

IN THE DISTRICT COURT OF TULSA COUNTY STATE OF OKLAHOMA

JEFFREY A. DICKSTEIN) Case No.:
Plaintiff,)
vs.)
CITY OF TULSA,)
Defendant.)
_____)

**COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT**

Plaintiff, Jeffrey A. Dickstein hereby sues Defendant City of Tulsa, and alleges the following in support thereof makes the following showing:

1. This is a lawsuit for injunctive and declaratory judgment over which the Court has jurisdiction. The case involves a City of Tulsa Ordinance, signed by the City of Tulsa Mayor, and all parties are resident within the City and County of Tulsa. Venue is specifically authorized by 12 O.S. § 1652 C.

2. Plaintiff is an individual, seventy-three (73) years old, and a Viet Nam Veteran.

3. Defendant City of Tulsa is a municipality who has issued the offending ordinance complained of herein.

4. On July 15, 2020, Defendant enacted a City Ordinance, approved by the City of Tulsa Mayor, which ordinance generally provides for:

AN ORDINANCE OF THE CITY OF TULSA, OKLAHOMA, AMENDING THE PENAL CODE, TITLE 27, TULSA REVISED ORDINANCES CHAPTER 4, ‘OFFENSES AGAINST THE PERSON’ BY ADDING NEW SECTION 409 ENTITLED “FACE COVERING AND SOCIAL DISTANCING DURING COVID-19 PANDEMIC CIVIL EMERGENCY,” MANDATING THE USE OF FACE COVERINGS WITH SOME LISTED EXCEPTIONS, SETTING FORTH A SUNSET EXPIRATION DATE,

CREATING PENALTIES FOR NON-COMPLIANCE; DECLARING AN EMERGENCY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

5. The City of Tulsa Code of Ordinances, Title 8, Ch. 1, § 100 defines a civil emergency as either some riot or unlawful assembly that is violent, or as a natural disaster or man-made calamity in the nature of a flood, conflagration, tornado, earthquake or explosion resulting in death or injury.

6. The City of Tulsa was, and is, without legal authority to declare an emergency other than as defined by law, and its emergency ordinance is void ab initio.

7. The Mayor may not declare a civil emergency unless such emergency is defined. Tile 8, Ch. 1, § 200.

7. The emergency ordinance is unconstitutional as the ordinance violates Oklahoma Constitution Article I, Section 2 as it affects all places of worship.

8. The emergency ordinance is unconstitutional as the ordinance violates Oklahoma Constitution, Article II, Section 2 which provides the people have the right to life, liberty and the pursuit of happiness which necessarily includes the right to determine the course of one's health and not being forced, against their will, to re-breathe their carbon dioxide, in order to purchase life sustaining food and supplies without the fear of criminal penalty.

9. The emergency ordinance is unconstitutional as the ordinance violates Oklahoma Constitution, Article II, Section 3 as it prohibits the right peaceably to assemble with whom they want and without fear of criminal penalty.

10. The emergency ordinance is unconstitutional as the ordinance violates in spirit Oklahoma Constitution, Article II, Section 37, that prohibits a law or rule compelling, directly or

indirectly to participate in any health care system.

FIRST CAUSE OF ACTION FOR INJUNCTIVE RELIEF

11. Plaintiff incorporates paragraphs 1 through 10 hereat as if set forth in full.

12. There is a substantial likelihood of success on the merits as the emergency ordinance was enacted in the absence of legal authority and in violation of numerous provisions of the Oklahoma Constitution.

13. There is no legal remedy at law. Once denied access to life sustaining establishments, the deprivation to life and liberty is complete.

14. Absent the entry of an injunction, the likelihood of irreparable harm exists as Plaintiff will be denied entry to establishments, such as markets, or will face criminal penalties for failing to comply with the invalid ordinance all the while embracing well defined and established constitutional rights.

15. The injunction will serve the public interest by bringing to the City of Tulsa's Council and Mayor the fact they have, and are, acting without legal authority, and have, and no doubt will continue, to violate numerous provisions of the Oklahoma Constitution.

SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF

16. Plaintiff incorporates paragraphs 1 through 15 hereat as if set forth in full.

17. The Tulsa City Council and Mayor believe they have the authority to enact an emergency ordinance.

18. Plaintiff believes the Tulsa City Council and Mayor are without legal authority to enact an emergency ordinance because their explicit City Charter's definition of an emergency does not include the alleged emergency illegally declared in the offending emergency ordinance.

19. The Tulsa City Council and Mayor believe they have the authority to enact an ordinance that violates numerous provisions of the Oklahoma Constitution.

20. Plaintiff believes the Tulsa City Council and Mayor are without legal authority to pass an ordinance that violates the provisions of the Oklahoma Constitution.

21. An actual controversy exists as to the validity of the emergency municipal ordinance, and the Court should determine the respective rights and status of the parties hereto.

WHEREFORE, Plaintiff moves the Court:

1. To issue an injunction against the City of Tulsa from enforcing the emergency municipal ordinance;

2. To issue an order declaring the respective rights of the Parties;

3. For costs of suit; and

4. For such other relief as the Court deems proper in the premises.

Dated: July 17, 2020

Jeffrey A. Dickstein
In propria persona
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