

Bike Trail
Hours Update
David Zokaites
February 5, 2023

Important “Promises”

- Watched inaugurated city leaders solemnly swear to uphold our Constitution
- Police and judges also swear to uphold Constitution
- Article VI: Government leaders "shall be bound by Oath or Affirmation, to support this Constitution"
- Council meetings start by saying Pledge of Allegiance “with liberty and justice for all”
- Promises are one thing, actions are another
- It’s rare to find leaders who protect civil rights

The Saga Starts

- During a great night ride on the bike trail
- I stopped to talk with a police officer
- Upset cop wrote a citation for park after hours
- Lesson 1: interacting with police is risky

My Investigation

- Researched city law, policy, documentation, signage, constitutional requirements
- City law and policy conflict
- Conflicts violate constitutional requirements for due process of law and fair trial
- Notified city attorney, got ignored
- I was flabbergasted
- Lesson 2: unconstitutionality is irrelevant

Constitutionality Tests

- Rational basis – laws must be rationally based on a legitimate government goal
- Fair notice – government must publish what's expected
- Vagueness doctrine – laws must be clear and understandable
- Overbreadth doctrine – laws must be focused
- Laws and regulations must be reasonable, understandable, achievable, and implement a sensible government goal
- This law and policy fail these tests

Attended A Hearing

- Judge ignored unconstitutionality “we’re not going down that road”
- Nine violations of due process!
- Lesson 3: courts ignore Constitution, violate civil rights, highly favor prosecution
- Lesson 4: “criminal justice” personnel become very upset when you write to them about systemic constitutional deprivations. I guess the truth hurts.

Eviscerated Due Process

- 1) Evidence was withheld from defense
- 2) Invalid unsigned citation
- 3) Exhibit rules were unfairly applied
- 4) Unconstitutionality was ignored
- 5) Email evidence was not allowed
- 6) Unreliable testimony was used
- 7) After discovered evidence was ignored
- 8) Pattern of retaliation was ignored
- 9) Biased judge should have recused herself

An Example

- Prosecution is required to share evidence with defense
- See Brady vs Maryland (1963)
- Ignored in Minnehaha County court
- The court's copy of the citation was legible, mine was not
- Evidence that was on the citation was withheld from the defense

The Citation

- Enforced by police, prosecutor, judge
- Government swears to uphold constitutional rights to fair trial, due process
- We are being lied to
- News media protects the lie

STATE OF SOUTH DAKOTA
UNIFORM COMPLAINT & SUMMONS
SUMMONS

STATE OF SD/CITY OF SIoux FALLS IN THE CIRCUIT COURT
MAGISTRATE DIVISION

JUVENILE / DEFENDANT _____ COUNTY OF MINNEHAHA
LINCOLN

SCHOOL _____ NO. SFPD 949043

JUVENILE CITATION

THE UNDERSIGNED PEACE OFFICER COMPLAINS AND STATES THAT

ON OR ABOUT	AT OR NEAR (LOCATION/MILE POST)	AT TIME
		A.M. P.M.

WITHIN THE COUNTY AND STATE AFORESAID

NAME (LAST	FIRST	MIDDLE)	HEIGHT	SEX
ADDRESS			WEIGHT	RACE
CITY		STATE	BIRTHDATE	
DRIVER'S LICENSE NO.			STATE	
DID UNLAWFULLY	OPERATE	PARK	VEHICLE MAKE	BODY STYLE
STATE LICENSE NO.		YEAR	STATE	

AND THEN AND THERE COMMIT FOLLOWING OFFENSE: TO WIT

DESCRIBE VIOLATION _____

CDL	<input type="checkbox"/> Y	<input type="checkbox"/> N
C. VEH	<input type="checkbox"/> Y	<input type="checkbox"/> N <input type="checkbox"/> E
HAZ. MATERIALS	<input type="checkbox"/> Y	<input type="checkbox"/> N

IN VIOLATION OF SDCL/ORD # _____

MUNICIPAL

SPEEDING INTERSTATE

OTHER _____ M.P.H. IN _____ M.P.H. ZONE

OFFICER ISSUING SUMMONS	NO.	CITY	COUNTY	STATE
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I DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THIS COMPLAINT OR SUMMONS HAS BEEN EXAMINED BY ME, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS IN ALL THINGS TRUE AND CORRECT

DATE _____

I PROMISE TO APPEAR

JUVENILE / DEFENDANT'S SIGNATURE _____

COURT APPEARANCE REQUIRED YES NO \$ 107.50

POWER OF ATTORNEY YES NO AMOUNT OF DEPOSIT _____

AT (TIME)	A.M.	P.M.	COURT DATE	COURT ADDRESS
			<u>10 11 23</u>	<input type="checkbox"/> 425 N. DAKOTA AVE., SIOUX FALLS, SD <input type="checkbox"/> 104 N. MAIN AVE., CANTON, SD

A A WARRANT WILL BE ISSUED IF YOU FAIL TO APPEAR OR FAIL TO USE AN ALTERNATIVE METHOD BEFORE THE APPEARANCE DATE AND TIME.

PARENT / GUARDIAN NOTIFICATION _____

J SIGNING THIS FORM IS A PROMISE TO APPEAR - NOT AN ADMISSION OF GUILT. HOWEVER, FAILURE TO APPEAR MAY BE CONSIDERED AN ADMISSION TO THE ALLEGATION(S) LISTED ABOVE AND A JUDGMENT FOR PAYMENT MAY BE ENTERED.

Ordinance Should Be Rewritten

- Current text:
- PARK. Any park, playground, boulevard, lake, river, stream, recreational center, zoo area, golf course, ballpark, or any other area outside of or in the city and devoted to active and passive recreation.
- § 95.024 HOURS PARKS OPEN TO PUBLIC. No person shall be in any park between 10:00 p.m. and 5:00 a.m., with the following exceptions: (a) Falls Park and the area of the Downtown River Greenway from Falls Park to E. 10th St. on the east side of the Big Sioux River shall remain open between 5:00 a.m. and 12:00 midnight. ...

Proposed Rewrite

- PARK. Any city park, golf course, zoo area, ballpark, or school playground.
- § 95.024 HOURS PARKS OPEN TO PUBLIC. Official city parks, the unofficial park by the spillway, and the levee shall be available for public use from 5:00 am until 1:00 am. Unauthorized people shall not be in these areas between 1:00 am and 5:00 am. The recreation trail when used for transit shall remain open to the public during all hours.

Current Status

- Declared guilty during a sham hearing
- Appeal would be extremely expensive
- Lesson 5: only the rich can afford “liberty and justice for all”
- A new citation would get me a new hearing
- 1st call to police (Jan 12, 2024 10:27 pm) was ineffective, officer didn't want to bother enforcing the law
- 2nd call (Feb 1, 2024 10:27 pm) was ignored
- This implies retaliation during previous citation, hearing
- Lesson 6: government retaliates in Sioux Falls

Enjoy The Night

