

Common Pleas
Civil Window Two
06.2015
20 P.M.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
KING GRANT - DAVIS,)
)
PETITIONER -)
APPELLANT,)
)
V.)
)
CITY OF CHARLESTON)
SPECIAL EVENTS COMMITTEE,)
)
RESPONDENT.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2014 - CP - 10 - 7740

ORDER DISMISSING APPEAL

FILED
2015 APR 27 PM 12:07
JULIE J. ARMSTRONG
CLERK OF COURT

This matter is before the Court on Petitioner's petition for a Writ of Certiorari from a decision of the City of Charleston's Special Events Committee, which denied his application to conduct a 10K/5K run in downtown Charleston. A hearing was held on April 8, 2015. The Petitioner appeared *pro se*. Frances I. Cantwell, Assistant Corporation Counsel, appeared on behalf of the City of Charleston Special Events Committee.

The facts giving rise to this matter are as follows:

The City of Charleston, by ordinance, has established a committee known as the Special Events Committee. The role of the Committee is to review applications for the use of public spaces for events, including streets and parks of the City. The Committee is comprised of seven city employees from certain City departments that have direct involvement with public parks, streets and facilities, all appointed by the mayor. The Committee reviews applications of those seeking to sponsor and conduct events on public properties to assure the events are manageable and in furtherance of the public health and safety.

In September 2014, the Petitioner filed an application with the Committee to conduct a 10K/5K race in the downtown area of the City on September 8, 2015, the Labor Day holiday. The races were to start and end at Marion Square, the prominent park at Meeting and Calhoun Streets in the heart of the retail district of the City. The race routes required the use of a number of streets, to include portions of Meeting and King Streets, primary north-south thoroughfares on the Peninsula. Up to five hundred people were expected to participate. The estimated time for the event was from 8 am - 12 noon.

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Petitioner was advised by the chairman of the Committee that it was not likely that his application would be approved, as the Committee had not been approving new large scale events such as those he proposed in the downtown area because of the burden posed on City resources and the City having reached a maximum "event" status.

Petitioner's application came before the Committee on October 22, 2014. A number of concerns were expressed to the Petitioner by Committee members regarding his proposed event, to include: the event covering a large area of streets; the traffic issues that would be posed; the number of police officers that would be needed to staff the event; the large route would impact neighborhoods and merchants; the impact of an event of this size on Marion Square; the race course requiring a rerouting of horse carriage and tour bus routes; and the concern of road closures on a holiday. The Committee determined to further discuss the application at its November meeting.

On November 12, 2014, the application was again considered by the Committee. Additional information submitted by the Petitioner was given to the Committee. The Committee unanimously voted to deny the application. By letter dated November 24, 2014, the Petitioner was advised of the Committee's decision and its reasoning. Petitioner was invited to submit a different proposal that was smaller and in a different location so as to lessen the impact on City personnel and resources, City streets and parks and residents who live in the vicinity.

In December 2014, Petitioner filed a Petition for a Writ of Certiorari/Appellate Review. By document filed on March 31, 2015, Petitioner set forth eleven issues for consideration by this Court.

After having considered the pleadings, the file and the argument of the parties, I find the Committee followed the procedure of the ordinance and that its decision is based on and supported by reasonable, relevant considerations and should be affirmed.

The appropriation of public space for private uses, even for benevolent purposes, is not a matter of right. The authority to impose reasonable rules and regulations on the use of public spaces is a fundamental exercise of the police power. See S.C. Code § 5-7-30 (Supp. 2013); McQuillin, Municipal Corporations, 3rd Ed. Revised, § 28.54. The City of Charleston has enacted a procedure whereby events that will require the use of public spaces and City resources are studied and processed to assure the well-being of the public is protected. The Petitioner was accorded all the process due him under this ordinance. He met with the Committee, made his presentation, answered questions raised and was privy to the concerns of the Committee with his proposed races. He was allowed to submit additional information. The Committee reviewed the application and articulated sound reasons for denying it, both at the Committee meetings and in its letter of denial. The decision of the Committee being discretionary, and its reasoning being

RANDY/2

based on relevant considerations that a footrace in downtown Charleston on a major holiday would pose to residents, merchants and the general public, there is no basis for finding or holding that its decision should be anything but affirmed.

As to the specific issues raised by Petitioner is his filing of March 31, 2015:

Issue 1 questions whether the Committee acted in excess of its authority or was unfair, arbitrary or otherwise acted illegally. For reasons already stated, the Court holds it did not.

Issue 2 questions the appropriateness of a supposed moratorium on new events. The record reveals the Petitioner having been advised that new events of the size and expense of his application were not being approved due to the demand on City resources and the City having reached a saturation point with respect to such events. The record also reveals that Petitioner's application was processed in accordance with the ordinance and reviewed as required by the ordinance. Absent a showing of bias or prejudice, who, what, where and how public property is to be used for specific, private purposes is a matter of discretion. There is no evidence before the Court of any bias or prejudice or intentional discrimination being directed to Petitioner by the Committee. The concerns the Committee raised with respect to the application were all relevant to the impact that the races he proposed would have on the public infrastructure, City resources, traffic circulation and the mercantile and residential communities, and in keeping with its charge to evaluate the impact of special events on public property so as to promote the welfare and safety of the public.

Issue 3 questions the composition of the Committee and the validity of its vote. The Committee is composed of seven members. Seven members voted on Petitioner's application. That others attended the meetings of the Committee is of no consequence.

Issues 4, 5 and 6 question whether members of the Committee, appointed from the departments required by the ordinance, should have either recused themselves or appointed a designee to take their place because of their bias against new events or their protectionist attitudes over facilities they oversee, such as Marion Square. The purpose of the Ordinance is to have special events applications reviewed by the very departments of City government who have supervisory responsibility over public spaces. These employees, more than others, have a better understanding of the impacts of events to the physical facility that will host the event and the spinoff effects, such as traffic congestion. The bias of which Petitioner complains is his disagreement with there being any limit on the use of public streets and parks for events. The City has the authority to enact regulations it deems necessary and proper to promote the public good. The Special Events Committee ordinance is such a regulation. When in the opinion of the Committee an event is too much, it is its responsibility to say so.

RMOJ/3

Issue 7 questions whether a vote of a member of the Committee should have been taken by phone a day after the meeting of the Committee. The Court does not need to address this issue because even if it was error to count this member's vote, the error was harmless, as the remaining six members of the Committee attended the November meeting and voted unanimously not to approve the event. The seventh vote was not the deciding factor.

Issues 8 and 11 question whether the procedure and criteria for reviewing special events should be changed. Such are policy considerations, not legal ones.

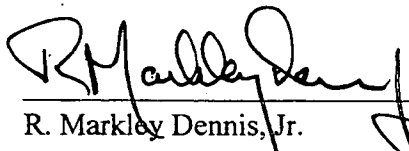
Issue 9 questions whether the Chair should have allowed the applicant to file for reconsideration of less impactful race routes. There is nothing before the Court to support that such a request was made and denied.

Issue 10 questions whether the Committee exhibits bias in approving some events and not others, particularly for the affluent. The evidence before the Court is that the Committee has let it be known that races in downtown Charleston are problematic. The evidence before the Court reveals that the majority of applications processed with that of the Petitioner that were approved by the Committee did not involve extensive street closures or extensive police presence and were limited to a specific location. The evidence before the Court reveals the Committee advised annual race and walk applicants, such as the March of Dimes, that there was no guarantee of continuing approval in the future. Nothing in the record suggests any inconsistency on the part of the Committee or that more affluent applicants have any advantage over others.

Base on the foregoing, I find and conclude that the decision of the Special Events Committee should be affirmed and this appeal dismissed.

AND IT IS SO ORDERED.

Charleston, South Carolina
April 23, 2015


R. Markley Dennis, Jr.
Presiding Judge

AMOT/4



City of Charleston

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April 16, 2015

Hon. R. Markley Dennis, Jr.
Circuit Court Judge
100 Broad Street
Charleston, South Carolina 29401

Re: King Grant-Davis v. City of Charleston Special
Events Committee
Case No. 2014-CP-10-7740

Dear Judge Dennis:

You presided over a hearing held in the above matter on April 8, 2015. I am enclosing for your consideration a proposed Order. I am sending the proposed Order by mail, as I do not have an email address for King Grant-Davis. I will be happy to make any changes to the Order you want and/or will provide an electronic version of the Order in Word, at your direction.

By copy to Mr. Grant-Davis, I am also providing him with a copy of the proposed Order.

Thank you for the courtesies extended, and let me know if you need anything further from me.

With kind regards, I am
Yours truly,

Frances I. Cantwell

Frances I. Cantwell
Assistant Corporation Counsel

FIC/djc
Enclosure
cc: King Grant-Davis, *pro se*
Petitioner-Appellant

STATE OF SOUTH CAROLINA,)
)
COUNTY OF CHARLESTON)
)
King Grant Davis)
Plaintiff(s))
vs.)
City of Charleston Special)
Events Committee)
Defendant(s).)

IN THE COURT OF COMMON PLEAS, and
SOUTH CAROLINA COURT OF APPEALS

NINTH JUDICIAL CIRCUIT **RECEIVED**

AFFIDAVIT OF SERVICE MAY 18 2015

FILE NO: 2014-CP-10-7740 **SC Court of Appeals**
(Court of Common Pleas)

PERSONALLY APPEARED BEFORE ME, the undersigned deponent, who being duly sworn
says that (s)he served the Notice of Appeal, and Motion to Proceed
In Forma Pauperis in this action

(Describe document(s) served)
on Frances I. Cantwell, Esquire, Assistant Corporation Counsel by delivery to
Attorney for the Respondent (Name of party served)

at City of Charleston Legal Department
50 Broad Street, Charleston, S.C. 29401 personally;
(Name of party served)

the _____ of the party served,
(Name of person served) (Note relationship to party)

_____ the _____ of _____
(Name of person served) (Title) (Name of corporate party served)

and leaving with (him) (her) a copy at _____
(Street address)

in _____ County, South Carolina,
(City or Town) _____ County

on May 13, 2015 at _____ o'clock, and by
Charleston County Sheriff's Office Civil Process Service.

_____ Unable to locate and serve the above process on the
defendant after diligent efforts to do so.

The process is returned unexecuted.

Sworn to and Subscribed before me
this 13 day of May, 2015)

[Signature])
Notary Public for South Carolina)

My Commission expires 1 October 2019)

King Grant Davis
King Grant - Davis
Signature of Deponent

FILED
2015 MAY 13 PM 4:57
JULIE J. ARMSTRONG
CLERK OF COURT

LINDA W. STEWART
NOTARY PUBLIC
SOUTH CAROLINA

Entered in the Sheriff's Book on _____

Book _____ Page _____ Number _____