

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

DIONNE YOUNCE and
KENNETH W. GREENE,

Plaintiffs,

v.

CASE NO.: 3:22-cv-931-TJC-PDB

CITY OF JACKSONVILLE, a
Florida municipal corporation,

Defendant.

**CITY OF JACKSONVILLE'S RESPONSE TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION (DOC. 2)**

Defendant, City of Jacksonville ("City"), pursuant to this Court's Order of August 31, 2022 (Doc. 6), hereby files this response to Plaintiffs' Motion for Preliminary Injunction (Doc. 2). Plaintiffs' motion should be denied.

I. Background

Plaintiffs are registered sexual offenders ("RSOs") who were convicted of sex crimes involving minors. They seek to enjoin enforcement of two provisions of Jacksonville's Ordinance Code ("Code") governing their holiday and seasonal activities. Their Complaint and Motion (Docs. 1 and 2) come just in time for Halloween, with its long tradition of children going door-to-door to "trick or treat" for candy. Halloween is the only holiday where children are impliedly invited onto the properties of strangers.

Plaintiff Dionne Younce is an RSO convicted in 2016 of Unlawful Sexual Activity with Certain Minors (16-17 years old), in violation of Section 794.05(1), Florida Statutes. Plaintiff Kenneth W. Greene was originally convicted in 2004 of Possession of a Photo or Picture Showing Sexual Performance of a Child, in violation of Section 827.071(5), Florida Statutes. *See* Case Dockets, attached hereto as Composite Exhibit A. Plaintiffs claim that by requiring them to place a sign on their property during Halloween informing the public that they are not handing out candy (with no reference to the fact that they are RSOs), as well as limiting their ability to place displays on their property that might attract children during holidays and seasonal events, the City's Code violates their First Amendment rights, causing them anxiety and distress.

In Florida, the Legislature determined that “[r]epeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety.” Fla. Stat. § 775.21(3)(a) (2022).¹ Moreover, “[s]exual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever

¹ There is a statutory difference between sexual offenders and sexual predators. Sexual offenders are those individuals who have been convicted of certain sex crimes (even one time), many involving minors. *See* Fla. Stat. § 943.0435(h)1. (2022). Sexual predators, defined under the Florida Sexual Predators Act, Section 775.21, Florida Statutes, are those who have repeated sexual offenses or who have been convicted of a first-degree felony (*i.e.*, more violent sexual offenders).

reported, and are prosecuted for only a fraction of their crimes.” *Id.* Both sexual offenders and sexual predators must register in Florida, and both are subjected to many legal restrictions on their activities.

II. The City’s Code History Governing Prohibited Activities for Sexual Offenders and Sexual Predators.

In the City, Section 685.104 of the Code spells out “prohibited activities for sexual offenders and sexual predators.” Plaintiffs complain about two aspects of this section, one involving the posting of a sign on their property during the Halloween holiday that simply reads “no candy or treats here,” and one involving a limited ban on certain displays on their property, if those displays are “primarily targeted to entice, attract, or lure a child” onto their property. *See* Motion, Exs. 2-3, Code §§ 685.104(a)(3)(ii), (iv). The Jacksonville Sheriff’s Office (JSO) enforces the provisions of Chapter 685, but there are no allegations that either Plaintiff has ever been fined or arrested under the Code.

In 2015, Chapter 685 was amended to address loopholes of which RSOs in Jacksonville were taking advantage to continue to endanger children. The original 2010 version of the legislation prohibited Halloween displays, and it contained findings by the City as to the dangers to children posed by RSOs participating in Halloween and using displays to entice children onto their properties. *See* Ord. 2010-836-E, attached hereto as Exhibit B. After extensive legislative findings, the City amended the Code by Ordinance 2015-214-E in

order to protect children from being enticed by any displays or decorations on an RSO's property. *See* Motion, Ex. 1. The revisions did not ban all displays, only those primarily targeted to lure children onto an RSO's property.

Nonetheless, shortly after the 2015 amendments, a federal lawsuit ensued in this Court. *See Doe and Doe v. City of Jacksonville*, 3:15-cv-01401-MMH-JRK. That lawsuit, like this one, challenged the display prohibition in the Code. Ultimately, as a result of mediation handled by Judge Schlesinger, the 2015 lawsuit settled with all parties agreeing on the amended Code language that now appears in the 2016 version of Section 685.104. *See* Motion, Ex. 2; *Doe*, 3:15-cv-01401-MMH-JRK, Docs. 36, 38-39. The parties, including the two RSOs who brought the 2015 lawsuit on First Amendment and vagueness grounds, agreed to the "primarily targeted toward children" language in the again-challenged display prohibition in Code Section 685.104(a)(3)(iv) and in the Code definition of "display."

Now, more than six years later, Plaintiffs challenge the Code's prohibitions in this same Court on similar First Amendment grounds, including a claim that the agreed-upon language in the display prohibition is vague such that reasonable minds cannot discern its meaning. Plaintiffs only challenge the sign requirement (in relation to Halloween) and the display prohibition (not in relation to Halloween) in Chapter 685. They seek damages for their "anxiety and distress," attorney's fees, and declaratory and injunctive

relief. Docs. 1, 2. As they have never been fined or arrested, they have no other actual damages.

III. Plaintiffs are Unlikely to Succeed on the Merits.²

A. The Sign-Posting Provision in City Ordinance Section 685.104 Can Be Constitutionally Applied to Certain Sexual Offenders and Sexual Predators Whose Crimes Involve Children.

Plaintiffs argue that Section 685.104(a)(3)(ii) of the Code, which requires all sexual offenders or sexual predators to post a sign at their residences reading “no candy or treats here,” amounts to compelled speech in violation of the First Amendment. Plaintiffs claim the Eleventh Circuit’s recent decision in *McClendon v. Long*, 22 F. 4th 1330 (11th Cir. 2022), forecloses the sign requirement as it cannot meet strict scrutiny.³ While *McClendon* did hold that forced posting of signs on private property of all sex offenders, regardless of

² A preliminary injunction “is an extraordinary and drastic remedy not to be granted unless the movant clearly [establishes] the ‘burden of persuasion’ as to each of the four prerequisites.” *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (citation omitted); *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). If the movant fails to carry its burden of proving *even one* of the prerequisites, the preliminary injunction must be denied, regardless of whether it meets the other requirements. *See id.*

³ In good faith, given the pending Motion and the *McClendon* decision, JSO has agreed not to enforce the sign provision during Halloween 2022. *See* Declaration of Lt. Derek Porter, attached hereto as Exhibit C, at ¶ 4. However, JSO has had problems with RSOs violating the sign provision in the past and has simply reminded them of the requirement without further action. *Id.* at ¶ 5. More importantly, JSO has had problems with RSOs actively trying to use candy or decorations to entice children onto their property, and therefore JSO will continue to enforce the remaining provisions of Chapter 685.104. *Id.* at ¶¶ 4, 6.

whether their individual crimes involved children or adults, was compelled speech that was not narrowly tailored to meet a compelling government interest in protecting children, the Court did not hold that such signs can *never* be required for certain sexual offenders. In fact, the Court held that protecting children is *per se* a compelling interest, but such a provision needs to be narrowly tailored to meet that interest, suggesting that strict scrutiny could be met under the right circumstances. *Id.* at 1338.

There are differences between the county policy in *McClendon* and the sign requirement in this case. In *McClendon*, the sheriff's office, itself, placed large warning signs on the properties of all sex offenders regardless of whether they were classified as having an increased rate of recidivism, also stating that the signs were a "community safety message" from the sheriff's office. *See id.* at 1333-34.⁴ Here, the City requires a small, two-inch letter sign simply stating that there are no candy or treats at the residence, nothing more.⁵

⁴ Notably, prior to 2018, the sheriff's office in *McClendon* had provided sexual offenders with fliers to place on their doors during Halloween, apparently without challenge. *See id.* at 1335.

⁵ Plaintiffs contend that the signs "effectively announce to the public that they are sexual offenders and that they pose an extreme danger to children," but the signs convey no such message. Motion at 11. The signs only state "no candy or treats here." Such a statement could be for any reason, including the obvious reason that the homeowner does not want to participate in Halloween. While even non-ideological factual statements can be compelled speech, the signs in this case are nonetheless different than the larger signs in *McClendon*, which were posted by the sheriff, included an explicit warning, and specifically stated they are being posted by law enforcement for a public safety purpose.

In any event, *McClendon* does not foreclose all sign requirements under different circumstances. The Eleventh Circuit recognized that governments have a compelling interest in protecting children from sexual abuse, but the sign policy there was not narrowly tailored to meet that interest because it applied across-the-board, regardless of the offender's crime or the status of the victim. What the Court did *not* hold was that *all* such sign requirements are unconstitutional, no matter how narrowly tailored.

In *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017), cited by Plaintiffs, the Supreme Court held that a blanket prohibition on sexual offenders accessing social media was not narrowly tailored to survive strict scrutiny, but the Court emphasized that “this opinion should not be interpreted as barring a State from enacting more specific laws than the one at issue.” The Court reasoned that “it can be assumed the First Amendment permits a State to enact specific, narrowly tailored laws that prohibit a sex offender from engaging in conduct that often presages a sexual crime, like contacting a minor...” *Id.* That is exactly what the City has attempted to do here by enacting both the sign requirement and display prohibition: prevent RSOs from engaging in *conduct* that would result in contact with minors.

Here, both Plaintiffs were convicted of sexual crimes involving minors, and there are other individuals also convicted of crimes involving children, which the City has recognized pose a specific danger of recidivism, particularly

at Halloween or during other events targeted toward children. In fact, JSO has confirmed that RSOs have a history in Jacksonville of doing so. *See* fn. 1, *supra*; Ex. C at ¶¶ 4, 6. Moreover, sexual predators are those convicted of repeat offenses or particularly heinous crimes involving children, making the City’s public safety interest even more compelling as to those individuals. If *McClendon* forecloses the City’s current sign requirement, the City reserves its right to enact a narrowly tailored ordinance to protect children at Halloween.

B. The Code’s Narrow Ban on Home Displays Does Not Violate the First Amendment and is Not Unconstitutionally Vague.

Plaintiffs claim Section 685.104(a)(3)(iv) of the Code, banning home displays of sexual offenders and sexual predators if the displays are “primarily targeted to entice, attract, or lure a child onto any residence or property,” is unconstitutional for two reasons. First, they claim this provision unconstitutionally infringes on their right to engage in expressive conduct in violation of the First Amendment. Second, they argue this provision is unconstitutionally vague. Plaintiffs are incorrect as to both claims.⁶

⁶ Because both Plaintiffs are RSOs whose crimes and convictions involve illegal sexual contact with or sexual interest in children, these Plaintiffs fall squarely within the reach and intent of the City’s display prohibition. They have no standing to challenge this provision on behalf of any other convicted individual who is required to register as a RSO under state law for a non-child related offense.

i. The display provision is not aimed at expression.

The display prohibition on its face does not violate the First Amendment. As shown above, this provision simply furthers public safety and the protection of children by limiting enticing decorations primarily aimed at children. This is a narrow category of displays, and it would not include decorations such as reasonable light or religious displays, which are not “primarily targeted” to invite children onto an RSO’s property, a *mens rea* requirement for those RSOs engaging in decorating their property. The City is furthering its compelling interests in such regulations, while leaving alternative channels open for Plaintiffs to engage in expression through all kinds of displays that are not used to entice or attract children onto their property. Simply put, a violator must have put up a display with the understanding and intent that doing so would invite children onto his or her property.

Contrary to Plaintiffs’ assertions, the City’s interest in public safety is not “speculative” and was highlighted in enacting the amendments well over a decade ago. The legislative history of the 2010 and 2015 amendments to the ordinance are replete with findings supporting the need to protect children from recidivist sexual offenders and sexual predators. *See Ex. B.* The City cited to the State requirements for registration of RSOs, as well as the rate of sexual victimization and recidivism of offenders. *See id.* at 2, *citing Smith v. Doe*, 538 U.S. 84, 103 (2003). Furthermore, *Halloween and other holiday*

activities present increased opportunities for such sexual offenders to abuse children. *Id.* at 3. The City found that activities such as “partying and handing out candy” can lure children and increase their contact with RSOs, posing a risk and thus necessitating the 2010 Ordinance. *Id.* When the Ordinance was amended in April 2015, these findings were reiterated. *See* Motion, Ex. 1; *citing Hobbs v. County of Westchester*, 397 F.3d 133 (2d Cir. 2005). The City cited to the “experience in the field” of the JSO for the need to strengthen the restrictions found in Chapter 685 to protect children. *Id.* at 1-2.

The Court should not enjoin the City from enforcing its limited display provision enacted solely to protect children. *See, e.g., Wilson v. Lexington-Fayette Urban County Government*, 201 Fed. App’x. 317, 323-24 (6th Cir. 2006). The provision simply restricts individuals convicted of sexual offenses involving children (like these Plaintiffs) from using displays to entice children, leading to the recognized danger of recidivism.⁷ In short, it does not matter the content of the display; what matters is whether it would entice children onto an RSO’s property. There can be no stronger purpose to all of Chapter 685 than the protection of children. These public safety and welfare interests,

⁷ Of course, the restricted rights of sex offenders have been upheld by courts due to the nature of their conduct and public interests protected. *See, e.g., Doe v. City of Lafayette, Ind.*, 377 F.3d 757, 768 (7th Cir. 2004); *Brown v. City of Michigan City, Ind.*, 462 F.3d 720, 729 (7th Cir. 2006).

especially where children are involved, have certainly been recognized as compelling interests by courts. These are the interests the Code seeks to further by restricting certain *conduct* on the part of registered sexual offenders and predators.

Common sense dictates that the display prohibition is only aimed at holiday or seasonal displays with the known likelihood of attracting children to closer contact with RSOs by luring them to *enter the property*, not at the many reasonable, typical holiday displays in the Plaintiffs' examples. As mentioned above, Halloween is a known holiday where there is an expectation that children will come onto private property; however other examples from other holidays where such intent would also be clear include having a Santa Claus booth where children can come meet Santa, advertising an Easter egg hunt and associated displays, having a petting zoo or pony rides, or offering other treats. There should be no expectation that normal decorations will invite children onto properties during most holidays. The prohibition does not prohibit simple displays of speech, lights or flags on Plaintiffs' property.

The intent of this provision is obviously to limit contact between RSOs and children, not to restrict expression or adult-oriented displays. The display prohibition should be construed by the Court in accordance with the City's compelling interest in public safety by restricting certain conduct by RSOs. *See also Maryland v. Craig*, 479 U.S. 836, 855 (1990); *Hodgson v. Minnesota*, 497

U.S. 417, 444 (1990); *Prince v. Massachusetts*, 321 U.S. 158, 168-70 (1944). The City is only regulating a narrow category of displays, not nearly all displays. *See Hobbs*, 397 F.3d at 147, 158 (upholding an executive order that prohibited individuals convicted of sexual offenses from obtaining a permit to perform on county property if the performances would “entice” children to congregate around such persons, as purpose of the prohibition—to protect the safety of vulnerable children from RSOs who would entice them—was not content-based and thus intermediate scrutiny applied). The prohibition in *Hobbs*, like the display prohibition here, furthered the government’s *compelling* interest in protecting children, and “focus[ed] on the safety of children and aims to limit the opportunity for such a convicted sexual offender to attract children with whom he might later engage in child molestation.” *Id.* at 397 F.3d at 147, 152.

Importantly, the City made specific findings in relation to the 2010 ordinance and its 2015 amendments, and it need not conduct its own studies to conclude that RSOs, given the high risk of recidivism, pose a threat to children such that certain enticing conduct needs to be regulated and prohibited. *See id.* at 153, *citing City of Erie v. Pap’s A.M.*, 529 U.S. at 296. The City need only show that the Code provision “promote[s] a substantial government interest that would be achieved less effectively absent the regulation.” *Ward v. Rock Against Racism*, 491 U.S. 781, 798-99 (1989). The display provision is narrowly tailored to meet a substantial—in fact,

compelling—City interest in the protection of children. *See Hobbs*, 397 F.3d at 153; *see also Doe v. City of Albuquerque*, 667 F.3d 1111, 1121 (10th Cir. 2012) (citing cases where courts have upheld laws imposing restrictions against RSOs); *Packingham*, 137 S. Ct. at 1737 (recognizing state interest in prohibiting RSOs from engaging in conduct that could result in contact with minors).

The limited display prohibition here differs from the broad sexual offender act at issue in *Doe v. Harris*, 772 F.3d 563, 579-82 (9th Cir. 2014). In *Doe*, the broad restrictions in California’s law were ambiguous as to what “internet identifiers” sexual offenders had to provide to the State, and the act was “arguably inconsistent.” *Id.* at 578. The law did not survive intermediate scrutiny because it was not narrowly tailored, even though the district court attempted to narrow its terms. *See id.* Here, the display prohibition contains common sense, defined terms requiring that RSOs *target* their displays *primarily* toward attracting children onto their property, and therefore it is “reasonably susceptible” to a constitutional, narrowing construction. *Id.* The provision can be construed in a way that makes the prohibition a narrow restriction on RSO conduct, not a broad prohibition on otherwise adult expression that would “chill” protected speech.

Certainly, “it is almost always possible to hypothesize a less restrictive alternative to any ordinance,” but courts should not be put in the position of

having to decide what alternative language best meets a city’s compelling needs in relation to conduct that threatens the safety of children, “a task courts are ill-equipped to perform.” *Assoc. of Community Organizations for Reform Now v. Town of East Greenwich*, 453 F. Supp. 2d at 394, 406 (D.R.I. 2006) (discussing the safety hazards of door-to-door solicitation.) Given the long-recognized *compelling* interest in protecting children, common knowledge shows that limiting decorations to prevent contact between RSOs and children meets constitutional scrutiny. *See Assoc. of Community Organizations*, 453 F. Supp. 2d at 414 (stating that the town did not need to provide specific evidence or statistics to support its purported interests in regulating door-to-door solicitation, as “it is common knowledge” that crime occurs during solicitation, and it would make no sense to wait for harm to occur before passing a regulation) (citation omitted). Plaintiffs have not met their burden to show that such interests are not being furthered by the limited display prohibition.

ii. The display prohibition is not void for vagueness.

The display provision is also not unconstitutionally vague. Appropriately construed by the Court in light of the City’s explicitly stated legislative intent, the narrow display prohibition reasonably alerts sexual offenders and predators to the conduct that is prohibited—having decorative displays that would specifically entice or lure children onto the individual’s property. An RSO of ordinary intelligence is given fair notice of the scope of

this provision. *See Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). This is all the clarity that is required.

As the Supreme Court has reasoned, “[c]ondemned to the use of words, we can never expect mathematical certainty from our language.” *Id.* at 110. Nor can every possible avenue of violation be predicted and legislated. Courts should simply construe language according to its plain meaning and decide whether it “conveys sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices.” *Roth v. United States*, 354 U.S. 476, 491 (1957).

Here, the Court must decide whether RSOs such as Plaintiffs would sufficiently understand that they are not to use displays that are primarily targeted to entice children. Any possible over-definition of what the provision could conceivably cover can be dealt with and cured through “case-by-case analysis and review.” *Hobbs v. County of Westchester*, 2003 WL 21919882 *7 (S.D.N.Y. 2003). Normal light and religious displays would not be covered; clearly overdone holiday displays that include characters, activities or objects primarily targeted to “entice, attract, or lure a child onto any residence or property” would be covered. Certainly, displays that explicitly invite children onto the property are covered. This Court should use reason and common sense in construing the provision, viewing it in light of what a reasonable RSO

would believe is prohibited and within the stated intent of the City.⁸ This was certainly true in 2016 when the City amended the display prohibition with the agreement of other RSO plaintiffs, who understood what is prohibited by the provision.

Each of the active verbs in the display prohibition indicates intent or some sort of *mens rea* on the part of the individual putting up the display to *primarily target* that display to children, not just to put up traditional decorations that are not invitations to come onto private property but are objectively associated with holidays or seasonable events celebrated by people of all ages. “Primarily” means “essentially; mostly; chiefly; principally,” while “target” means “to use, set up, or designate as a target or goal.” These terms are followed by: “entice” (meaning “to lead on by exciting hope or desire; allure; inveigle”)⁹; “attract” (meaning “to draw by appealing to the emotions or senses, by stimulating interest, or by exciting admiration; allure;

⁸ Plaintiffs do not claim that the display prohibition is unclear with respect to Halloween displays. Presumably, this is because Plaintiffs understand that *any* Halloween display will entice and lure children to their property. Halloween is the only holiday where children are impliedly invited on all private properties unless active steps are taken to discourage them. The fact that Plaintiffs do not cite a desire to decorate during Halloween underscores that they understand what they can and cannot do with regard to displays.

⁹ Interestingly, similar “entice” language was used in *Hobbs* and was not considered vague.

invite”); or “allure” (meaning “to attract, entice, or tempt”).¹⁰ In other words, if an RSO’s chief “target or goal” in putting up a display is to excite, attract, stimulate, invite, entice, or tempt children to come on onto the private property, that display is prohibited. Ordinary reasonable individuals know what these words mean, and they certainly know what their “primary target” or goal is when they put up decorations. Previous RSOs understood them because these words are not vague.

If the Court finds any of these words ambiguous, it can also turn to the City’s legislative history to determine the meaning and intent of its Code provision. *See, e.g., In re Racing Svcs., Inc.*, 779 F.3d 498, 503 (8th Cir. 2015) (reasoning that court can review legislative history if law is ambiguous or adhering to its strict letter would lead to absurd results). Moreover, the Court, whenever possible, should construe laws so as to avoid unconstitutionality. *See Backpage.Com*, 881 F. Supp. 2d at 1276. As discussed above, the City’s legislative intent, set forth in 2010 and repeated in the amendments to the Code in 2015 and 2016, was to restrict the contact between RSOs and children, not to ban them from free expression or free association with adults (and familial children) in all other circumstances. Any reasonable RSO should

¹⁰ These common definitions are taken from dictionary.com, last visited on September 7, 2022.

understand which displays should be, and are, prohibited by Code.¹¹ This means only those displays specifically used to entice and attract children. Religious symbols, lights and neutral holiday displays do not do that.

Properly construed, the display prohibition exists for the common-sense, immensely important, protection of children in the City when sexual offenders or predators wish to entice them with decorations and prey upon them. As such, the *sine qua non* of the preliminary injunction analysis dictates that the Plaintiffs' Motion should be denied as to the display prohibition. *See SEC v. Fife*, 311 F.3d 1, 8 (1st Cir. 2002).

IV. Plaintiffs Will Not Suffer Irreparable Injury if the Limited, Content-Neutral Display Ban is Enforced.

Plaintiffs also cannot show that they will suffer an irreparable injury should preliminary injunctive relief be denied as to the display prohibition. *See Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995); *McDonald's Corp. v. Robertson*, 147 F.3d at 1301, 1306 (11th Cir. 1998). Plaintiffs have no basis to argue that they would be irreparably harmed during the course of these proceedings if they cannot entice or lure children during holiday or seasonal

¹¹ Given the City's clear intent in passing the display prohibition in 2010 and then amending it in 2015 and shortly thereafter in 2016 (as a result of a settlement with previous RSO plaintiffs), it defies common sense to suggest that *any* holiday display or decoration, such as a simple wreath on the door or a tree or "piece of furniture" *inside* the home, would entice children to come onto the property and closer to contact with its owner. This is different than handing out or providing candy or other inviting objects that would certainly draw children to the property.

events or through decorations. The display provision is not content-based and does not unconstitutionally limit Plaintiffs' free speech or association rights as adults. It does not apply to the overreaching hypotheticals Plaintiffs put forth in their Motion. Properly construed in accordance with the stated legislative intent, the display provision only curtails holiday and seasonal activities that could lure or entice children and thus pose a potential safety risk.

Arguing that First Amendment activity cannot take place does not create an irreparable injury where the City's regulation is not content-based because the prohibition is not aimed at protected speech or association and leaves plenty of alternative channels open for adults to exercise their First Amendment rights. When the record presented by Plaintiffs is inadequate, particularly on the irreparable harm requirement, the Court should not grant the extraordinary remedy of a preliminary injunction. *See Northeastern Fla. Chapter of the Assoc. of General Contractors of America v. City of Jacksonville*, 896 F. 2d 1283, 1286 (11th Cir. 1990). That is the case here, as this provision has been in place in its current form since 2016, and the Plaintiffs have never been fined or arrested.

V. The Balance of Harms Favors the City.

The serious harm to the City, and the children therein, that would result from striking a longstanding portion of its Code regulating the contact between sexual offenders and predators, right before Halloween, outweighs any harm

that could conceivably be caused by application of limited restrictions on such contact with children. If the display prohibition is struck down, the City would be forced to scramble to create a new prohibition or else allow RSOs to put up *any* enticing, child-oriented decorations. The City has a substantial obligation to provide for the safety of its children, and it has long been recognized that cities have a significant interest in maintaining their police powers. Plaintiffs have shown nothing to override this compelling interest of the highest order.¹²

VI. Conclusion

Plaintiffs cannot demonstrate any of the criteria for an extraordinary preliminary injunction, at least as to the display prohibition. They offer nothing but overreaching hypotheticals. The City respectfully requests that this Court deny Plaintiffs' Motion for Preliminary Injunction (Doc. 2) as to the display provision.

Respectfully submitted,

**OFFICE OF GENERAL
COUNSEL**

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¹² It is also important to note that Chapter 685 of the Code contains a severability provision at section 685.104(g). Plaintiffs here only challenged two select provisions of Chapter 685.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of September, 2022, a true and correct copy of the foregoing was filed with the Clerk of Court for uploading to the CM/ECF system which will send notice of electronic filing to all counsel of record who are participants in the Court's ECF filing system: Ray Taseff, Esq. and Dante P. Trevisani, Esq., P.O. Box 370747, Miami, FL 33131-2309.

/s/ Craig D. Feiser _____
Counsel for Defendants

EXHIBIT A

16000349CFMA - STATE OF FLORIDA vs. YOUNCE, DIONNE MARIE

SUMMARY

Judge: SMITH, R. LEE	Court Type: Criminal Felony	Case Type:
Case Number: 16000349CFMA	Uniform Case Number: 552016CF000349XXAXMX	Status: CLOSED
Clerk File Date: 2/26/2016	Status Date: 8/9/2021	Waive Speedy Trial: X
Total Fees Due: 0.00	Custody Location: NOT IN CUSTODY	Agency: ST JOHNS COUNTY SHERIFFS OFFICE
Agency Report Number: 16OFF000725		

PARTIES

TYPE	PARTY NAME	ATTORNEY
DEFENDANT	YOUNCE, DIONNE MARIE	
PLAINTIFF	STATE OF FLORIDA	

CHARGES

COUNT	DESCRIPTION	LEVEL	DEGREE	PLEA	DISPOSITION	DISPOSITION DATE
1	UNLAWFUL SEXUAL ACTIVITY WITH A MINOR (794.05 1)	F	S	NOLO-CONTENDERE	ADJUDICATED GUILTY	
2	UNLAWFUL SEXUAL ACTIVITY WITH A MINOR (794.05 1)	F	S		NOLLE PROSSED	

EVENTS

DATE	EVENT	JUDGE	LOCATION	RESULT	EVENT NOTE
8/9/2021 1:30 PM	FELONY HEARING	SMITH, R. LEE	Courtroom 328	COMPLETED	
6/10/2020 1:30 PM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	COMPLETED	
4/20/2020 1:30 PM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	RESET	
3/17/2020 1:30 PM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	RESET	
2/4/2019 9:00 AM	FELONY VOP ARRAIGNMENT	MALTZ, HOWARD M.	Courtroom 328	COMPLETED	
9/19/2017 1:30 PM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	COMPLETED	
9/19/2017 9:00 AM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	RESET	
9/12/2017 9:00 AM	FELONY HEARING	MALTZ, HOWARD M.	Courtroom 328	JUDGE RESET	
9/8/2016 8:15 AM	FELONY PLEA & SENTENCE	TRAYNOR, J MICHAEL	Courtroom 316	SENTENCED	
8/2/2016 1:30 PM	FELONY PRETRIAL	TRAYNOR, J MICHAEL	Courtroom 316	CONTINUED	
5/12/2016 1:30 PM	FELONY PRETRIAL	TRAYNOR, J MICHAEL	Courtroom 316	CONTINUED	
4/4/2016 1:30 PM	FELONY ARRAIGNMENT	TRAYNOR, J MICHAEL	Courtroom 316	CONTINUED	

CASE DOCKETS

IMAGE	DIN	DATE	ENTRY
	166	8/9/2021	REOPENED CASE CLOSED
	165	8/9/2021	PROBATION TERMINATED 08/09/2021
	164	8/9/2021	HEARING NOTES
	163	7/19/2021	FELONY HEARING SET FOR 08/09/2021 AT 1:30 PM IN 328/ , JDG: SMITH, R. LEE
	162	7/19/2021	ORDER SCHEDULING HEARING
	2	6/25/2021	MOTION FOR EARLY TERMINATION OF PROBATION
	160	10/26/2020	JUDGE SMITH, R. LEE: ASSIGNED
	1	6/10/2020	HEARING NOTES
	158	6/10/2020	PROSECUTOR: EMERT, REBECCA ASSIGNED
	157	4/7/2020	AMENDED NOTICE EMAILED TO ATTORNEY (DEFENDANT)
	156	4/7/2020	NOTICE MAILED TO DEFENDANT
	155	4/7/2020	FELONY HEARING SET FOR 06/10/2020 AT 1:30 PM IN 328/ , JDG: MALTZ, HOWARD M.
	154	4/7/2020	EMAIL FROM JUDGE'S OFFICE TO RESET ALL CASES SET ON 4/20 @130PM TO 5/6 @130PM

IMAGE	DIN	DATE	ENTRY
Request	153	3/16/2020	AMENDED NOTICE MAILED TO ATTORNEY (DEFENDANT)
Request	152	3/16/2020	AMENDED NOTICE MAILED TO DEFENDANT
	151	3/16/2020	FELONY HEARING SET FOR 04/20/2020 AT 1:30 PM IN 328/ , JDG: MALTZ, HOWARD M.
Request	150	3/16/2020	EMAIL FROM JUDGE'S OFFICE/RESET 4/20 @1:30PM
	149	2/12/2020	FELONY HEARING SET FOR 03/17/2020 AT 1:30 PM IN 328/ , JDG: MALTZ, HOWARD M.
2	148	2/12/2020	ORDER SCHEDULING HEARING
	145	2/10/2020	CASE REOPENED FOR OTHER
	144	2/10/2020	DEFENSE ATTORNEY: SHOEMAKER, TERRY JON ASSIGNED
1	147	2/7/2020	NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING
25	146	2/7/2020	MOTION FOR EARLY TERMINATION OF PROBATION
	142	9/17/2019	PROSECUTOR: OFFICE, STATE ATTORNEY'S ASSIGNED
	143	9/16/2019	REOPENED CASE CLOSED
2	141	9/16/2019	ORDER GRANTING DEFENDANT'S MOTION FOR TRAVEL PERMISSION
	140	9/16/2019	CASE REOPENED FOR OTHER
1	139	9/16/2019	EMAIL FROM DEFENDANT
	138	6/14/2019	REOPENED CASE CLOSED
3	137	6/13/2019	ORDER GRANTING DEFENDANT'S MOTION FOR TRAVEL PERMISSION
1	136	6/13/2019	EMAIL FROM DEFENDANT
	135	6/13/2019	CASE REOPENED FOR OTHER
	134	4/23/2019	REOPENED CASE CLOSED
2	133	4/23/2019	ORDER MODIFYING PROBATION
	131	4/22/2019	CASE REOPENED FOR OTHER
3	132	4/19/2019	MOTION TO MODIFY PROBATION
2	130	2/11/2019	ORDER OF MODIFICATION OF SEX OFFENDER PROBATION (NUNC PRO TUNC 02/04/2019)
Request	129	2/8/2019	PAYMENT \$100.00 RECEIPT #2019004837
	124	2/5/2019	COMPLIANCE CREATED : PAY FNE REQUIRED BY: 09/08/2022
	127	2/4/2019	CASE# 16000349CFMA - SENTENCED: IMPOSED: 9/8/2016 EFFECTIVE DATE: 2/4/2019 - -
	125	2/4/2019	CF VOP PROSEC ASSESSED \$100.00 DUE ON 9/8/2022
	123	2/4/2019	REOPENED CASE CLOSED
4	122	2/4/2019	ADMISSION OF VIOLATION OF PROBATION/COMMUNITY CONTROL
	121	2/4/2019	=MOTION TO SET BOND-WITHDRAWN BY ATTORNEY IN COURTROOM ON THE RECORD
	120	2/4/2019	=ARRN/VOP ADMITTED/PROBATION REINSTATED/MODIFIED WITH SPECIAL CONDITION 30 DAYS COUNTY JAIL W/25 DAYS CREDIT AND NEW PSYCHOSEXUAL EVALUATION/ADDITIONAL COP \$100
	119	2/4/2019	PROSECUTOR: RICH, BENJAMIN JOSEPH ASSIGNED
	118	2/4/2019	DEFENSE ATTORNEY: SHOEMAKER, TERRY JON ASSIGNED
1	117	1/31/2019	NOTICE EMAILED TO ATTORNEY (DEFENDANT)
1	116	1/31/2019	NOTICE OF APPEARANCE
3	115	1/17/2019	MOTION TO SET BOND
	109	1/16/2019	CASE REOPENED FOR VIOLATION OF PROBATION
	113	1/16/2019	NOTICE NOT MAILED - DEFT IN JAIL ON NO BOND
	112	1/16/2019	FELONY VOP ARRAIGNMENT SET FOR 02/04/2019 AT 9:00 AM IN 328/ , JDG: MALTZ, HOWARD M.
1	114	1/16/2019	FIRST APPEARANCE FORM
4	110	1/16/2019	WARRANT FOR ARREST EXECUTED ON 1/11/2019 BY ST JOHNS COUNTY SHERIFFS OFFICE
	111	1/11/2019	REARRESTED ON 01/11/2019: OBTS # 5504018057
1	108	1/9/2019	EMAIL FROM SJSO - HOLD PLACED - DEFT IN CUSTODY
	106	12/26/2018	WARRANT FOR ARREST STATUS SET TO SENT TO SHERIFF ON 12/26/2018
1	105	12/21/2018	AFFIDAVIT OF VIOLATION OF SEX OFFENDER PROBATION
4	104	12/21/2018	VIOLATION REPORT
2	107	12/20/2018	WARRANT FOR ARREST ISSUED FOR VIOLATION OF PROBATION
	103	12/10/2018	REOPENED CASE CLOSED
3	102	12/8/2018	ORDER GRANTING DEFENDANT'S MOTION TO MODIFY CONDITIONS OF SEX OFFENDER PROBATION
2	101	12/5/2018	EMAIL FROM DEFENDANT
1	100	12/3/2018	EMAIL FROM DEFENDANT
2	99	11/14/2018	EMAIL FROM DEFENDANT
	98	8/8/2018	CASE REOPENED FOR OTHER
1	97	8/8/2018	LETTER FROM DEFENDANT
	96	5/17/2018	REOPENED CASE CLOSED
3	95	5/17/2018	ORDER GRANTING DEFENDANT'S MOTION FOR TRAVEL PERMISSION
	94	5/9/2018	CASE REOPENED FOR OTHER

IMAGE	DIN	DATE	ENTRY
2	93	5/9/2018	EMAIL FROM DEFENDANT
Request	92	4/16/2018	PAYMENT \$31.84 RECEIPT #2018012781
Request	91	3/20/2018	PAYMENT \$140.31 RECEIPT #2018009555
Request	90	2/15/2018	PAYMENT \$140.31 RECEIPT #2018005163
	89	1/26/2018	REOPENED CASE CLOSED
3	88	1/26/2018	ORDER GRANTING DEFENDANT'S MOTION TO MODIFY CONDITIONS OF SEX OFFENDER PROBATION
2	87	1/22/2018	MOTION TO MODIFY CONDITION OF SEX OFFENDER PROBATION
2	86	1/22/2018	MOTION TO MODIFY CONDITION OF SEX OFFENDER PROBATION
	85	1/22/2018	CASE REOPENED FOR OTHER
Request	83	1/16/2018	PAYMENT \$92.23 RECEIPT #2018001661
Request	82	12/22/2017	PAYMENT \$140.31 RECEIPT #2017042109
Request	81	11/20/2017	PAYMENT \$121.27 RECEIPT #2017038348
Request	80	10/18/2017	PAYMENT \$18.90 RECEIPT #2017034806
2	79	9/29/2017	RETURN MAIL (DEFT NOTICE TO APPEAR)
Request	78	9/25/2017	PAYMENT \$19.16 RECEIPT #2017032106
	77	9/19/2017	REOPENED CASE CLOSED
	76	9/19/2017	=MOTION WITHDRAWN BY DEFENSE ON THE RECORD WITH DEFENDANT
Request	75	9/18/2017	PAYMENT \$8.87 RECEIPT #2017031418
3	74	9/7/2017	EMAIL FROM JA
	73	9/7/2017	FELONY HEARING SET FOR 09/19/2017 AT 1:30 PM IN 328/ , JDG: MALTZ, HOWARD M.
2	72	9/7/2017	EMAIL FROM JA
	71	9/7/2017	FELONY HEARING SET FOR 09/19/2017 AT 9:00 AM IN 328/ , JDG: MALTZ, HOWARD M.
2	70	8/16/2017	PAYMENT \$106.80 RECEIPT #2017028102
2	69	7/28/2017	RETURN MAIL (DEFTS NOTICE TO APPEAR)
1	68	7/26/2017	NOTICE MAILED TO DEFENDANT
	67	7/26/2017	FELONY HEARING SET FOR 09/12/2017 AT 9:00 AM IN 328/ , JDG: MALTZ, HOWARD M.
3	66	7/25/2017	ORDER SCHEDULING HEARING (09/12/2017 @9AM)
2	65	7/25/2017	DEFENDANT'S MOTION TO MODIFY CURFEW CONDITION OF SEX OFFENDER PROBATION
1	64	7/24/2017	LETTER TO JUDGE MALTZ FROM DEFT
	63	7/24/2017	CASE REOPENED FOR OTHER
	62	12/30/2016	JUDGE MALTZ, HOWARD M.: ASSIGNED
2	61	9/26/2016	BOOKING SHEET
2	60	9/8/2016	JUDGMENT/ORDER SENT TO RECORDING - Recorded (OR.4252.1995 / 2016058796)
	128	9/8/2016	CASE# 16000349CFMA - SENTENCED: IMPOSED: 9/8/2016 EFFECTIVE DATE: 2/4/2019
	126	9/8/2016	CASE# 16000349CFMA - SENTENCED: IMPOSED: 9/8/2016 EFFECTIVE DATE: 9/8/2016 - MAX CONF - CNTY JAIL FOR 394 DAYS - CHR9 001 CREDIT FOR TIME SERVED - 27 DAYS - CHR9 001 -
2	59	9/8/2016	JUDGMENT/ORDER SENT TO RECORDING
	58	9/8/2016	CASE CLOSED
	57	9/8/2016	SURETY BOND PSE100461 - RELEASED 09/08/2016
	56	9/8/2016	SURETY BOND PSE100460 - RELEASED 09/08/2016
	55	9/8/2016	FELONY RAPE CRISIS TRUST FUND ASSESSED \$151.00 DUE ON 9/8/2022
	54	9/8/2016	CERTAIN CRIMES/MINORS ASSESSED \$151.00 DUE ON 9/8/2022
	53	9/8/2016	CF COURT COSTS ONLY ASSESSED \$418.00 DUE ON 9/8/2022
	52	9/8/2016	CF COST OF PROSEC STATE ASSESSED \$100.00 DUE ON 9/8/2022
	51	9/8/2016	COMPLIANCE CREATED : PAY FNE REQUIRED BY: 09/08/2022
	50	9/8/2016	COMPLIANCE CREATED : PAY FNE REQUIRED BY: 09/08/2022
	49	9/8/2016	COMPLIANCE CREATED : PAY FNE REQUIRED BY: 09/08/2022
	48	9/8/2016	COMPLIANCE CREATED : PAY FNE REQUIRED BY: 09/08/2022
	47	9/8/2016	SENTENCING JUDGE: TRAYNOR, J MICHAEL
	46	9/8/2016	CASE# 16000349CFMA - SENTENCED: IMPOSED: 9/8/2016 EFFECTIVE DATE: 9/8/2016
	45	9/8/2016	CASE# 16000349CFMA - SENTENCED: IMPOSED: 9/8/2016 EFFECTIVE DATE: 9/8/2016 - MAX CONF - CNTY JAIL FOR 364 DAYS - CHR9 001 CREDIT FOR TIME SERVED - 2 DAYS - CHR9 001 PROBATION - REPORTING () - FOR 60 MONTHS - CHR9 001 SENTENCE PROVISION - OTHR CRT RESTRICTION - CHR9 001 SENTENCE PROVISION - SENTENCING GUIDELINES - CHR9 001 -
	44	9/8/2016	ADJUDICATED GUILTY SEQ: 1
	43	9/8/2016	DEFENDANT ENTERED PLEA OF NOLO-CONTENDERE SEQ 1
	42	9/8/2016	NOLLE PROSSED SEQ: 2 SAME - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
3	41	9/8/2016	SENTENCING GUIDELINES SCORESHEET
11	40	9/8/2016	ORDER OF SEX OFFENDER PROBATION (JUDGE TRAYNOR)

IMAGE	DIN	DATE	ENTRY	
<input type="checkbox"/>	1	39	9/8/2016	FELONY PLEA SENTENCE
<input type="checkbox"/>	2	38	8/3/2016	NOTICE EMAILED TO BOND DEPOSITOR
<input type="checkbox"/>	1	37	8/2/2016	ACKNOWLEDGMENT FILED
		36	8/2/2016	FELONY PLEA & SENTENCE SET FOR 09/08/2016 AT 8:15 AM IN 316/ , JDG: TRAYNOR, J MICHAEL
Request		35	5/13/2016	NOTICE MAILED TO BOND DEPOSITOR
		34	5/12/2016	WAIVER OF RIGHT TO SPEEDY TRIAL
Request		33	5/12/2016	ACKNOWLEDGMENT FILED
		32	5/12/2016	FELONY PRETRIAL SET FOR 08/02/2016 AT 1:30 PM IN 316/ , JDG: TRAYNOR, J. MICHAEL
Request		31	5/6/2016	NOTICE OF COMPLIANCE WITH RULE 3.113, FLORIDA RULES OF CRIMINAL PROCEDURE
<input type="checkbox"/>	4	30	4/11/2016	STATES DISCOVERY EXHIBIT/WITNESS LIST AND DEMAND FOR RECIPROCAL DISCLOSURE
		29	4/11/2016	PROSECUTOR: FEREBEE, CHRIS ASSIGNED
Request		28	4/5/2016	NOTICE EMAILED TO BOND DEPOSITOR
<input type="checkbox"/>	1	27	4/4/2016	ACKNOWLEDGMENT FILED
		26	4/4/2016	FELONY PRETRIAL SET FOR 05/12/2016 AT 1:30 PM IN 316/ , JDG: TRAYNOR, J. MICHAEL
<input type="checkbox"/>	2	25	3/11/2016	NOTICE EMAILED TO BOND DEPOSITOR
<input type="checkbox"/>	2	24	3/11/2016	NOTICE EMAILED TO ATTORNEY (DEFENDANT)
<input type="checkbox"/>	1	23	3/11/2016	NOTICE MAILED TO DEFENDANT
		22	3/11/2016	FELONY ARRAIGNMENT SET FOR 04/04/2016 AT 1:30 PM IN 316/ , JDG: TRAYNOR, J. MICHAEL
<input type="checkbox"/>	1	21	3/11/2016	INFORMATION
		20	3/11/2016	FILED SEQ: 2 SAME - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
		19	3/11/2016	FILED SEQ: 1 SAME - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
<input type="checkbox"/>	1	18	3/1/2016	NOTICE OF DISCOVERY
<input type="checkbox"/>	1	17	3/1/2016	NOTICE OF APPEARANCE
		84	3/1/2016	DEFENSE ATTORNEY: FORBESS, RAYMOND EDWARD SR ASSIGNED
		16	3/1/2016	DEFENSE ATTORNEY: FORBESS, RAYMOND EDWARD JR ASSIGNED
<input type="checkbox"/>	2	15	2/29/2016	SURETY BOND PSE100461 POSTED \$100,000.00 ISSUED - 02/26/2016 - UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
<input type="checkbox"/>	2	14	2/29/2016	SURETY BOND PSE100460 POSTED \$100,000.00 ISSUED - 02/26/2016 - UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
<input type="checkbox"/>	3	13	2/26/2016	PRE-TRIAL RELEASE / NO CONTACT ORDER
<input type="checkbox"/>	1	12	2/26/2016	FIRST APPEARANCE FORM (DEFT TO HIRE PRIVATE ATTORNEY)
<input type="checkbox"/>	7	11	2/26/2016	OFFENSE REPORT
<input type="checkbox"/>	3	8	2/26/2016	WARRANT FOR ARREST EXECUTED ON 2/25/2016 BY ST JOHNS COUNTY SHERIFFS OFFICE
<input type="checkbox"/>	1	7	2/26/2016	WARRANT FOR ARREST ISSUED FOR SWORN COMPLAINT FILED
<input type="checkbox"/>	3	5	2/26/2016	SWORN COMPLAINT (FORMERLY PI 16-17)
		2	2/26/2016	JUDGE TRAYNOR, J. MICHAEL: ASSIGNED
		1	2/26/2016	CASE FILED 02/26/2016 CASE NUMBER 16000349CFMA
		10	2/25/2016	ARREST COUNT: 2 - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
		9	2/25/2016	ARREST COUNT: 1 - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
		6	2/25/2016	WARRANT FOR ARREST STATUS SET TO SENT TO SHERIFF ON 02/25/2016
		4	2/25/2016	SWORN COMPLAINT COUNT: 1 - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR
		3	2/25/2016	SWORN COMPLAINT COUNT: 2 - (794.05 1) UNLAWFUL SEXUAL ACTIVITY WITH A MINOR

Case 16-2004-CF-008111-AXXX-MA

Agency	JSO	Department	Felony
Division	CR-B	Case Status	CLOSED
SAO Number	04CF069499AD	Offense Date	5/27/2004
File Date	6/25/2004	Incident Number	2004-0000000
Officer		State Attorney	Correction Required - SIEGEL, STEPHEN

Parties

Name / DOB / DL / ID #	Party Type Race / Sex	Address
<u>KENNETH WAYNE GREENE</u> DOB: 11/22/1947 Offender: 2004-023260 JSO ID: 631559	DEFENDANT W / M	8861 BROOKSHIRE COURT JACKSONVILLE, FL322570000

Attorneys

Attorney	Address	For Parties
<u>Correction Required - SIEGEL, STEPHEN</u> State Attorney	State Attorney's Office Jacksonville, FL	
<u>Siegel, Stephen Wayne</u> State Attorney (897086)	State Attorney's Office Jacksonville, FL	

Charges

Initial		Prosecutor		Court	
Count	Statute #	Statute Description w/Qualifier			
	Plea	Status	Level	Action	Minimum Fine
1	S827.071(5)	POSSESSION OF PHOTOGRAPHS-SEXUAL PERFORMANCE BY CHILD			
	GUILTY	SAME	F3	ADJUDICATION WITHHELD	---

Fees

Date	Description	Assessed	Paid	Balance
10/19/2004	HISTORICAL CRIMINAL FEE	\$338.00	\$338.00	\$0.00

Court Events

Date	Time	Type	Location	Courtroom	Cancelled
6/30/2004	9:00 AM	ARRAIGNMENT DATE	330 E BAY ST (CIRCUIT)	5	
7/8/2004	9:00 AM	PASSED FOR PRETRIAL	330 E BAY ST (CIRCUIT)	5	
8/5/2004	9:00 AM	DISPOSITION	330 E BAY ST (CIRCUIT)	5	
8/26/2004	9:00 AM	PASSED FOR PRETRIAL	330 E BAY ST (CIRCUIT)	5	
9/16/2004	9:00 AM	PASSED FOR PRETRIAL	330 E BAY ST (CIRCUIT)	5	
10/12/2004	9:00 AM	DISPOSITION	330 E BAY ST (CIRCUIT)	5	
10/19/2004	9:00 AM	PASSED FOR PRETRIAL	330 E BAY ST (CIRCUIT)	5	
8/15/2006	9:00 AM	PASSED FOR HEARING ON MOTION	330 E BAY ST (CIRCUIT)	5	

Dockets

Line / Document	Count	Effective Entered	Description	Pages	Image
1	--	6/9/2004 6/25/2004	BOND - AMOUNT A AABLE CONTINENTAL BAIL BONDS, COMPANY 30003.00		
2	--	6/9/2004 6/25/2004	ARREST & BOOKING REPORT 040232605		

Line / Document	Count	Effective Entered	Description	Pages	Image
3	--	6/11/2004 8/2/2004	NOTICE OF REPRESENTATION		
4	--	6/11/2004 8/2/2004	WRITTEN PLEA OF NOT GUILTY		
5	--	6/11/2004 8/2/2004	WAIVER OF APPEARANCE FOR		
6	--	6/11/2004 8/2/2004	ARRAIGNMENT		
7	--	6/25/2004 6/25/2004	INFO FILED FOR POSS.PHOT./CHILD		
8	--	6/25/2004 6/25/2004	BOND SET AT 30003.00		
9	--	6/25/2004 6/25/2004	AFFIDAVIT FOR ARREST WARRANT/ARREST WARRANT		
10	--	6/25/2004 6/25/2004	ARRAIGNMENT DATE 06/30/2004 5 09:00 00		
11	--	6/30/2004 7/1/2004	ASST. STATE ATTY. HEAVENER, MAC		
12	--	6/30/2004 7/1/2004	ATTY. FOR DEF. R. SHAFER		
13	--	6/30/2004 7/1/2004	DEF. NOT PRESENT		
14	--	6/30/2004 7/1/2004	DEF. W/READING OF INFO & PLEAD NG		
15	--	6/30/2004 7/1/2004	DEMAND FOR RECIPROCAL DISCOVERY		
16	--	6/30/2004 7/1/2004	AND STATE'S DISCOVERY EXHIBIT		
17	--	6/30/2004 7/1/2004	PASSED FOR PRETRIAL 07/08/2004 5 09:00 00		
18	--	7/8/2004 7/9/2004	ASST. STATE ATTY. HEAVENER, MAC		
19	--	7/8/2004 7/9/2004	ATTY. FOR DEF. R. SHAFER		
20	--	7/8/2004 7/9/2004	DEF. NOT PRESENT		
21	--	7/8/2004 7/9/2004	DISPOSITION 08/05/2004 5 09:00 00		
22	--	8/5/2004 8/6/2004	ASST. STATE ATTY. HEAVENER, MAC		
23	--	8/5/2004 8/6/2004	ATTY. FOR DEF. R. SHAFER		
24	--	8/5/2004 8/6/2004	DEF. NOT PRESENT		
25	--	8/5/2004 8/6/2004	PASSED FOR PRETRIAL 08/26/2004 5 09:00 00		
26	--	8/26/2004 8/27/2004	ASST. STATE ATTY. HEAVENER, MAC		
27	--	8/26/2004 8/27/2004	ATTY. FOR DEF. R. SHAFER		
28	--	8/26/2004 8/27/2004	DEF. NOT PRESENT		
29	--	8/26/2004 8/27/2004	PASSED FOR PRETRIAL 09/16/2004 5 09:00 00		
30	--	9/16/2004 9/17/2004	ASST. STATE ATTY. HEAVENER, MAC		
31	--	9/16/2004 9/17/2004	ATTY. FOR DEF. R. SHAFER		
32	--	9/16/2004 9/17/2004	DEF. NOT PRESENT		
33	--	9/16/2004 9/17/2004	DISPOSITION 10/12/2004 5 09:00 00		

Line / Document	Count	Effective Entered	Description	Pages	Image
34	--	10/12/2004 10/13/2004	ASST. STATE ATTY. HEAVENER, MAC		
35	--	10/12/2004 10/13/2004	ATTY. FOR DEF. R. SHAFER		
36	--	10/12/2004 10/13/2004	DEF. PRESENT		
37	--	10/12/2004 10/13/2004	PASSED FOR PRETRIAL 10/19/2004 5 09:00 00		
38	--	10/19/2004 10/20/2004	ASST. STATE ATTY. HEAVENER, MAC		
39	--	10/19/2004 10/20/2004	ATTY. FOR DEF. R. SHAFER		
40	--	10/19/2004 10/20/2004	DEF. PRESENT		
41	--	10/19/2004 10/20/2004	DEF. PERMITTED TO W/D PLEA OF NOT GUILTY AND PLEA GUILTY		
42	--	10/19/2004 10/20/2004	ACKNOWLEDGE. OF RIGHTS & VOLUNTARINESS OF ENTRY OF PLEA		
43	--	10/19/2004 10/20/2004	W/H ADJ. OF GUILT, SENT. SUSP, PLACED ON PROB. FOR 5 YEARS		
44	--	10/19/2004 10/20/2004	WITH SPECIAL CONDITIONS:		
45	--	10/19/2004 10/20/2004	PSYCHOSEXUAL COUNSELING. NO		
46	--	10/19/2004 10/20/2004	UNSUPERVISED CONTACT WITH		
47	--	10/19/2004 10/20/2004	CHILDREN UNDER 18 YEARS-EXCEPT		
48	--	10/19/2004 10/20/2004	OWN GRANDCHILDREN. NO		
49	--	10/19/2004 10/20/2004	EMPLOYMENT WHERE CHILDREN		
50	--	10/19/2004 10/20/2004	CONGREGATE. SUBMIT 2 SPECIMENS		
51	--	10/19/2004 10/20/2004	BLOOD TO DNA BANK. MANDATORY		
52	--	10/19/2004 10/20/2004	CURFEW. PAY COURT COSTS.		
53	--	10/19/2004 10/20/2004	L E E A IMPOSED 3.00		
54	--	10/19/2004 10/20/2004	F/M COSTS IMPOSED 50.00		
55	--	10/19/2004 10/20/2004	LGTF IMPOSED 200.00		
56	--	10/19/2004 10/20/2004	AACC IMPOSED 65.00		
57	--	10/19/2004 10/20/2004	CSTF IMPOSED 20.00		
58	--	10/19/2004 10/20/2004	SENTENCING GUIDELINES		
59	--	10/28/2004 10/28/2004	ORDER W/H ADJ. OF GUILT & PLACING DEF. ON PROBATION		
60	--	12/15/2004 12/15/2004	DEF. PAID TOTAL OF 140.00, RECEIPT# CF0002-00004116		
61	--	12/15/2004 12/15/2004	PAYMENT LGTF PAID 140.00		
62	--	1/19/2005 1/19/2005	DEF. PAID TOTAL OF 70.00, RECEIPT# CF0002-00004753		
63	--	1/19/2005 1/19/2005	PAYMENT LGTF PAID 60.00		
64	--	1/19/2005 1/19/2005	PAYMENT F/M COSTS PAID 10.00		

Line / Document	Count	Effective Entered	Description	Pages	Image
65	--	2/16/2005 2/16/2005	DEF. PAID TOTAL OF 69.62, RECEIPT# CF0002-00005510N		
66	--	2/16/2005 2/16/2005	PAYMENT F/M COSTS PAID 40.00		
67	--	2/16/2005 2/16/2005	PAYMENT L E E A PAID 3.00		
68	--	2/16/2005 2/16/2005	PAYMENT CSTF PAID 20.00		
69	--	2/16/2005 2/16/2005	PAYMENT AACC PAID 6.62		
70	--	3/10/2005 3/10/2005	DEF. PAID TOTAL OF 58.38, RECEIPT# CF0002-00006015		
71	--	3/10/2005 3/10/2005	PAYMENT AACC PAID 58.38		
72	--	7/17/2006 7/18/2006	MOTION TO TERMINATE PROBATION		
73	--	8/3/2006 8/3/2006	PASSED FOR HEARING ON MOTION 08/15/2006 5 09:00 00		
74	--	8/3/2006 8/3/2006	PER SHARON		
75	--	8/15/2006 8/15/2006	ASST. STATE ATTY. POOLE, ASHLEY		
76	--	8/15/2006 8/15/2006	ATTY. FOR DEF. R. SHAFER		
77	--	8/15/2006 8/15/2006	DEF. PRESENT		
78	--	8/15/2006 8/15/2006	DEFENSE MOTION TO TERMINATE		
79	--	8/15/2006 8/15/2006	PROBATION - UNDER ADVISEMENT		
80	--	8/15/2006 8/15/2006	JUDGE HAS FILE FROM COURT		
81	--	8/22/2006 8/23/2006	ORDER OF MODICATION OF PROBATION		

EXHIBIT B

1 Introduced by Council Member Redman and amended by the Rules
2 Committee:

3
4 **ORDINANCE 2010-836-E**

5 AN ORDINANCE REGULATING SEXUAL OFFENDERS AND
6 SEXUAL PREDATORS; MAKING FINDINGS; CREATING A
7 NEW CHAPTER IN ARTICLE XIX (PUBLIC SAFETY),
8 *ORDINANCE CODE*, TO WIT: CHAPTER 685 (SEXUAL
9 OFFENDER AND SEXUAL PREDATOR REGULATION);
10 RENUMBERING SECTIONS 674.501, 674.502, AND
11 674.503 TO BE SECTIONS 685.101 (TEMPORARY
12 EMERGENCY SHELTERS; SEXUAL PREDATORS AND
13 OFFENDERS NOTIFICATION REQUIREMENTS), 685.102
14 (SEXUAL PREDATORS RESIDENCY REQUIREMENTS), AND
15 685.103 (REGISTRATION FEE) RESPECTIVELY;
16 CREATING A NEW SECTION 685.104 (PROHIBITED
17 HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS;
18 EXCEPTIONS) TO REGULATE THE DRESS AND CONDUCT
19 OF SEXUAL OFFENDERS AND SEXUAL PREDATORS
20 AROUND CHILDREN DURING HOLIDAYS; PROHIBITING
21 SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM
22 PARTICIPATING IN HOLIDAY ACTIVITIES THAT WOULD
23 PRESENT INCREASED OPPORTUNITIES FOR SEXUAL
24 OFFENDERS AND SEXUAL PREDATORS TO GAIN AND
25 VIOLATE THE TRUST OF THE CHILDREN OF THE CITY
26 OF JACKSONVILLE; PROVIDING FOR RESIDENTIAL
27 SIGNAGE AND OTHER RESPONSIBILITIES FOR SEXUAL
28 OFFENDERS AND PREDATORS DURING HALLOWEEN;
29 PROVIDING PENALTIES; PROVIDING FOR CONFLICTS;
30 PROVIDING FOR SEVERABILITY; PROVIDING FOR AN
31 EFFECTIVE DATE.

1 **WHEREAS**, the City Council of the City of Jacksonville, has the
2 power to carry on county government to the extent not inconsistent
3 with general or special law pursuant to its Charter and per Florida
4 Statutes Section 125.01; and

5 **WHEREAS**, counties may adopt ordinances and resolutions
6 necessary for the exercise of its powers and prescribe fines and
7 penalties for the violation of ordinances in accordance with law;
8 and

9 **WHEREAS**, pursuant to Sections 775.21, 943.0435, and 944.607,
10 Florida Statutes, sexual offenders and sexual predators must report
11 in person to the local Sheriff's Office within 48 hours of release
12 from custody, control and/or supervision of Department of
13 Corrections, Department of Children and Family Services or
14 Department of Juvenile Justice to register their temporary or
15 permanent address; and

16 **WHEREAS**, studies show 1 in 5 girls and 1 in 10 boys will be
17 sexually victimized before adulthood (D. Finkelhor, "Current
18 Information on the Scope and Nature of Child Sexual Abuse." The
19 Future of Children: Sexual Abuse of Children, 1994, volume 4, page
20 37.); and

21 **WHEREAS**, the Supreme Court has found there is a substantial
22 rate of recidivism among sexual offenders, (Smith v. Doe, 538 U.S.
23 84, 103(U.S. 2003)); and

24 **WHEREAS**, the Supreme Court has found sexual offenders are a
25 dangerous class and that their high recidivism poses a grave
26 concern, (Smith v. Doe, 538 U.S. 84, 103 (U.S. 2003)); and

27 **WHEREAS**, the Supreme Court has found the prevention of sexual
28 exploitation and abuse of children constitutes a governmental
29 objective of surpassing importance (New York v. Ferber, 458 US.
30 747, 757 (U.S. 1982)); and

1 **WHEREAS**, as of 2008, there were 50,393 known registered sexual
2 offenders and/or sexual predators (National Center for Missing and
3 Exploited Children, 2008) in the State of Florida; and

4 **WHEREAS**, there are believed to be over 1,650 known registered
5 sexual offenders and/or sexual predators in the City of
6 Jacksonville (Florida Department of Law Enforcement, April, 2009.);
7 and

8 **WHEREAS**, Halloween and other holiday activities present
9 increased opportunities for sexual offenders and sexual predators
10 to gain and violate the trust of the children of the City of
11 Jacksonville; and

12 **WHEREAS**, certain activities including, but not limited to
13 partying and the distribution of candy, lure children to the homes
14 of sexual offenders and sexual predators; and

15 **WHEREAS**, limiting children's contact with sexual offenders and
16 sexual predators will increase children's safety and well-being;
17 and

18 **WHEREAS**, the City Council of the City of Jacksonville is
19 committed to promoting the general welfare and safety of the
20 children of the City of Jacksonville by limiting children's contact
21 with sexual offenders and sexual predators; now therefore

22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **Section 1. Title.** This Ordinance shall be known and may be
24 cited as the "City of Jacksonville Holiday Child Protection
25 Ordinance."

26 **Section 2. Legislative Findings and Intent.**

27 (a) The Council of the City of Jacksonville adopts the
28 findings set forth in the recitals to this Ordinance as the
29 legislative findings and conclusions to support adoption of this
30 Ordinance. Those recitals are incorporated herein as if fully set
31 forth in this section.

1 (b) The Council of the City of Jacksonville hereby finds and
2 determines that sexual predators and sexual offenders present an
3 extreme threat to the public health, safety, and welfare of the
4 children of the City of Jacksonville. Sexual offenders and sexual
5 predators are extremely likely to use physical violence and repeat
6 their offenses, and most commit many offenses, have many more
7 victims than are ever reported, and are prosecuted for only a
8 fraction of their crimes. This makes the cost of sexual predator
9 and sexual offender victimization to society at large, while
10 incalculable, clearly exorbitant and a drain on the resources of
11 society.

12 (c) It is the sole intent of this Ordinance to reduce the
13 potential risk of harm to children of the community by limiting the
14 opportunity for sexual offenders and sexual predators to be in
15 contact with unsuspecting children.

16 **Section 3. Chapter 685 (Sexual Offender and Sexual**
17 **Predator Regulation) Created.** There is hereby created a new
18 Chapter of Article XIX (Public Safety), *Ordinance Code*, to wit:
19 Chapter 685 (Sexual Offender and Sexual Predator Regulation), which
20 shall read as provided for in this ordinance.

21 **Section 4. Part 5 (Protective Measures Against Sexual**
22 **Offenders and Sexual Predators) of Chapter 674 (674 Disaster**
23 **Preparedness and Civil Emergency) renumbered.** The sections of Part
24 5 (Protective Measures Against Sexual Offenders and Sexual
25 Predators) of Chapter 674 (Disaster Preparedness and Civil
26 Emergency) are hereby renumbered to Chapter 685 (Sexual Offender
27 and Sexual Predator Regulation) as Sections 685.101 (Temporary
28 emergency shelters; sexual predators and offenders notification
29 requirements), 685.102 (Sexual predators residency requirements),
30 and 685.103 (Registration Fee) respectively. A copy of former and
31 now renumbered sections 674.501, 674.502, and 674.503 are **on file**

1 with the Chief of Legislative Services.

2 **Section 5. New section 685.104 (Prohibited Activities for**
3 **Sexual Offenders and Sexual Predators; Exceptions), Ordinance Code,**
4 **created.** There is hereby created a new section 685.104 (Prohibited
5 Activities for Sexual Offenders and Sexual Predators; Exceptions),
6 *Ordinance Code*, to read as follows.

7 **Sec. 685.104 Prohibited Activities for Sexual Offenders and**
8 **Sexual Predators; Exceptions.**

9 (a) *Prohibitions and requirements for Sexual Offenders and*
10 *Sexual Predators; Exemption.*

11 (1) It is unlawful for any Sexual Offender or Sexual
12 Predator to participate in a holiday event or practice
13 involving children under 18 years of age, such as distributing
14 candy or other items to children on Valentine's Day,
15 Halloween, Christmas or any other holiday or event.

16 (2) It is unlawful for any Sexual Offender or Sexual
17 Predator to wear costumes for the primary purpose of
18 entertaining, attracting, or encouraging interaction with
19 children.

20 (3) Any person designated a Sexual Offender or Sexual
21 Predator shall be required on October thirty-first of each
22 year or any other day upon which Halloween is celebrated to:

23 (i) Avoid all Halloween related contact with
24 children;

25 (ii) Post a sign at his or her residence stating,
26 "No candy or treats at this residence". Such signs shall
27 be in letters at least two (2) inches high and shall be
28 legible from the street or road adjacent to the
29 residence;

30 (iii) Except for lighting provided on a year round
31 basis by a Sexual Offender or Sexual Predator or the

1 owner or manager of a multi-family residential unit for
2 the purpose of security or walkway or hallway
3 illumination, leave all outside residential lighting off
4 during the evening hours after 5 p.m., and exhibit no
5 exterior holiday decorations on the Sexual Offender's or
6 Sexual Predator's residence or on the property upon which
7 the residence is located.

8 (4) Holiday events or practices in which the Sexual
9 Offender or Sexual Predator is the parent or guardian of the
10 child or children involved, and where no non-familial children
11 are present, are exempt from this section.

12 (b) Definitions. The following terms are defined as follows
13 for the purposes of this section:

14 (1) Child, children, or minor shall mean individuals
15 whose chronological age is less than eighteen (18) years.

16 (2) Sexual Offender or Sexual Predator, for the purpose
17 of this section, shall mean an individual who is registered or
18 obligated to be registered by any state or federal agency as
19 either a sexual offender or sexual predator and whose name is
20 published or required to be published on any state or federal
21 registered sexual offender or sexual predator listing,
22 including, but not limited to the sexual offenders and sexual
23 predators registry established in Section 943.0435; 775.21;
24 and 944.607, Florida Statutes.

25 (3) Participation is to be defined as attendance at, or
26 taking part of, or cooperation with an event.

27 (c) Penalties. With regard to enforcement of this section,
28 The City and the Sheriff's Office may pursue any enforcement action
29 or legal remedy available under the controlling state law and any
30 legal remedy available to the City, to include, but not limited to,
31 injunctive relief, arrest, a fine not exceeding \$500.00 for each

1 occurrence, or by imprisonment for a term not exceeding sixty (60)
2 days or by both a fine and imprisonment for each occurrence, unless
3 prohibited by law.

4 (d) *Separate violations.* Each separate occurrence of any
5 conduct prohibited by this section shall be a separate violation.

6 (e) *Countywide Applicability.* This is an ordinance of county
7 wide applicability, enforceable throughout Duval County.

8 (f) *Preemption.* In the event any state or federal law is
9 enacted which is more restrictive in nature than the provisions of
10 this section, those portions of this section which are in conflict
11 with the state or federal law will cease to be in effect.

12 (g) *Severability.* If any section, subsection, sentence,
13 clause, phrase, or provision of this section is held invalid or
14 unconstitutional by a court of competent jurisdiction, such portion
15 shall become a separate provision and will not affect the validity
16 of the remaining portions of this section. The City of Jacksonville
17 further declares its intent that this section would have been
18 adopted if such unconstitutional provision was not included.

19 **Section 6. Effective Date.** This ordinance shall become
20 effective upon signature by the Mayor or upon becoming effective
21 without the Mayor's signature.

22
23 Form Approved:

24
25 _____
26 Office of General Counsel

27 Legislation Prepared By: Steven E. Rohan

28 G:\SHARED\LEGIS.CC\2010\ord\Redman Halloween Sex Offenders.doc

EXHIBIT C

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DIONNE YOUNCE and
KENNETH W. GREENE,

Plaintiffs,

v.

CASE NO.: 3:22-cv-931-TJC-PDB

CITY OF JACKSONVILLE, a
Florida municipal corporation,

Defendant.

DECLARATION OF LT. DEREK PORTER

1. My name is Lt. Derek Porter, and I submit this declaration pursuant to 28 U.S.C. §1746. I am over the age of 18 and fully competent to make this declaration.

2. I am a lieutenant with the Jacksonville Sheriff's Office (JSO). I have been with JSO for twenty-two years. I have served for six years as a lieutenant, and for approximately the past three and a half years, I have served in the Offender Tracking Unit. I supervise a team of 14 sworn detectives, 8 part-time employees, 2 sergeants, and 1 clerical support aide.

3. The Offender Tracking Unit is responsible for enforcing Jacksonville Ordinance 685.104 (Prohibited Activities for Sexual Offenders and Sexual Predators; Exceptions). The Offender Tracking Unit is responsible for ensuring

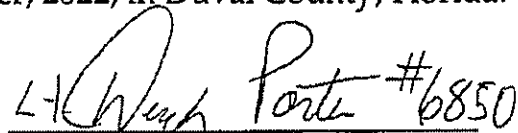
that the registered sexual predators, sexual offenders, and career offenders comply with the conditions of their probation and registration requirements within Duval County.

4. In light of this litigation, the pending motion for preliminary injunction, and the Eleventh Circuit's decision in *McClendon v. Long*, JSO will not enforce 685.104(a)(3)(ii) (the sign provision) this Halloween. JSO will continue to enforce the remaining provisions of 685.104.

5. In the past, JSO has encountered individuals who are bound by 685.104 and who have not complied with the sign provision. Typically, a JSO officer will remind the individual of the sign requirement. If the individual posts or replaces the sign, JSO takes no further action.

6. However, there have been several instances where a sexual offender or sexual predator not only failed to comply with the sign provision but was also dressed in costume, handing out candy, and/or using decorations to entice children. On those occasions, JSO has made arrests for failure to comply with 685.104.

I declare and state under penalty of perjury, that the foregoing is true and correct. Executed this 12th day of September, 2022, in Duval County, Florida.


Lt. Derek Porter