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MUNICIPAL ORDINANCE - CALIFORNIA

Mustaqeem v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - January 22, 2026 - Cal.Rptr.3d - 2026 WL 174947 - 2026 Daily Journal D.A.R. 665

Licensed sidewalk vendor who sold packaged snacks outside ballpark brought action against city for writ of mandate, injunctive relief, and declaratory relief, alleging city's sidewalk vending regulations conflicted with state laws enacted to protect sidewalk vendors.

Vendor moved for preliminary injunction barring city from enforcing certain provisions of municipal code. The Superior Court denied the request for a preliminary injunction. Vendor appealed.

The Court of Appeal held that:

- Municipal ordinance allowing city to impound a sidewalk vendor's equipment and/or goods based on violations of the city's sidewalk vending regulations facially conflicted with state statute;
- Municipal ordinance prohibiting sidewalk vending in city ballpark district around the time of park events was not based on any objective health, safety, or welfare requirement, and thus ordinance likely violated statutory limits on vending restrictions;
- Vendor failed to establish a likelihood of success on the merits on claim that city's general regulations governing sidewalk vending in ballpark district amounted to a de facto ban on sidewalk vending in the city's most viable commercial areas; and
- Statute did not prohibit city from conditioning sidewalk vending permits on vendors agreeing to release, indemnify, or hold harmless the city from liability.

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