

II. JURISDICTION AND VENUE

Jurisdiction of this matter is predicated on Title 28 U.S.C, §1331 and §1343, which provide original jurisdiction to federal district courts in civil actions arising under the Constitution and civil rights statutes of the United States. Supplemental jurisdiction over Iowa constitutional law claims is provided through Title 28 U.S.C., §1367, which requires federal district courts to exercise jurisdiction over claims that “...are so related to claims in the action that they form part of the same case or controversy....” This Court has authority pursuant to Title 28 U.S.C., §2201 to provide appropriate declaratory relief as to matters properly within its jurisdiction, and it has authority under Title 42 U.S.C., §1988 to award attorney’s fees and costs to successful civil rights Petitioners.

III. PARTIES AND STANDING

1. Petitioners are United States citizens and taxpayers who reside together in a single family residence at 907 N.W. Church Street (on the S.E. Corner of Church and Tenth Streets) within the corporate city limits of the City of Leon Iowa.

2. The Respondent City of Leon, Iowa [the“City”] is a duly constituted municipal subdivision of the State of Iowa, invested with its own government, powers and home rule authority under the Constitution and laws of the State of Iowa.

3. A genuine case or controversy exists because the City through its power to control traffic, has ordered the Petitioners to cease use of the street parking in front of their residence and has passed ordinances and erected signs that restrict street parking adjacent to their residence to “Church Parking Only.”

IV. FACTS & SPECIFICATIONS

4. In 2005, parking along Northwest Church street (*aka* U.S. Hwy 69) was banned by ordinance number 2005-08 [“*The Church Street Ordinance*” or“*Church Parking Only Ordinances*”].

5. Section 2.1-2.1008(22) of the “Church Street Ordinance” created a single exception from the parking ban for “persons attending services and activities held at the church or churches located on N.W. Church Street.”

6. The “Church Street Ordinance” applies to that portion of the church street bordering the west side of the Petitioners’ residence.

7. There are three churches fronting on Church Street in Leon Iowa.

8. Two blocks south of the Petitioner's residence on Church Street, near the Franklin Church of the Brethren, signs have been posted which read "2 Hour Church Parking Only."

9. There are also church parking only signs posted on Church street across from St. Brendan's Catholic Church. {Petitioners reside across the street from St. Brendan's on the southwest corner of Tenth Street and Church}.

10. Two blocks to the north of Tenth and Church there is another church in front of which there are no posted parking restrictions.

11. Tenth street is used by school buses and its paved area is approximately 22 feet wide.

12. Church street, which is also a federal highway is approximately 36' wide.

13. In 2006, Petitioner Darling began parking his car on Tenth street for personal reasons associated with his disability.

14. After Mr. Darling began on-street parking, he was visited by a Leon city police officer who asked him to park farther from the intersection to give busses more room to turn.

15. Mr. Darling complied with the officer's request to park further from the corner.

16. Approximately two to three weeks later, another police officer informed Darling that if he continued to use on-street parking, he would have to move his car every 24 hours or else the city would tow his car.

17. Mr. Darling complied by moving his car once every 24 hours.

18. Subsequently, police informed Mr. Darling that he could not park his car on 10th street at all, or the city would pass an ordinance making street parking on N.W. Tenth Street “Church parking only.”

19. Mr. Darling complied by not parking on Tenth Street, but in January 2007, the Leon city council passed a new ordinance limiting parking in front of the Petitioners’ residence on tenth street to church use only.

20. That ordinance [*“10th Street Ordinance”* or *“Church Parking Only Ordinances”*], Section 2.1-2.1008(26) (2007) of the Leon City Code, reads as follows:

No parking shall be allowed for 132 feet East on NW 10th Street beginning at the right of way on NW Church Street. An exception to this subsection is granted for persons attending services and activities held at the church located on the aforementioned section of NW 10th Street.

21. Subsequently, signs were erected in front of Petitioners’ residence on both sides of 10th Street which proclaim “2 Hour Church Parking Only.”

22. Petitioner. Jones' property extends 100 feet east from the intersection of NW Tenth Street and NW Church—well beyond the maximum necessary turning radius for a school bus (Approx. 40 feet) but within the 132 foot coverage of the ordinance.

23. On the east side of the Petitioners' residence, there is an alley, so that for all practical purposes, Mr. Jones and Mr. Darling, are the only residents in the City of Leon, Iowa who are directly affected by the 10th street ban on non-church parking.

24. Petitioners Jones and Darling are unable to legally park on the street in front of their residence because neither of them are members of St. Brendan's Catholic Church and neither of them attend services there.

25. St. Brendan's has a parking lot with an entrance to 10th street directly across from the alley entrance on the East side of the Petitioners' property. The dimensions of that lot are approximately 150 by 150 feet; it can accommodate approximately 50 passenger vehicles.

26. Both before and after the passage of the Tenth Street "church parking only" ordinance, Petitioner Jones objected to the city council.

27. Subsequent to passage of the 10th Street “Church Parking Only” Ordinance, Mr. Jones twice directed his counsel to write a letter to the City Council and Mayor demanding revision of the ordinance so as to control parking in a manner that was religiously neutral. Those letters were sent on or about June 1st and July 11th of 2007 respectively, and both letters were not responded to.

28. The Church Parking Only Ordinances are unnecessary and poorly targeted as a traffic control measure.

29. The Church Parking Only Ordinances create an invidious distinction between parkers who are engaged in religious activities and those who are not.

30. The Church Parking Only Ordinances impermissibly recognize and single out for approval certain motor vehicle parkers based on overt sectarian advantages granted by the city.

V. LEGAL ASSERTIONS

31. The Church Parking Only Ordinances and their enforcement constitute an impermissible establishment of religion in derogation of the First Amendment to the United States Constitution and Article I, Section 3 of the Iowa Constitution.

32. The Church Parking Only Ordinances and their enforcement constitute an impermissible religious test for depriving individuals of their right, privileges or capacities in violation of Article I, Section 4 of the Iowa Constitution

33. The Church Parking Only Ordinances and their enforcement result in impermissible religious discrimination and favoritism in derogation of the Fourteenth Amendment to the United State's Constitution.

34. The Church Parking Only Ordinances and their enforcement grant special privileges on the basis of religious distinctions in violation of the prohibitions of Article I, Section 6 of the Iowa Constitution.

35. The Respondent's laws, policies and actions, as set forth above, are assertions of official governmental power or authority undertaken under color of statute, ordinance, regulation, customs, or usages within the meaning of 42 U.S.C., §1983.

36. As a result of the laws, policies, interpretations and enforcement actions of the Respondent City, the Petitioners are being subjected to a deprivation of rights and privileges secured by the Constitution and laws of the United States and State of Iowa.

37. The Respondent City has breached its duty to the Petitioners, not to violate their constitutional rights as herein set forth and is liable to the Petitioners for appropriate consequential and prospective relief.

VI. PRAYER FOR RELIEF

Wherefore:

A. The Petitioner's pray:for declaratory, injunctive and such other equitable relief as may be necessary to establish that the challenged ordinances, as adopted and enforced are constitutionally invalid upon the grounds challenged herein and may no longer be enforced.

B. The Petitioners pray for nominal damages.

C. The Petitioners pray for judgment against the Respondent City awarding the Petitioners reasonable attorneys fees, litigation expenses, and the costs of this action pursuant to 42 U.S.C, § 1988.

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COMPLAINT: *Jones, et al v. City of Leon, Iowa*

U.S. District Court, S.D. Iowa, Central Division-----Signature Page

Respectfully Submitted,

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