Supreme Court of Ohio Clerk of Court - Filed April 11, 2016 - Case No. 2016-0461

IN THE SUPREME COURT OF OHIO

City of Springfield, Ohio,	:	**Case No. 2016-0461**
	:	
Plaintiff/Appellant,	:	**On Appeal from the**
	:	**Second District Court of Appeals**
v.	:	**Clark County, Ohio Case No. 2015-CA-**
	:	**77**
State of Ohio,	:	
	:	
Defendant/Appellee.	:	
	:	
	:	

MEMORANDUM IN SUPPORT OF JURISDICTION OF AMICUS CURIAE OHIO MUNICIPAL LEAGUE AND THE CITY OF DAYTON, IN SUPPORT OF PLAINTIFF/APPELLANT CITY OF SPRINGFIELD, OHIO

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INTRODUCTION

THIS CASE INVOLVES MATTERS OF GREAT GENERAL AND PUBLIC INTEREST

The Ohio Municipal League (the "League") and the City of Dayton, as amicus curiae on behalf of the City of Springfield (the "City" or "Springfield"), urge this Court to accept jurisdiction over this case in order to reverse the decision of the Second District Court of Appeals (the "Second District") in *City of Springfield v. State of Ohio*, in Case No. 2015-CA-77.

The precise issue before this Court is whether the Ohio General Assembly may pass legislation that explicitly restricts municipalities' authority to enact automatic traffic enforcement programs when such legislation violates the Home Rule Amendment of the Ohio Constitution because it interferes with municipalities' exercise of power of local self-government. Municipalities' power of local self-government cannot be usurped by the State.

The legal impact of the issue of automatic traffic enforcement programs involves matters of great general and public interest and extends beyond these programs specifically. If the Second District's decision becomes the settled law in Ohio, it would permit the General Assembly to control the manner in which municipalities govern their local jurisdictions. Local control would be nonexistent if the State interfered with municipal matters that are purely local matters.

The Second District has set dangerous precedent that could lead to immense disruptions in municipal administration throughout Ohio. This Court has an opportunity to affirm its previously decisions in *Mendenhall v. City of Akron*, 117 Ohio St.3d 33, 2008-Ohio-270, 881 N.E.2d 255 and *Walker v. City of Toledo*, 143 Ohio St.3d 420, 2014-Ohio-5461, ¶¶ 3, 29, that Ohio municipalities have the authority under the Ohio Constitution to impose civil liability on traffic violations through automated traffic enforcement systems, as well as this Court's decision

in *Linndale v. State*, 85 Ohio St.3d 52, 706 N.E.2d 1227 (1999), that the General Assembly cannot limit or restrict municipalities' authority through unconstitutional legislation. The impact of this case is not limited simply to automatic traffic enforcement programs.

This case implicates great general and public interest precisely because the Second District's decision diminishes constitutional rights reserved to municipalities in contravention of this Court's prior rulings. For the reasons contained herein, the League urges this Court to accept jurisdiction of this case to reverse the decision of the Second District in *City of Springfield v. State of Ohio*.

STATEMENT OF AMICUS INTEREST

The Ohio Municipal League is a non-profit Ohio corporation composed of a membership of more than 700 Ohio cities and villages. The Ohio Municipal League and its members have an interest in ensuring the proper application of the Home Rule Amendment to preserve home rule powers of political subdivisions, which includes control of purely local matters, authority over police, sanitary, and other similar regulations, and enforcement of local rules, regulations, and laws. If the Second District's decision stands, not only would municipalities across the State lose the ability to establish automatic traffic enforcement programs, but dangerous precedent would be established permitting the General Assembly to legislatively eliminate municipalities' constitutional home rule powers.

STATEMENT OF THE CASE AND FACTS

The League hereby adopts, in its entirety, and incorporates by reference, the statement of the case and facts contained within the Brief of Appellant City of Springfield, Ohio.

ARGUMENT

In addition to the following arguments, the League and the City of Dayton incorporate, to the extent applicable, the well-reasoned arguments and authorities contained in the briefs of Appellant City of Springfield.

Proposition of Law No. 1:

SB 342 limits exclusive municipal legislative power to exercise all powers of local self-government, in violation of the Home Rule Amendment and established Ohio law.

Section 3, Article XVIII of the Ohio Constitution – the Home Rule Amendment – states that "[m]unicipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws The Home Rule Amendment gives municipalities the "broadest possible powers of self-government in connection with all matters which are strictly local . . . ." (Citation omitted.) *State ex rel. Morrison v. Beck Energy Corp.*, 2015-Ohio-485, ¶ 14, 143 Ohio St. 3d 271, 37 N.E.3d 128.

A municipal ordinance establishing an automated system for civil enforcement of traffic laws is an exercise of local self-government, an exercise with which SB 342 interferes. Springfield, like other cities, established a local administrative process by which civil violations are heard and decided, and civil penalties are assessed against owners of vehicles that cameras detect violating existing laws. The process does not regulate traffic, nor are the penalties or processes criminal in nature; rather, it establishes its own, unique civil administration of certain existing laws. Indeed, this Court has held that municipalities have the authority, pursuant to the Home Rule Amendment, to create and enforce an automated system for enforcement of existing laws that imposes civil liability upon the violators. *See Mendenhall v. Akron*, 117 Ohio St.3d 33,

2008-Ohio-270, 881 N.E.2d 255, *see also Walker v. Toledo*, 143 Ohio St.3d 420, 2014-Ohio-5461, 39 N.E.3d 474.

This Court has previously held that the maintenance of public streets within a municipality, and the ability to fully control the use of those streets, is included within the term "powers of local self-government." *Vill. of Perrysburg v. Ridgway*, 108 Ohio St. 245, 140 N.E. 595 (1923). The Springfield ordinance, like other local regulations, does just that – establishes full control of the use of its streets and enforces regulations through its own, local administrative process.

Springfield's ordinance adopted "a civil enforcement system for red light camera system violations . . . ." The civil administrative process is codified in section 303.09 of the Codified Ordinance of the City of Springfield, Ohio. It did not enact new traffic laws nor did it criminalize actions that were not already unlawful.

The Second District focused on the Springfield ordinance as an ordinance that regulates traffic. The Springfield ordinance, however, is distinguishable from the cases cited by the Second District for this assertion. Springfield is not determining placement of stop signs such as the city did in *Tolliver v. Newark*, 145 Ohio St. 517, 62 N.E.2d 357 (1945), overruled in part on other grounds in *Frankhauser v. Mansfield*, 19 Ohio St.2d 102, 110, 249 N.E.2d 789 (1969). Springfield is not establishing *new* traffic laws as the city did in *Niles v. Dean* 25 Ohio St.2d 284, 268 N.E.2d 275 (1971), or regulating the accessibility of off-street parking such as in *Brown v. Cleveland*, 66 Ohio St.2d 93, 420 N.E.2d 103 (1981).

The Springfield ordinance simply establishes a local administrative process – without creating additional traffic regulations – by which civil liability may be imposed for violation of

existing traffic laws. Stated otherwise, Springfield established a local process by which to fully control the use of its streets, which is a power of local self-government. *See Ridgway supra*.

As the Second District noted, an ordinance created under the power of local self-government must relate to the "government *and administration of the internal affairs of the municipality*." (Emphasis added.) *Springfield v. State*, 2nd Dist. Clark No. 2015-CA-77, 2016-Ohio-725 *citing Beachwood v. Cuyahoga Cty. Bd. of Elections*, 167 Ohio St. 369, 148 N.E.2d 921 (1958) , paragraph one of the syllabus. That is precisely what the Springfield ordinance does – it relates to the administration of civil traffic violations in the municipality.

All municipalities, including Springfield in the present matter, who have established local administrative processes, use their institutional knowledge of local streets and knowledge of local resources to identify the most efficient processes to adopt and enforce within its local limits. The adoption and enforcement of these administrative programs are inevitably local in nature. The administrative processes are not uniform across municipalities; rather, each municipality creates its own local administrative process. The programs are uniquely local.

CONCLUSION

This matter extends well beyond a municipality's ability to adopt and enforce automatic traffic enforcement programs. If the Second District's decision stands, it would give the General Assembly authority to legislatively eliminate constitutionally-provided home rule powers, specifically, those powers that are purely local.

But, "despite claims to the contrary, constitutional home-rule authority retains its vitality in Ohio." *Lima v. State*, 122 Ohio St.3d 155, 2009-Ohio-2957, 909 N.E.2d 616. This Court cannot allow the General Assembly to undermine its prior decisions upholding the use of local administrative traffic enforcement programs. *See Mendenhall v. Akron*, 117 Ohio St.3d 33, 2008-

Ohio-270, 881 N.E.2d 255, *see also Walker v. Toledo*, 143 Ohio St.3d 420, 2014-Ohio-5461, 39 N.E.3d 474.

This case presents a matter of great general and public interest to state and local governments throughout Ohio. For the reasons provided herein, the League respectfully requests this Court to accept jurisdiction over this case to reverse the Second District's decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing *Brief of Amicus Curiae the Ohio Municipal League*, has been sent via regular U.S. mail, postage pre-paid this 11th day of April, 2016 to:

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