IN THE MUNICIPAL COURT OF LAKELAND, TENNESSEE

	*
CITY OF LAKELAND,	*
	*
V.	* Case No. T-022124-7
	*
JOSEPH AND JULIE PEREIRA.	* February 21, 2024
	* Honorable Kim Koratsky
	* Presiding
* * * * * * * * * * * *	*

#### Violation Hearing

Transcribed from a digital file by:

Laurie McClain 531-893-1438 lauriemcclainmusic@gmail.com Case 2:24-cv-02380-MSN-atc Document 1-6 Filed 06/06/24 Page 2 of 35 PageID 165

Page 2

1	<u>APPEARANCES</u>
2	
3	MS. KATRINA SHIELDS, CODES OFFICER
4	MS. JULIE PEREIRA, PRO SE
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

```
Page 3
```

1	THE COURT: And now [unintelligible] would you
2	call our next case, please?
3	COURT CLERK: Julie Pereira.
4	[Ms. Pereira is sworn in
5	without audio.]
6	THE COURT: The return visitor.
7	MS. JULIE PEREIRA: Yes, Your Honor.
8	THE COURT: You are here for prohibit - prohibited
9	signs and devices.
10	Could you tell me your plea?
11	MS. JULIE PEREIRA: Not guilty.
12	THE COURT: Okay.
13	I'll hear first from the City.
14	MS. SHIELDS: Your Honor, the sign was placed with
15	vulgar language, by the City's standards, in Ms. Pereira's
16	yard. When she received the notice, she altered the sign.
17	The sign the case was closed.
18	At her request for a citation, she removed the
19	tape that had censored the sign. So she got the citations,
20	and then she [indiscernible]. I have photos, if you
21	would
22	THE COURT: They're from last time.
23	Well, let me under help me understand. She had
24	the sign up, was sent the notice, then she put the asterisk,
25	well, over the the "U"

1 MS. SHIELDS: Yeah. 2 THE COURT: -- and took it back off. 3 So you had to make a citation -- to issue 4 citation? 5 MS. SHIELDS: Your Honor, she requested the 6 citation. 7 THE COURT: Sounds like you got your wish. MS. JULIE PEREIRA: I wanted my day in court, 8 9 Your Honor. 10 THE COURT: Okay. 11 MS. JULIE PEREIRA: And I requested that. And I was told that since I had complied they could not issue the 12 13 citation, I could not have my day in court. 14 THE COURT: Okay. Well -15 MS. JULIE PEREIRA: The only remedy for that 16 seemed to be to go out of compliance to get the citation issued, which seems kind of silly to me. But I -- you know, 17 18 if somebody is requesting their day in court, I believe they should be granted their day in court. 19 20 The reason why the asterisk is there right now is 21 because I'm not the least bit interested in the \$50-a-day 22 fine for noncompliance. 23 THE COURT: Okay. To get to court, you have to be 24 cited for something. And -- and so once she sends out her, 25 what I call a courtesy notice -

1 MS. JULIE PEREIRA: Uh-huh. 2 THE COURT: -- it's tantamount to a warning ticket 3 issued by the police officer. It's a warning that says, you 4 know, "You were speeding, but it was only five miles over, 5 so here's your warning, don't do it again. You don't have to go to court for those. You know, you -- it just -- it's 6 7 not the way the system is built. 8 MS. JULIE PEREIRA: Uh-huh. 9 THE COURT: And I -- I fear that you're -- in the parlance of a retail environment, you're at the wrong 10 11 window. I -- I -- I handle citations when they come in, but 12 I don't handle warnings. Warnings are a courtesy that 13 [indiscernible] and -- and Codes is not required -- under 14 most of the ordinances they're not required to give a 15 warning. But as a courtesy to residents, they give the 16 warning so the resident can come into compliance and not 17 have to come to court, and not be subject to a fine and 18 costs, and all those other things. 19 What -- so my question is what -- what's your end 20 game? What -- what is it you're looking for? 21 MS. JULIE PEREIRA: My end game is to get the 22 City of Lakeland to stop violating residents' 23 Constitutionally protected rights. That is my end game. 24 THE COURT: Okay. 25 MS. JULIE PEREIRA: And as long as the City is

engaging in violation, I will oppose it. 1 2 THE COURT: So are you disputing -- so do you 3 dispute that that word is profane? 4 MS. JULIE PEREIRA: I dispute that it's a 5 violation. THE COURT: F-word, the -- I mean -6 7 MS. JULIE PEREIRA: Profane language is not prohibited under the First Amendment. And the City's sign 8 9 ordinance is a Constitutional violation. I alleged that in 10 the previous hearing. 11 I'm happy to make my argument here, to you, today, 12 if you'd like. 13 THE COURT: The same argument that you made in 14 January? 15 MS. JULIE PEREIRA: Slightly different, because 16 this is a political sign, which is even more protected under 17 the First Amendment. And I would renew my argument, 18 especially to the City Manager, that the City's sign ordinance is in violation, and the City should revisit it. 19 THE COURT: Well, once again, you're not at the 20 21 right window for that. 22 MS. JULIE PEREIRA: Understood. 23 THE COURT: That's -- I can't -24 MS. JULIE PEREIRA: But it's on the record. 25 THE COURT: I -- I basically -- you know, I'm an

1	umpire. I call balls and strikes. The the Codes officer
2	or a police officer brings a case to me that is a Class C
3	Misdemeanor or less.
4	MS. JULIE PEREIRA: Uh-huh.
5	THE COURT: And I call balls and strikes. You
6	know, I the ordinance that's in question let's see
7	here -
8	MS. JULIE PEREIRA: It's 14-405, Prohibited Signs
9	and Devices.
10	THE COURT: I'm I'm I'm just trying to page
11	up. I'm used to having a mouse, and I just got my laptop so
12	it's it's easy for me to get to.
13	The ordinance, as a sits, if I recall and I'm
14	trying to get - I believe it's written under indecent or
15	immoral, "which would offend public morals or decency."
16	That's broad.
17	Then once it's written, it comes to me, and I have
18	to make the decision, is it or isn't it?
19	Let me -
20	MS. JULIE PEREIRA: It passed the Miller Test.
21	THE COURT: Let me the Miller Test. Okay.
22	MS. JULIE PEREIRA: Uh-huh.
23	THE COURT: Explain that to me. What's your
24	what's your argument?
25	MS. JULIE PEREIRA: The sign is not lascivious or

Case 2:24-cv-02380-MSN-atc Document 1-6 Filed 06/06/24 Page 8 of 35 PageID 171

Page 8

1 pornographic in nature. It is not explicit in nature, and 2 it is a political sign. Therefore, it does not meet the definition of being obscene. 3 4 THE COURT: And well, you're saying that "F-'em 5 Both 2024" is a political sign? 6 MS. JULIE PEREIRA: Yes. This is an election 7 year. THE COURT: See that's not clear to me, in looking 8 9 at that. I don't know by looking at -- I understand. I --10 I -- I -- now that you've explained to me, I understand what 11 you're saying. But in looking at that it seems to me that it is amiss. 12 13 Now -14 MS. JULIE PEREIRA: So conjugation or an 15 abbreviation for "them." 16 THE COURT: I see. No, I get -- I get the "em" 17 part. I -- I -- I get that part. And to me, the -- the 18 F-word part is -- is pretty clearly profane to me. 19 But there is a case that -- you can't -- because 20 of the thing you can't see -- I'm looking at my laptop here. 21 Be -- because of this new thing, it's hard to see things --22 Lichtenstein versus Hargett -- if I'm pronouncing that 23 correctly -- a District Court case out of Tennessee... 24 Well, you're arguing -- when you talk about political speech, the question for the Court then becomes 25

whether it is -- whether what you're talking about is -- is addressing core political speech or whether it's just a political -- a political expression.

4 "Core political speech" -- let' see -- "requires a 5 strict scrutiny analysis which is a higher -- higher burden for the Court to look at. In -- in that situation, then the 6 7 result must be narrowly tailored to serve the overriding State interest. The Meyer-Buckley standard automatically 8 and necessarily requires strict scrutiny when it's 9 10 applicable only to regulation of core political speech, not 11 just any political expression."

It goes on to say - it's not truly core political speech, which I -- since this is a vague, I don't believe it is. And it's only a rational -- it's called a rational basis test. It's not strict scrutiny. Strict scrutiny -- a rational basis is an easier standard -- this Court says is an easier standard to meet, as it requires only a legitimate rather than important State interest.

And I think, from what I -- and I explained this to you last time, what the important State interest to me is is your profanity exposed to children.

And what was the level of complaint on this sign? MS. SHIELDS: I had a minimum of ten complaints before and after she altered the sign. And a statement was dropped off two days ago -

1 THE COURT: Okay. 2 MS. SHIELDS: -- by an anonymous source. 3 THE COURT: I'll hear the statement. 4 MS. SHIELDS: [Reading] 5 "To Whom it May Concern: 6 I'm writing to show my concerns with the 7 offensive signage located at the above address. This is a beautiful village and neighborhood, and 8 9 we -- we really want to be happy that we have 10 located to Lakeland. 11 It's my understanding that the residents have been notified of the violation. However, 12 13 there continues to be offensive signage displayed 14 in their yard. 15 We are new to the neighborhood, and 16 truly do not understand the motivations regarding this display. Such a sign seems so strange, given 17 18 that this family has small children, and children live all around their home. 19 20 The current sign, much like the holiday 21 decorations, is lit by a spotlight. It seems that 22 the residents want everyone passing by to see their noncompliant behavior. 23 24 I believe that these types of displays 25 are not only violation the City Ordinances, but

1	run the risk of devaluing our property and
2	potentially escalating to further acts of
3	defiance. If this were present during our home
4	search, we would not have purchased property in
5	this area. I've talked to a few of the neighbors,
6	and there is growing concern of how the situation
7	will be handled.
8	I'm hoping that by writing to you that
9	you will work to solve this issue for our
10	neighborhood. I would not want this act to start
11	a trend, and others violating City ordinances, as
12	that would not be good for any of us at all.
13	Thanks in advance for your support.
14	Signed, Concerned Neighbor."
15	MS. JULIE PEREIRA: Just because there are
16	complaints, it doesn't mean that this city gets to violate
17	my Constitutionally protected rights.
18	Now, if you will, respectfully, I would like to
19	read my position, please.
20	THE COURT: Go ahead.
21	MS. JULIE PEREIRA: Thank you.
22	The violation notice issued by the City of
23	Lakeland infringed on my First and Fourth Amendment rights,
24	and seeks to censor Constitutionally protected speech.
25	On its face, the City of Lakeland's sign

ordinance violations the Constitution. And the City of Lakeland will not be able to meet their burden of proof that the sign ordinance in question is lawful, and that it does not infringe on one's right to free speech.

5 In Cohen versus California, 1971, Justice John 6 Marshall Harlan, too, reasoned that "While a particular 7 four-letter word being litigated here is perhaps more 8 distasteful than most of its genre, it is nevertheless often 9 true that one man's vulgarity is another man's lyric."

Harlan warned that governments might soon seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views. Cohen stands for the principle that profane words in themselves cannot be banned under the First Amendment.

Given my previous hearing in this Court on a similar matter, I would like to address several arguments I believe the City may make. The first being FCC Regulations regarding communication. First and foremost, I'm an individual. I'm not a business, and this is not commercial communication, nor is it commercial -- communication over the air or on television.

The City of Lakeland would be inappropriate to subject my compliance as an individual to the Supreme Court's decision in Federal Communication Commissions versus Pacifica Foundation, 1978. This decision

allowed the government to regulate indecent speech over
 broadcast medium. This instant case does not involve
 broadcast medium, and therefore renders this argument
 invalid.

5 The second argument I anticipate the City to make would be the Captive Audience Doctrine. I would 6 7 respectfully argue that, yet again, the City of Lakeland has made a fallible argument, as the audience in question can 8 9 reasonably avoid the message, my sign, by utilizing one of 10 the three additional or other entrances and exits to the 11 neighborhood, or simply look elsewhere to avoid it. The 12 Captive Audience Doctrine applies almost exclusively to 13 auditory speech.

The American Jews' president appears to have settled the position that an audience is more likely to be captive to speech which -- which is heard versus seen. A listener who does not desire to be subjected to a message can typically always avoid the message that is written by turning away and looking elsewhere.

The US Supreme Court has struck down prohibitions in a number of cases in regard to nonauditory speech that was deemed to be obscene or controversial because the recipient could turn away and look elsewhere.

As a result, the Court has invalidated legislation which makes it a public nuisance for a drive-in movie

theater to exhibit films containing nudity visible from a public street, because any offended viewer could easily avert their eyes. It's the 1975 case of Erznoznik versus the City of Jacksonville.

5 Additional cases include administrative orders prohibiting utilities from using bill inserts to present 6 7 matters in a political nature or advertising contraceptive products, because the recipient could easily avoid it by, 8 9 quote, unquote, "simply transferring the bill insert from 10 the envelope to the wastebasket." That's Consolidated 11 Edison Company versus the Public Service Commission. It's a 12 1980 court case.

13 And the provision of a State Penal Code under which a protestor was convicted for wearing a jacket with 14 15 the phrase "Fuck the Draft," because while the mode of 16 expression was being thrust upon unwilling or unsuspecting 17 viewers, it could not be said that the unwilling recipients' 18 substantial privacy interests were being invaded in an 19 essentially intolerable mantle -- manner, especially when it 20 occurred in a public pray -- place.

For illustrative purposes, and although it's not a State of Tennessee case, and it's not a Supreme Court case, in People versus -- versus Boomer, which is a 2002 case, the Michigan Court of Appeals reversed the decision on Timothy Joseph Boomer, a well-known con -- in the well-known

1 "Cussing Canoeist" Case.

Boomer had been charged with violating the
Michigan law that prohibited the use of indecent, immoral,
obscene or vulgar and insulting language in the presence of
any hearing woman or child.

6 I anticipate that as I will take this case to the 7 higher courts here in Tennessee, I will experience the same 8 final outcome. And I would implore the City of Lakeland to 9 drop this violation notice and revisit their ordinance that 10 is in violation of residents' First Amendment rights.

11 The City's sign ordinance and violation notice in 12 this case does not pass the Miller Test. The sign is not 13 lascivious or pornographic in nature, it is not explicit in 14 nature, and it is political in nature. Therefore, the sign 15 does not meet the definition of being obscene.

16 The strict -- strict scrutiny standard demands 17 that the local government must show that the regulation is 18 designed to serve a compelling government interest and is 19 narrowly tailored to achieve that interest.

20 Supreme Court cases show us time and time again 21 that this is a difficult argument to prove, and in a 22 practice, very few, if any, regulations such as those in 23 this instant case, survive this strict scrutiny review.

The First Amendment to The United StatesConstitution is binding on the State of Tennessee and local

governments, via the Fourth Amendment's Due Process Clause,
 and by Article I, Section 19 of the State of Tennessee
 Constitution.

The City of Lakeland has violated both their sign ordinance and this. This notice, and a previous decision on this similar matter has created what I am concerned will become a slippery slope of government overreach. And to that end, I must argue against this erroneous violation and this ordinance.

10 As I previously argued during the 11 January 5th, 2024 hearing on a related matter, a great deal 12 of legal consideration and care must be given when a 13 government desires to regulate the language used on a 14 noncommercial sign. Content-based regulations regarding 15 protected free -- free speech must show that its regulation is necessary to serve a compelling State interest, and it is 16 17 narrowly drawn to that end.

18 The principle inquiry in determining content 19 neutrality is whether the government has adopted a 20 regulation of speech because of a disagreement with the 21 message the speech conveys.

The City of Lakeland's sign ordinance in this instant case is content-based, rather than content-neutral, because the message conveyed determines whether the speech is subject to restrictions.

1 Courts have ruled that the use of profanity is 2 particularly pronounced and protected speech of political 3 This protection also extends to the prohibition of nature. profane speech by individuals. As such, to enforce the 4 5 City of Lakeland's Municipal Court and sign ordinance, one must read the content of the sign to know whether or not it 6 7 is political in nature. Therefore, this is a content-based regulation, and it turns on whether or not the City can show 8 9 that the regulation is necessary to serve a compelling State 10 interest, and is narrowly drawn to achieve that end. 11 Again, we revert to Cohen versus California. 12 Content based ordinances are subject to strict 13 scrutiny, and presumptively violate the First Amendment. It 14 is my position, yet again, that the City's ordinances and 15 this violation are unlawful, and they violate the First and 16 the Fourth Amendments. 17 "As a rule, language on a sign cannot be 18 prohibited just because it will offend some viewers." 19 That's Boos versus Barry, 1988. 20 The Court has held that unless fighting words are 21 involved, profane language has First Amendment protections. 22 And that's Chaplinsky versus Hampshire, 1942. 23 Courts have long ruled that governments cannot regulate the content of signs, because doing so could 24 25 violate the spree - the free speech contained in the

1 First Amendment. In reviewing government regulations, the

2 Supreme Court applies various tests for the

3 constitutionality of a regulation.

As I stated previously, when a regulation is challenged based on its free speech con -- free speech content, the Court applies the strict scrutiny test, which means the regulation must be for a compelling governmental interest, and the regulation must be narrowly tailored to serve that governmental interest.

Federal Law under 42 US Code 1983 provides that both a municipal government employee and the employing government body can be held liable for damages when said employee violates Constitutional rights while acting under the color of law and in keeping with the custom, practice, and policy of the employer.

16 Free speech is an absolute right. And I find it 17 abhorrent that the City of Lakeland is yet again engaging in 18 conduct that violates that right.

19 THE COURT: Well, first of all, I'm not holding 20 you, and I didn't last time, to FCC Regulations. I looked 21 to those for guidance on how to do what I do. This isn't 22 something I handle every day. I'm more accustomed to 23 dealing with, as you saw from the earlier cases, "is the 24 truck in your yard" and "is your grass -- is your grass too 25 tall?"

1 So I -- I have to look to something to figure out 2 how to deal with this. And I did not hold you to the 3 FCC Regulations. I simply looked at them to see, how did 4 they deal with this, because they deal with this a lot more 5 than other entities do. And they can be instructive in -in what -- what Courts call "take judicial notice" of 6 7 things. 8 I explained a little earlier, the only time strict 9 scrutiny applies is if it had -- goes towards core political 10 speech. I think your sign is too vague to be any --11 anywhere certain of what -- who "both" are. So, you know, 12 it falls -- doesn't require strict scrutiny analysis, it 13 requires a rational basis analysis. And that's a much -- as 14 I explained to you, it's a much lower standard. 15 When did the sign go up? When did you put it up? 16 MS. JULIE PEREIRA: I believe that was 17 January 17th. 18 THE COURT: And -- so it was up in -- she showed me two photographs. I don't know whether she showed those 19 20 to you. But I -- would you show those to the -- the 21 defendant, and we'll make sure that we're all on the same 22 page. 23 Is that -- is that an actual representation of 24 what the sign looked like -25 MS. JULIE PEREIRA: Yes, Your Honor.

Page 20 1 THE COURT: -- before and after? 2 MS. JULIE PEREIRA: Yes. 3 THE COURT: Okay. 4 MS. JULIE PEREIRA: Both of those are accurate. 5 THE COURT: So January -6 MS. JULIE PEREIRA: The one in color is the 7 current MS. SHIELDS: Correct. 8 9 MS. JULIE PEREIRA: -- as of yesterday. THE COURT: Okay. Is -- from the City's 10 11 perspective, Officer Shields, is the asterisk over one 12 letter sufficient to fix the compliance... 13 MS. SHIELDS: Your Honor, the City is not trying 14 to censor speech [unintelligible] vulgar language from... 15 THE COURT: Got you. And that -- as we explained, 16 that falls under the Rational Basis Test, is a legitimate 17 means, and that it's a much lower standard than your strict 18 scrutiny that you talk about. 19 Sign went up on January 17th. And when did you 20 cover the -21 MS. JULIE PEREIRA: The day I received the 22 warning, the same day. 23 THE COURT: Posted it when? 24 MS. SHIELDS: The 22nd. 25 THE COURT: Then went up on the 17th, it was up as

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Page 21

it was in its original state on the 22nd when the property was posted. And that's when you covered it? MS. JULIE PEREIRA: Correct. I covered it the same day I got the warning. THE COURT: Okay. And then uncovered it the next -MS. JULIE PEREIRA: Yes. MS. SHIELDS: I believe -- this one is issued on January 30th. THE COURT: Put it back up after you got the citation -MS. JULIE PEREIRA: Correct. THE COURT: -- or the 22nd, the same day it was -well, you would have re-covered it after you got your citation on the 22nd. If -MS. JULIE PEREIRA: No, I think -MS. SHIELDS: The 30th. MS. JULIE PEREIRA: -- the 30th. MS. SHIELDS: She hadn't covered it, only for the dates the citations were issued. THE COURT: Okay. So you posted the property on the 22nd. MS. SHIELDS: Then compliance had been given. The case was closed. And then discussed on the 30th. She

25 removed the tape to receive the citation.

Page	22

1 THE COURT: Uncovered it on the 30th, but then 2 covered it back up the same day. 3 MS. JULIE PEREIRA: Correct. 4 THE COURT: I see where we have a different outcome from last time? 5 6 MS. JULIE PEREIRA: Oh, I -- I certainly expected 7 this. I -- I'll ask the Higher Court to potentially combine the cases, if they will. 8 9 THE COURT: The ordinance contains language that 10 should they have a continuing violation, it's a new 11 violation. Put the sign up on the 17th in its original 12 iteration, the 18th - 18th, 19th, 20th, 21, 22 -- six days 13 was up. Sound about right? MS. JULIE PEREIRA: I -- there was no violation, 14 15 so I -- I can't answer that question for you, Your Honor. 16 THE COURT: The sign was up without the -- the 17 painters tape over it for the 17th, 18th, 19th, 20th, 21, 18 and 22? 19 MS. JULIE PEREIRA: Until the notice was given on 20 the -- what was it, the 22nd? 21 MS. SHIELDS: Notice was -- correct. 22 THE COURT: That's, by my count, six days that it was up without the tape over it. 23 24 MS. JULIE PEREIRA: You count the day it was put 25 up?

Case 2:24-cv-02380-MSN-atc Document 1-6 Filed 06/06/24 Page 23 of 35 PageID 186

Page 23

1 THE COURT: The day it was put up, I would count. 2 I mean, that's when the sign went up. Right? 3 MS. JULIE PEREIRA: A full day? On a full day. 4 Do the Courts count the date? 5 THE COURT: Every day of the violation is a new 6 day -- every new day is a new -7 MS. JULIE PEREIRA: Okay. I'll make it six, 8 Your Honor. 9 THE COURT: Well, were you here when I had the 10 conversation with one of the previous defendants about 11 contempt of Court and how that works? 12 MS. JULIE PEREIRA: Yes, Your Honor. 13 THE COURT: As a Shelby County Municipal Court, I 14 have two things available to me. One is to fine, and the 15 second is to jail. The order that I issued last time 16 contains the same language that I read to Mr. Connelly [phonetic]: Maintain the property not in violation of 17 18 ordinances or orders. 19 Not inclined today to hold you in contempt, but I 20 will warn you, I don't want to see you back in here. 21 MS. JULIE PEREIRA: So Your Honor, I do not want 22 to see the City of Lakeland continue to violate my First Amendment rights. 23 24 THE COURT: I'm going to fine you for six days in violation of the sign ordinance for \$50 a day, plus Court 25

1 costs and fees. I'll give you a ticket that you can take to 2 the front window to pay. Do you need additional time? 3 MS. JULIE PEREIRA: I'll bring a check back later 4 today. 5 THE COURT: Okay. 6 Now, you know, don't violate the sign ordinance 7 again. 8 MS. JULIE PEREIRA: Your Honor, I did not spend 9 six years defending my country to live in the City of 10 Lakeland and have the City of Lakeland violate my First 11 Amendment and Constitutional rights. That is not what I 12 fought for. 13 So I will continue to comply with the Constitution 14 while the City of Lakeland continues to violate it. The 15 ACLU is invest -- interested in this case. The local news 16 stations are interested in this case. And I will take it 17 there at this point, because this is ridiculous. The City has been put on notice about how every 18 19 single step they have taken is a Constitutional violation. 20 And the City wants to continue to make irrational and 21 invalid arguments. 22 So just like the city is going to do what they need to do, Your Honor, respectfully, I'm going to do what I 23 24 need to do, because I will not tolerate this level of 25 tyranny from the government. It starts small and it rolls

downhill. THE COURT: I understand your point, ma'am. You'll receive my order in the mail. We'll have a card for you that you can take to the front window. MS. JULIE PEREIRA: Thank you. THE COURT: Anything further for the Court? Court is adjourned. [End of recording.] \* \* \* \* \* \*

1	STATE OF TENNESSEE )
2	COUNTY OF DAVIDSON )
3	I, Laurie McClain, Transcriber,
4	
5	DO HEREBY CERTIFY that the foregoing proceedings
6	were transcribed by me from a digital file, and the
7	foregoing proceedings constitute a true and correct
8	transcript of said recording, to the best of my ability.
9	I FURTHER CERTIFY I am not a relative or employee
	or attorney or counsel of any of the parties hereto, nor a
10	relative or employee of such attorney or counsel, nor do I
11	have any interest in the outcome or events of this action.
12	
13	Date 06/05/2024 Clain
14	Laurie McClain Transcriber
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

# Index

### A

abbreviation, 8 abhorrent, 18 ability, 26 above, 10 accurate, 20 accustomed, 18 ACLU, 24 act, 11 action, 26 acts. 11 Additional, 14 additional, 13, 24 addressing, 9 adjourned, 25 administrative, 14 adopted, 16 advance, 11 advertising, 14 ahead, 11 alleged, 6 allowed, 13 altered, 3, 9 am, 16, 25-26 Amendment, 6, 11-12, 15-18, 23-24 Amendments, 17 American, 13 amiss, 8 an, 6, 8-10, 12-14, 18-19

analysis, 9, 19 anonymous, 10 anticipate, 13, 15 anywhere, 19 Appeals, 14 appears, 13 applicable, 9 applies, 13, 18-19 are, 3, 5-6, 10-11, 17, 19-20, 24 argued, 16 arguing, 8 arguments, 12, 24 Article, 16 asterisk, 3-4, 20 attorney, 26 Audience, 13 audience, 13 audio, 3 auditory, 13 automatically, 9 avert, 14 avoid, 13-14

#### B

balls, 7 banned, 12 banning, 12

Barry, 17 based, 16-18 basically, 6 becomes, 8 been, 10, 15, 21, 24 being, 8, 12, 14-15 binding, 15 Boomer, 14-15 Boos, 17 brings, 7 broad, 7 broadcast, 13 Buckley, 9 built, 5 burden, 9, 12

## C

California, 12, 17 called. 9 cannot, 12, 17 Canoeist, 15 Captive, 13 captive, 13 cases, 13-15, 18, 22 censor, 11, 20 censored, 3 censorship, 12 certainly, 22 CERTIFY, 26 challenged, 18 Chaplinsky, 17 charged, 15 children, 9-10 citation, 3-4, 21 citations, 3, 5, 21 cited, 4 Clause, 16 clearly, 8 CLERK, 3 closed, 3, 21 Code, 14, 18 CODES, 2 Codes, 5, 7 Cohen, 12, 17 com, 1

combine, 22 comes, 7 commercial, 12 Commission, 14 Commissions, 12 Communication, 12 communication, 12 compelling, 15-18 complaint, 9 complaints, 9, 11 compliance, 4-5, 12, 20-21 complied, 4 comply, 24 con, 14, 18 Concerned, 11 concerned, 16 concerns, 10 conduct, 18 conjugation, 8 Connelly, 23 consideration, 16 Consolidated, 14 constitute, 26 Constitution, 12, 15-16, 24 Constitutional, 6, 18, 24 constitutionality, 18 Constitutionally, 5, 11 contained, 17 containing, 14 contains, 22-23 contempt, 23 Content, 16-17 content, 16-18 continues, 10, 24 continuing, 22 contraceptive, 14 controversial, 13 convenient, 12 conversation, 23 conveyed, 16 conveys, 16 convicted, 14 Core, 9 core, 9, 19 correctly, 8 costs, 5, 24 counsel, 26 courtesy, 4-5 Courts, 17, 19, 23 courts, 15

covered, 21-22 created, 16 Cussing, 15 custom, 18

## D

damages, 18 dates, 21 DAVIDSON, 26 days, 9, 22-23 dealing, 18 decency, 7 decorations, 10 deemed, 13 defendant, 19 defendants, 23 defending, 24 defiance, 11 definition. 8, 15 demands, 15 designed, 15 desire, 13 desires, 16 determines, 16 determining, 16 devaluing, 11 Devices, 7 devices, 3 did, 19-20, 24 different, 6, 22 digital, 1, 26 disagreement, 16 discussed, 21 display, 10 displayed, 10 displays, 10 dispute, 6 disputing, 6 distasteful, 12 Doctrine, 13 does, 8, 12-13, 15 doing, 17 downhill, 25 Draft, 14 drawn, 16-17

#### dropped, 9

#### E

earlier, 18-19 easier, 9 easily, 14 Edison, 14 election, 8 elsewhere, 13 em, 8 employee, 18, 26 employer, 18 employing, 18 enforce, 17 engaging, 6, 18 entities, 19 entrances, 13 envelope, 14 erroneous, 16 Erznoznik, 14 escalating, 11 especially, 6, 14 essentially, 14 events, 26 exclusively, 13 exhibit, 14 exits, 13 expected, 22 explained, 8-9, 19-20 explicit, 8, 15 exposed, 9 expression, 9, 12, 14 extends, 17 eyes, 14

#### F

fallible, 13 falls, 19-20 FCC, 12, 18-19

February, 1 Federal, 12, 18 fees, 24 fighting, 17 films, 14 fix, 20 foregoing, 26 foremost, 12 fought, 24 Foundation, 12 Fourth, 11, 16-17 Fuck, 14

## G

genre, 12 gets, 11 gmail, 1 going, 23-24 Got, 20 got, 3-4, 7, 21 government, 13, 15-16, 18, 24 governmental, 18 governments, 12, 16-17 granted, 4 grass, 18 growing, 11 guidance, 18 guilty, 3 guise, 12

## H

had, 3-4, 9, 15, 19, 21, 23 hadn, 21 Hampshire, 17 handle, 5, 18 handled, 11 Hargett, 8 Harlan, 12 having, 7 heard, 13 HEREBY, 26 hereto, 26 Higher, 22 higher, 9, 15 holding, 18 Honor, 3-4, 19-20, 22-24 Honorable, 1 hoping, 11 huh, 5, 7

### I

illustrative, 14 immoral, 7, 15 implore, 15 inappropriate, 12 inclined, 23 indecent, 7, 13, 15 indiscernible, 3, 5 individuals, 17 infringe, 12 infringed, 11 inquiry, 16 insert, 14 inserts, 14 instant, 13, 15-16 instructive, 19 insulting, 15 interested, 4, 24 interests, 14 intolerable, 14 invaded, 14 invalid, 13, 24 invalidated, 13 involved, 17 irrational, 24 Is, 19-20 is, 3-21, 23-25 issued, 4-5, 11, 21, 23 iteration, 22

#### Case 2:24-cv-02380-MSN-atc Document 1-6 Filed 06/06/24 Page 31 of 35 PageID 194

#### Index ·

### J

jacket, 14 Jacksonville, 14 jail, 23 January, 6, 16, 19-21 Jews, 13 John, 12 JOSEPH, 1 Joseph, 14 judicial, 19 JULIE, 1-8, 11, 19-25 Julie, 3 Justice, 12

## K

KATRINA, 2 keeping, 18 Kim, 1 known, 14 Koratsky, 1

## L

LAKELAND, 1 Lakeland, 2-26 laptop, 7-8 lascivious, 7, 15 later, 24 Laurie, 1-26 lauriemcclainmusic, 1 lawful, 12 legal, 16 legislation, 13 legitimate, 9, 20 liable, 18 Lichtenstein, 8 listener, 13 lit, 10 litigated, 12 ll, 19, 25 located, 10 looked, 18-19 looking, 5, 8, 13 lower, 19-20 lyric, 12

### $\mathbf{M}$

ma, 25 made, 6, 13 mail, 25 Maintain, 23 makes, 13 manner, 14 mantle, 14 Marshall. 12 matters, 14 McClain, 1-26 means, 18, 20 medium, 13 message, 13, 16 Meyer, 9 Michigan, 14-15 miles, 5 Miller, 7, 15 minimum, 9 Misdemeanor, 7 mode, 14 morals, 7 motivations, 10 mouse, 7 movie, 13 Mr, 23 MS, 2-11, 19-25 Ms, 3 MUNICIPAL, 1 Municipal, 17, 23 municipal, 18

#### Case 2:24-cv-02380-MSN-atc Document 1-6 Filed 06/06/24 Page 32 of 35 PageID 195

Index •

### N

narrowly, 9, 15-18 nd, 20-22 necessarily, 9 Neighbor, 11 neighborhood, 10-11, 13 neighbors, 11 neutral, 16 neutrality, 16 nevertheless, 12 nonauditory, 13 noncommercial, 16 noncompliance, 4 noncompliant, 10 nor, 12, 26 notified, 10 nudity, 14 nuisance, 13

## 0

obscene, 8, 13, 15 occurred, 14 offend, 7, 17 offended, 14 offensive, 10 **OFFICER**, 2 Officer, 20 officer, 5, 7 Oh, 22 orders, 14, 23 ordinance, 6-7, 12, 15-17, 22-24 Ordinances, 10 ordinances, 5, 11, 17, 23 outcome, 15, 22, 26 overreach, 16 overriding, 9

#### P

Pacifica, 12 painters, 22 parlance, 5 particularly, 17 parties, 26 passed, 7 passing, 10 Penal, 14 Pereari, 2-26 PEREIRA, 1-8, 11, 19-25 Pereira, 3 perspective, 20 phonetic, 23 photographs, 19 photos, 3 phrase, 14 placed, 3 plea, 3 pornographic, 8, 15 Posted, 20 posted, 21 potentially, 11, 22 pray, 14 presence, 15 president, 13 Presiding, 1 presumptively, 17 previously, 16, 18 principle, 12, 16 privacy, 14 PRO, 2 proceedings, 26 products, 14 Profane, 6 profane, 6, 8, 12, 17 profanity, 9, 17 prohibit, 3 Prohibited, 7 prohibited, 3, 6, 15, 17 prohibiting, 14 prohibition, 17 prohibitions, 13 pronounced, 17 pronouncing, 8 proof, 12 protected, 5-6, 11, 16-17

protection, 17 protections, 17 protestor, 14 prove, 15 provides, 18 provision, 14 purchased, 11 purposes, 14

## Q

quote, 14

## R

Rational, 20 rational, 9, 19 re, 3, 5-6, 8-9, 19, 21 reasonably, 13 reasoned, 12 recall, 7 received, 3, 20 recipient, 13-14 recipients, 14 recording, 25-26 regarding, 10, 12, 16 regulate, 13, 16-17 regulation, 9, 15-18 Regulations, 12, 18-19 regulations, 15-16, 18 related, 16 relative, 26 remedy, 4 removed, 3, 21 renders, 13 renew, 6 representation, 19 requested, 4 requesting, 4 required, 5 requires, 9, 19

resident, 5 residents, 5, 10, 15 respectfully, 11, 13, 24 restrictions, 16 retail, 5 reversed, 14 revert, 17 review, 15 reviewing, 18 revisit, 6, 15 ridiculous, 24 rights, 5, 11, 15, 18, 23-24 risk, 11 rolls, 24 ruled, 17

### S

said, 14, 18, 26 saw, 18 saying, 8 says, 5, 9 scrutiny, 9, 15, 17-20 SE, 2 search, 11 seeks, 11 seemed, 4 seems, 4, 8, 10 seen, 13 seize, 12 sends, 4 sent, 3 settled, 13 Shelby, 23 SHIELDS, 2-4, 9-10, 20-22 Shields, 20 showed, 19 signage, 10 Signed, 11 Signs, 7 signs, 3, 17 silly, 4 simply, 13-14, 19 sits, 7 situation, 9, 11 Slightly, 6

Index •

slippery, 16 solve, 11 Sounds, 4 source, 10 speech, 8-9, 11-13, 16-20 speeding, 5 spotlight, 10 spree, 17 standards, 3 starts, 24 stated, 18 States, 15 stations, 24 Strict, 9 strict, 9, 15, 17-20 strikes, 7 struck, 13 subjected, 13 substantial, 14 sufficient, 20 Supreme, 12-15, 18 survive, 15 sworn, 3

#### T

tailored, 9, 15, 18 taken, 24 talked, 11 talking, 9 tantamount, 5 TENNESSEE, 1, 26 Tennessee, 8, 14-16 tests, 18 th, 16, 19-22 Thanks, 11 theater, 14 things, 5, 8, 19, 23 thrust, 14 ticket, 5, 24 Timothy, 14 told, 4 tolerate, 24 took, 4 towards, 19 Transcribed, 1-26

transcribed, 26 Transcriber, 26 transcript, 26 transferring, 14 trend, 11 truck, 18 truly, 9-10 trying, 7, 20 turning, 13 turns, 17 types, 10 typically, 13 tyranny, 24

### U

Uh, 5, 7 umpire, 7 Uncovered, 22 uncovered. 21 understanding, 10 Understood, 6 unintelligible, 3, 20 United, 15 unlawful, 17 unpopular, 12 unquote, 14 unsuspecting, 14 unwilling, 14 used, 7, 16 using, 14 utilities, 14 utilizing, 13

#### V

vague, 9, 19 ve, 8 versus, 8, 12-14, 17 via, 16 viewer, 14

Index -

viewers, 14, 17 views, 12 violate, 11, 17, 23-24 violated, 16 violates, 18 violating, 5, 11, 15 Violation, 1 violation, 6, 10-11, 15-17, 22-24 violations, 12 visible, 14 visitor, 3 vulgar, 3, 15, 20 vulgarity, 12

#### W

wanted, 4 wants, 24 warn, 23 warned, 12 warning, 5, 20-21 Warnings, 5 was, 3-5, 9, 13-14, 19-23 wastebasket, 14 wearing, 14 were, 5, 11, 14, 21, 23, 26 words, 12, 17 works, 23 writing, 10-11 written, 7, 13

### Y

yard, 3, 10, 18 Yeah, 4 years, 24