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MUNICIPAL ORDINANCE - GEORGIA

WBY, Inc. v. City of Chamblee, Georgia

United States Court of Appeals, Eleventh Circuit - September 23, 2025 - F.4th - 2025 WL 2699142

Owner of former strip club that served alcohol brought action for declaratory and injunctive relief as well as for damages against city, alleging city ordinances relating to the sale of alcohol at adult establishments with nude dancing violated owner's rights under the First Amendment and the Contract Clauses and the Equal Protection Clauses of the United States and Georgia Constitutions.

The United States District Court for the Northern District of Georgia granted in part city's motion to dismiss for lack of standing and granted summary judgment to city on owner's remaining claims. Owner appealed.

The Court of Appeals held that:

- Owner did not have Article III standing to seek equitable relief;
- Owner suffered past injury that was traceable to the ordinances in form of loss of the economic use of its property, as required to have Article III standing to bring action for damages;
- Owner did not have redressable claim, for Article III standing purposes, with respect to ordinance that banned sale of alcohol at establishments offering nude dancing;
- Owner had redressable claim, for Article III standing purposes, with respect to ordinances that required adult establishments at midnight and prohibited fully nude dancing;
- Strict, rather than intermediate scrutiny applied to owner's First Amendment free speech claims;
- Ordinances that required adult establishments close for business at midnight and that prohibited fully nude dancing did not violate club owner's First Amendment free speech rights;
- There was no valid contract between the club and city upon which to base Contracts Clause claims; and
- City did not violate club owner's equal protection rights.

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