

Constitution.

139. Section 19-112 is a general prohibition “for any person to raise funds, or seek financial assistance of any kind or nature, on any street or right-of-way within the city without first acquiring a permit.” However, only organizations “under § 501(c)(3) of the Internal Revenue Code and registered pursuant to F.S. Ch. 496, or persons or organizations acting on [their] behalf” are eligible to obtain such a permit. Gainesville, Fla, Code § 19-113 (2000). In doing so, it impermissibly prefers the viewpoints of registered charities, but prohibits all other viewpoints.

140. Although the government’s interest in public safety is substantial, the ordinance is not narrowly drawn to further that interest.

141. As a direct and proximate result of Defendant City’s unconstitutional ordinance provisions in Article V, Plaintiffs and other individuals who are not registered charities have been deprived their right to equal protection under the law. Plaintiffs have suffered, and continue to suffer, irreparable harm and have been damaged as a direct result of this restrictions in Article V.

**EIGHTH CLAIM FOR RELIEF
FALSE ARREST IN VIOLATION OF THE FOURTH AMENDMENT**

By Plaintiff Nelson Against Defendant CITY

142. The allegations of paragraphs 1 through 95 are incorporated into the Eighth Claim for Relief as though fully set forth here.

143. The City violated Nelson’s Fourth Amendment rights, when Nelson was falsely arrested by GPD officers, pursuant to the City’s policy, practice, and/or custom of

using § 316.2045 to prevent homeless individuals like Nelson from holding signs requesting charitable donations on public sidewalks within Gainesville.

144. The unlawful arrest was done willfully, knowingly, and with the specific intent to deprive Nelson of his constitutional rights based on his status of being homeless and the City's desire to prevent homeless individuals from engaging in the form of charitable solicitation described in this complaint.

145. Nelson suffered a violation of his Fourth and Fourteenth Amendment rights based on a significant deprivation of his liberty interest while incarcerated overnight as a result of the carrying out of the City's unlawful policy, practice, and/or custom.

146. As a consequence of the unlawful arrest, Nelson is reluctant to exercise his First Amendment rights on traditional public fora, because he fears being falsely arrested and incarcerated again for such activity.

147. As a direct and proximate result of Defendant City's unlawful policy, practice, and/or custom, Nelson suffered loss of his liberty, mental suffering, embarrassment, and anguish associated with incarceration and the underlying criminal charges.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for relief as follows:

1. A preliminary and permanent injunction preventing Defendant City, and its officers, agents, and employees, from enforcing § 316.2045, Fla. Stat.;
2. A preliminary and permanent injunction preventing Defendant City, and its officers, agents, and employees, from enforcing § 337.406, Fla. Stat.;
3. A preliminary and permanent injunction preventing Defendant City and its

officers, agents, and employees from enforcing Article V of the City Code;

4. A preliminary and permanent injunction preventing Defendant ACSO and its officers, agents, and employees, from enforcing § 316.2045, Fla. Stat.;

5. A preliminary and permanent injunction preventing Defendant ACSO and its officers, agents, and employees, from enforcing § 337.406, Fla. Stat.;

6. For a declaration that § 316.2045, Fla. Stat., is unconstitutional both on its face and as applied by officers, agents, and employees of ACSO and the City, in violation of the First Amendment of the U.S. Constitution;

7. For a declaration that § 337.406, Fla. Stat., is unconstitutional both on its face and as applied by officers, agents, and employees of ACSO and the City, in violation of the First Amendment of the U.S. Constitution;

8. For a declaration that § 316.2045, Fla. Stat., is impermissibly vague, both on its face and as applied by officers, agents, and employees of ACSO and the City, in violation of the Fourteenth Amendment of the U.S. Constitution;

9. For a declaration that § 337.406, Fla. Stat., is impermissibly vague, both on its face and as applied by officers, agents, and employees of ACSO and the City, in violation of the Fourteenth Amendment of the U.S. Constitution;

10. For a declaration that Article V of the Gainesville City Code, is unconstitutional on its face and as applied by officers, agents, and employees of the City, in violation of the First Amendment of the U.S. Constitution.

11. For compensatory damages for all Plaintiffs against Defendant City and for Plaintiffs Chase and Rogers against Defendant ACSO, including emotional distress, loss of

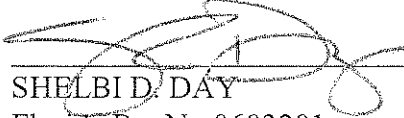
protected First Amendment rights, and loss of liberty, and any other damages as permitted by law;

12. For compensatory damages for Plaintiff Nelson against Defendant City, including emotional distress and loss of liberty; and, any other damages as permitted by law;

13. For attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

14. For such other relief as this Court deems just and proper.

Respectfully submitted,


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