification-checking regime to ensure that each performer was at least 18 years old.

The United States District Court for the Southern District of Florida granted city's motion to dismiss. Club appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. The District Court granted renewed motion to dismiss in part, after which the District Court adopted in part a report and recommendation of Jonathan Goodman, United States Magistrate Judge and granted summary judgment in part. Club appealed and city cross-appealed.

In a case of first impression, the Court of Appeals held that:

- Ordinance was a valid time, place, and manner restriction complying with First Amendment free speech guarantee;
- Ordinance's warrantless-search provision satisfied administrative-search exception to warrant requirement for closely-regulated industries;
- Immigration Reform and Control Act (IRCA) preempted ordinance section concerning verification of an individual's employment authorization;
- Ordinance's penalty scheme was not preempted by Florida statute setting forth penalties for criminal and noncriminal violations; and
- Ordinance's unlawful section on verification of an individual's employment authorization was severable.

City ordinance requiring nude strip clubs to follow a record-keeping and identification-checking regime to ensure that each performer was at least 18 years old was a valid time, place, and manner restriction complying with the First Amendment free speech guarantee; although the ordinance's requirements, including log in/log out procedure for workers and performers requiring two forms of identification, were significant and time-consuming, they were not substantially broader than necessary to achieve the ordinance's aim of preventing minors and victims of human trafficking from dancing nude on a public stage, and the paperwork process still left club with plenty of hours in the day and night for its dancers to perform.

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