

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

WISCONSIN CARRY, INC.,
And
THOMAS WALTZ

Civil Action No.

Petitioners,

v.

CITY OF MADISON, Case Classification 30701 – Declaratory Judgment
Respondent

Petition

1. Petitioners bring this action seeking declaratory relief , pursuant to Wis.Stats. § 806.04, to determine the legality of the policies and practices of Responent from prohibiting possession of weapons by persons riding Madison Metro buses and waiting for such buses at bus stops.
2. Petitioner Wisconsin Carry, Inc. (“WCI”) is a non-profit corporation organized under the laws of the State of Wisconsin, whose mission is to foster the rights of its members to keep and bear arms, and to provide information to the public regarding safe and legal usage of firearms.
3. Petitioner Thomas Waltz is a resident and taxpayer of Respondent and of the State of Wisconsin and is a citizen of the United States.
4. Waltz is a member of WCI.

5. Respondent City of Madison is a municipal corporation organized under the laws of the State of Wisconsin.
6. Respondent operates a municipal bus system known as “Madison Metro.”
7. Madison Metro is administered by Respondent’s Transit and Parking Commission.
8. Respondent’s policies and practices prohibit persons from riding Madison Metro buses while armed and from waiting for Madison Metro buses in Madison Metro bus shelters while armed.
9. Violations of Respondent’s policies and practices on buses can result in being disallowed from using the Madison Metro system.
10. Violations of Respondent’s policies and practices in bus shelters can result in being prosecuted for trespassing by Respondent.
11. In 2011, the legislature passed Senate Bill 93, which was signed by the governor and enacted as 2011 Wisconsin Act 35.
12. Among other things, Act 35 created for the first time in Wisconsin a provision for citizens to obtain licenses to carry concealed weapons.
13. Act 35 also has the effect of allowing license holders to carry concealed firearms in motor vehicles, and non-license holders to carry non-concealed firearms in motor vehicles, when such carriage was formerly restricted or prohibited.

14. The change described in the preceding paragraph means it no longer is a violation of state law to carry a loaded handgun on a Madison Metro bus.
15. Pursuant to Wis. Stats. § 66.0409, Respondent is preempted from regulating the carrying or transportation of firearms unless such regulation is the same as or no more stringent than state law.
16. Because state law no longer includes a blanket prohibition on carrying firearms on buses, Respondent's policies and practices are more stringent than state law and therefore are preempted by state law.
17. In 2012, Waltz contacted Madison Metro to point out the discrepancy between state law and Madison Metro's policies and practices and requesting that the policies and practices be changed to eliminate the discrepancy.
18. Also in 2012, Mick Rusch of Madison Metro responded to Waltz, telling Waltz that the matter had been reviewed by the City Attorney's Office and the Mayor's Office, and the decision had been made not to change the "no weapons policy."
19. On November 19, 2013, WCI's Chairman, Nik Clark, sent a letter to the General Manager of Madison Metro.

20. WCI's letter again pointed out the preemption provision and requested that the "no weapons policy" be changed. A true and correct copy of WCI's letter is attached as Exhibit 1.
21. On December 3, 2013, Madison Metro's Transit General Manager, Chuck Kamp, responded to WCI's letter.
22. Madison Metro's response said that its policy is not preempted by state law and is "consistent with guidance received from the Wisconsin Department of Justice." A true and correct copy of Madison Metro's response is attached as Exhibit 2.
23. WCI, Waltz, and WCI's other members have an interest in their rights to carry firearms on Madison Metro buses and at Madison Metro bus stops.
24. Waltz and other WCI members are deterred from using the Madison Metro system because of Respondent's policies and practices with respect to weapons.

Count 1 – Violations of Wis.Stats. § 66.0409

25. Respondent's policies and practices regarding weapons on buses and at bus shelters are preempted by Wis.Stats. § 66.0409.

Prayer for Relief

Petitioners demand the following relief:

26. A declaration that Respondent is preempted by state law from banning or otherwise regulating carrying or transporting weapons on buses and at bus shelters and the current policies and practices of Respondent is unenforceable.
27. Any other relief the Court deems proper.

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