



ORDER DISMISSING HOPE CENTER'S SECOND LAWSUIT AGAINST ANCHORAGE LEAVES LGBTQ & OTHERS VULNERABLE TO DISCRIMINATION

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On Monday December 20, 2021, Federal District Court Judge Sharon Gleason for the District of Alaska dismissed the Downtown Soup Kitchen Hope Center's requests for declaratory and injunctive relief in its second lawsuit against the Municipality of Anchorage and Anchorage Equal Rights Commission Executive Director, Mitzi Bolaños Anderson.

Judge Gleason's order allowed Hope to seek damages against the Municipality of Anchorage and Bolaños Anderson for its "self censorship" from May 26, 2021 and August 16, 2021. In 2019, Hope collected \$1 in damages and 100,000 in attorney's fees from the Municipality of Anchorage in its first lawsuit seeking exemption from Anchorage's LGBTQ inclusive ordinance. Hope, a Christian organization with a soup kitchen and shelter that excludes Trans women, sought a ruling declaring that the Municipality's Equal Rights Ordinance violated its first amendment rights and an injunction ordering the Municipality to stop enforcement against Hope. Hope lost on both those issues but was allowed to seek damages.

The lawsuit was filed shortly after Mayor Dave Bronson was elected mayor of Anchorage. Bronson is a founding board member of the Alaska Family Council and a member of Alaska Family Action, which promotes the "union of one man and one woman." Bronson testified in favor of the now voided State of Alaska's Constitutional Amendment banning same sex marriage and against the LGBTQ-inclusive Anchorage Equal Rights Ordinance.

Under Mayor Bronson, the municipal attorney's office filed a Motion to Dismiss the second Hope Center lawsuit on Monday August 23, 2021, stating that the suit should be dismissed because the Municipality did not view the shelter as a "public accommodation" and that the Commission did not intend to enforce Anchorage's LGBTQ inclusive Equal Rights Ordinance on the Hope Center.

District Court Judge Sharon Gleason adopted the Municipality's interpretation of a recent U.S. Supreme Court decision, *Fulton v. City of Philadelphia*. In *Fulton*, the United States Supreme Court held that Philadelphia's refusal to contract with Catholic Social Services for the provision of foster care services unless CSS agrees to certify same-sex couples as foster parents violates the free exercise clause of the First Amendment.

The United States Supreme Court's interpretation of "public accommodations" in the recent *Fulton* case was specific to Pennsylvania's nondiscrimination law. Yet, the



Alaska Supreme Court has held that Alaska's nondiscrimination law is more robust than federal law. The Alaska Supreme Court has held that Alaska's anti-discrimination law "...is intended to be more broadly interpreted than federal law to further the goal of eradication of discrimination." *913 *Wondzell v. Alaska Wood Prods., Inc.*, 601 P.3d 584, 585 (Alaska 1979)."

Although the Alaska District Court found, contrary to the Municipality's arguments, that the Anchorage Equal Rights Ordinance likely did apply to Hope, the court also found that Hope had failed to show that there was a "credible threat" of enforcement of the Anchorage Equal Rights Ordinance. The Court cited the Affidavit of AERC Director Bolaños Anderson as evidence that it was "unlikely" that the AERC would prosecute Hope.

The District Court also found that Hope lacked standing and denied its requests for declaratory and injunctive relief, allowing it to seek damages for "self censorship" for a three month period between the Anchorage Assembly's amendment of its Equal Rights Ordinance to cover homeless shelters and the Municipality's submission to the Court that it did not intend to enforce the Ordinance as to Hope.

Both of Hope's lawsuits were aimed at attacking the Anchorage Equal Rights Ordinance's protection of LBGTQ people. The Anchorage Assembly passed the LBGTQ inclusive Amended Equal Rights Ordinance in 2015. Anchorage voters subsequently upheld this law at the ballot box. The Anchorage Equal Rights Ordinance has not held hearings for more than a decade. The 2020 AERC Annual Report listed only \$55,476 in total settlements for all cases.

In the wake of this case, LBGTQ people and others facing discrimination in Anchorage remain vulnerable with the Municipality's narrow definition of "public accommodation." The decision will likely lead parties who seek to exclude persons in protected classes to argue that they are not a "public accommodation" to evade enforcement.

Even though LBGTQ people are officially included in the Anchorage Equal Rights Ordinance, the practical lack of enforcement at AERC leaves complainants vulnerable to continued discrimination.