

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

JOSEPH LAVALLEY, THOMAS D. SMITH,
and DYLAN TORRES PAGAN,

Plaintiffs,

vs.

CASE NO.

ST. JOHNS COUNTY, FLORIDA,

Defendant.

_____ /

**VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND DAMAGES**

The Plaintiffs, Joseph LaValley, Thomas D. Smith, and Dylan Torres Pagan, sue the Defendant, St. Johns County, Florida (County), alleging as follows:

PRELIMINARY STATEMENT

1. In 2023, St. Johns County passed a county ordinance designed to stop panhandling.
2. County Ordinance 2023-16 (“Ordinance”) makes it unlawful to use the public rights-of-way on any public road in a manner that “interferes with the safe and efficient movement of people and property.”
3. The Ordinance provides two examples of prohibited activity: (1) “engaging in any physical interaction” with an occupant of a motor vehicle that is in the traveled portion of certain designated roadways and is not legally parked;

and (2) “stopping, sitting, standing or remaining in a median” on a designated roadway when a person is not in the process of crossing the road.

4. The Plaintiffs are individuals of limited means who engage in panhandling, a First Amendment protected activity, along the public streets and roadways of St. Johns County. They have been cited under the Ordinance and warned by police to cease their activities.

5. On its face and as applied to Plaintiffs, the Ordinance violates the First Amendment because it is an overbroad restriction on speech in a traditional public forum.

6. Moreover, because it is impossible to know what conduct interferes with the “safe and efficient movement of people and property” and where the Ordinance applies, the Ordinance gives unbridled discretion to law enforcement to enforce it, leaving the Ordinance unconstitutionally vague in violation of the Fourteenth Amendment.

7. As the result of the County’s adoption and enforcement of the Ordinance, Plaintiffs have been hindered in the exercise of their First Amendment rights, face a continuing threat of citation and arrest for merely asking for or receiving donations, and have suffered damages.

8. Plaintiffs bring this action for declaratory and injunctive relief and damages pursuant to 42 U.S.C. § 1983 for past and ongoing injury to their rights guaranteed by the First and Fourteenth Amendments of the U.S. Constitution.

JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

10. Venue lies in the Middle District of Florida pursuant to 28 U.S.C. §1391(b). The parties are located in this District and all of the acts and omissions complained of herein occurred and will continue to occur in this District.

PARTIES

11. Plaintiff Joseph LaValley is sixty-one years old and is a longtime resident of St. Johns County. Mr. LaValley is disabled and no longer able to work. Mr. LaValley receives disability income but often does not have enough income to pay for monthly expenses and must request donations from others to contribute to his survival.

12. Plaintiff Thomas D. Smith is a longtime resident of St. Johns County. Mr. Smith is without permanent housing and is unable to work due to disability. To contribute to his survival, he must request donations from others.

13. Plaintiff Dylan Torres Pagan is a longtime resident of St. Johns County. Mr. Torres Pagan is currently without permanent housing but recently became employed. Prior to that, he had no regular source of income. Before he obtained employment, Mr. Pagan regularly engaged in peaceful panhandling along the roadways in St. Johns County to support himself.

14. Defendant St. Johns County, Florida, is a governmental entity organized under the laws of the State of Florida, with the capacity to sue and be sued.

15. The St. Johns County Commission sets final policy on the creation and adoption of County ordinances.

16. The County is sued for injunctive and declaratory relief and damages on the basis of acts of officials, officers, agents and employees of the County which were taken pursuant to official policy, practice and/or custom.

17. The St. Johns County Sheriff is authorized to, and does, enforce St. Johns County ordinances on behalf of the County.

STATEMENT OF FACTS

Ordinance 2023-16

18. On January 17, 2023, by consensus, the St. Johns County Commission directed the County Attorney to draft an ordinance to address the “growing problem” in St. Johns County of panhandling by people “who have made their livelihoods traveling the country standing on medians and corners asking for money.” See <https://stjohnscountyfl.new.swagit.com/videos/205995>, at 7:31:20 - 7:32:10.

19. On April 4, 2023, the County Attorney made a presentation to the Commission on Ordinance 2023-16, the County’s proposed “Right-of-Way Safety Ordinance.”

20. The County Attorney explained that the proposed ordinance—which imposed both civil and criminal penalties—was “just one aspect of reducing that risk [of motor vehicle accidents involving pedestrians] and there are certainly other ways, but this has been identified as one way to improve pedestrian safety through enforcement of techniques like this.” See <https://stjohnscountyfl.new.swagit.com/videos/223256>, at 1:03:19 - 1:03:46.

21. On May 2, 2023, at the second reading of the proposed ordinance, the St. Johns County Commission unanimously passed the Ordinance into law. See attached Exhibit 1, St. Johns County Ordinance 2023-16.

22. The Ordinance makes it “unlawful to make any use of the public rights-of-way in a manner that interferes with the safe and efficient movement of people and property from place to place on a public road, street, or highway.” Ordinance 2023-16 § 4A.¹

23. This provision against interference applies to all public roads, streets, or highways in unincorporated St. Johns County.²

¹ A “Right-of-way” is land which a county “owns the fee or has an easement devoted to or required for use as a transportation facility pursuant to Section 334.03, Florida Statutes.” *Id.* § 3I. “Public road” means “all roads which are open and available for use by the public and dedicated to the public use according to law or by prescription pursuant to Section 335.01 (1), Florida Statutes.” *Id.* § 3H. ““Transportation facility” means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.” § 334.03(30), Fla. Stat.

² The Ordinance applies only within unincorporated St. Johns County. County roads lying within the cities of St. Augustine and St. Augustine Beach are not subject to the Ordinance. Ordinance 2023-16 § 2.

24. Section 4A of the Ordinance ‘includes by way of example and not limitation’ the following prohibited activities: (i) Engaging in any physical interaction between a pedestrian and an occupant of a motor vehicle, including the transfer of any product, material, or monies, while the motor vehicle is located on the traveled portion of designated roadway and is not legally parked (the “physical interaction restriction”); and (ii) Stopping, sitting, standing, or otherwise occupying or remaining in a median on a designated roadway by a person when that person is not in the process of lawfully crossing the road in accordance with applicable traffic and safety laws, regulations, and ordinances (the “median restriction”).”³ *Id.* § 4(i) and (ii).

25. Other than what is stated in the preceding paragraph of this Complaint, the Ordinance does not define what activity would constitute interference with the safe and efficient movement of people and property.

26. The physical interaction and median provisions apply to “designated roadways,” defined as “the interstate/intrastate system (including interstate/intrastate entrance and entrance ramps), and arterial and collector roadways and rights-of-way. For purposes of this definition, arterial and collector roadways and rights-of-way shall be those roadways (and their rights-of-way)

³ A median is defined as “the area dividing a public road that separates lanes of traffic traveling in opposite directions or to control and direct vehicular movement, such as turning movements, to include traffic islands. This area may be paved or unpaved, marked or unmarked, landscaped or non-landscaped, and curbed or uncurbed.” *Id.* § 3D.

classified as a collector or higher according to the St. Johns County Land Development Code, Ordinance No. 99-51, as amended.” *Id.* § 3C.

27. A designated roadway also includes the first 440 feet of local roadways intersecting with the designated roadways and any areas within the rights-of-way not designated or intended for pedestrian use. The portions of designated roadways subject to this Ordinance include the portions within the area open for vehicular traffic (including medians), plus four feet outside of the shoulders and/or curbs. *Id.*

28. The Ordinance does not list those arterial and collector roadways which are classified as “collector or higher,” nor does it contain a map which identifies such roadways. Instead, the Ordinance merely references the “County’s Land Development Code, Ordinance No. 99-51, as amended,” a 610-page document that is not readily available on the County’s website. *Id.* And there are no signs posted on any of the “collector or higher” county roadways and medians which provide notice of the Ordinance’s prohibitions.

29. The Ordinance also fails to define “physical interaction.”

30. During the passage of the Ordinance, the County did not present evidence that those who solicit for donations along its roadways were either involved in or caused motor vehicle accidents.

31. The scope of the Ordinance is exceedingly overbroad. In effect, the Ordinance can be enforced to prohibit all forms of expressive activity, including standing, holding a sign, soliciting, receiving donations, and leafletting on

sidewalks, medians, and alongside all of the roadways in St. Johns County, including many areas where there is little to no traffic.

32. A first-time violation of the Ordinance is a civil infraction punishable by a fine not to exceed \$500.00. *Id.* § 5B.

33. A second or third violation of the Ordinance shall be prosecuted in the same manner as a criminal misdemeanor. Upon conviction, a violator can be punished by a fine not to exceed \$500.00, by imprisonment in the county jail not to exceed sixty days, or by both fine and imprisonment. *Id.* § 5D.

Enforcement of the Ordinance

34. St. Johns County Ordinance 2023-16 has been enforced against poor and homeless people who were soliciting for donations along public roadways.

35. Since the enactment of the Ordinance in May 2023 to the present date, approximately 34 people—at least 24 of whom were panhandling or standing near the roadway holding a sign—have been cited with a notice to appear in court for a violation of the Ordinance. Four of those cited individuals were arrested and taken to jail for standing along the roadway or on a median requesting donations.

Plaintiff Joseph LaValley

36. Plaintiff Joseph LaValley has lived in St. Johns County nearly all his life. For many years, Mr. LaValley worked steadily in construction and was able to support himself. Because of a series of chronic health problems, including esophageal cancer, he is no longer able to work and is disabled.

37. Mr. LaValley currently receives monthly disability income and food stamps but has no other source of income. Because his financial assistance does not meet his monthly needs, Mr. LaValley must peacefully request donations from others to contribute to his survival.

38. Mr. LaValley solicits donations along the major roads of St. Johns County. He will typically stand on a median or along the sidewalk or the edge/shoulder of county roads at intersections and ask for donations from people in cars who are stopped at a traffic light. He does not block or obstruct traffic.

39. When he solicits for donations, he typically holds a sign which states, "Anything helps. Thank you."

40. Mr. LaValley chooses to hold his sign along the roadway because his message is seen by the most people that way. If he were to hold his sign elsewhere, he would have to spend more time to reach the same audience and receive the same amount of donations.

41. Mr. LaValley receives donations from fellow citizens, including food, water, and cash.

42. When Mr. LaValley panhandles in St. Johns County, he is regularly harassed by St. Johns County Sheriff deputies who drive up to where he is standing and yell at him to leave the area immediately, and warn him that if they see him again, they will arrest him. Mr. LaValley has also witnessed the deputies harass others on county roads for panhandling.

43. On June 11, 2023, Mr. LaValley was cited for a violation of the Ordinance by Sheriff's Deputy Vaughn while panhandling on a median at the intersection of US 1 and State Road 312. The citation alleges that Mr. LaValley was standing on the median on the north side of US 1 and SR 312 for four complete light cycles and was holding a sign. Mr. LaValley duly responded to the citation and on March 1, 2024, he was found guilty of the Ordinance violation and fined \$100.00.

44. Mr. LaValley currently panhandles in St. Johns County no more than a couple times per month. He wants to be able to panhandle more but does not do so more frequently because he fears being arrested under the Ordinance and taken to jail. Because he has been deterred from panhandling more, he has not been able to obtain donations that he would otherwise receive if he panhandled more frequently. Further, the constant threat of arrest and the actions of the officers has been humiliating and taxing, causing him emotional and mental distress.

45. Mr. LaValley does not understand what the Ordinance means by making it unlawful "to make use of a public right-of-way in a manner that interferes with the safe and efficient movement of people and property on a public road." Nor does he understand where the Ordinance applies and where in unincorporated St. John's County it is unlawful to stand on a median or along the roadway and ask for a donation.

46. The ongoing threat of arrest has had a chilling effect on Mr. LaValley's exercise of his First Amendment rights in St. Johns County. Consequently, Mr.

LaValley has suffered and continues to suffer damages and harm for the violation of his constitutional rights under the First Amendment.

Plaintiff Thomas Daniel Smith

47. Plaintiff Thomas Daniel Smith has lived in St. Johns County all his life. He currently receives social security and food stamps but has no other source of income. He is currently unhoused because the meager financial assistance he receives is not sufficient to afford housing. Because his financial assistance does not meet his monthly needs, Mr. Smith must peacefully request donations from others to contribute to his survival.

48. Mr. Smith solicits donations along the major roads of St. Johns County. He will typically stand on a median at intersections and ask for donations from people in cars who are stopped at the traffic light. He does not block or obstruct traffic. When he solicits for donations, he typically holds a sign which states, “I’m sorry. Please forgive me. Anything helps.”

49. Mr. Smith chooses to hold his sign along the roadway because his message is seen by the most people that way. If he were to hold his sign elsewhere, he would have to spend more time to reach the same audience and receive the same amount of donations.

50. Mr. Smith receives donations from fellow citizens, including food, water, hygiene products, clothing items, and cash.

51. When Mr. Smith panhandles in St. Johns County, he is regularly harassed by St. Johns County sheriff deputies who drive up to where he is standing

and yell at him to leave the area immediately and warn him that if they see him again, they will arrest him. Mr. Smith was warned just a few days ago. On one occasion, a deputy took his sign and destroyed it. Mr. Smith has also witnessed the deputies harass others on county roads for panhandling.

52. On June 11, 2023, Mr. Smith was cited for a violation of the Ordinance by Sheriff's Deputy Vaughn while panhandling on a median at the intersection of US 1 and State Road 312. The citation alleges that Mr. Smith was standing on the median on the east side of US 1 and SR 312 for three complete light cycles and was holding a sign. On March 15, 2024, he was found guilty of the Ordinance violation and fined \$500.00.

53. Mr. Smith currently panhandles in St. Johns County as much as he is able without being cited or arrested; he is constantly on guard of the police and when he sees a sheriff's deputy in the area he leaves. He wants to be able to panhandle more but cannot do so because he fears being arrested under the Ordinance and taken to jail. Because he has been deterred from panhandling more, he has not been able obtain donations that he would otherwise receive if he panhandled more frequently. Further, the constant threat of arrest and the actions of the officers has been humiliating and taxing, causing him emotional and mental distress.

54. Mr. Smith does not understand what the Ordinance means by making it unlawful "to make use of a public right-of-way in a manner that interferes with the safe and efficient movement of people and property on a public road." Nor

does he understand where the Ordinance applies and where in unincorporated St. John's County it is unlawful to stand on a sidewalk, median or along the roadway and ask for a donation.

55. The ongoing threat of arrest has had a chilling effect on Mr. Smith's exercise of his First Amendment rights in St. Johns County. Consequently, Mr. Smith has suffered and continues to suffer damages and harm for the violation of his constitutional rights under the First Amendment.

Plaintiff Dylan Torres Pagan

56. Plaintiff Dylan Torres Pagan has lived in St. Johns County for nearly seventeen years. He is currently unhoused. He recently began working a job for a waste management company, but prior to that, he had no regular source of income.

57. Before he obtained employment, Mr. Pagan engaged in peaceful panhandling along the roadways in St. Johns County to support himself. He stood on a median, or on the edge/shoulder of a County roadway and displayed a sign that states, "Anything helps." He did not block or obstruct traffic.

58. Mr. Pagan chose to hold his sign along the roadway because his message was seen by the most people that way. If he were to hold his sign elsewhere, he would have had to spend more time to reach the same audience and receive the same amount of donations.

59. When he engaged in panhandling, Mr. Pagan received donations from fellow citizens, including food, water, hygiene products, clothing items, and cash.

60. Mr. Pagan was repeatedly harassed by St. Johns County Sheriff deputies while panhandling. The police would drive up to where he was panhandling and warn him to stop and leave the area.

61. Mr. Pagan suffered mental and emotional distress from the constant threat and fear of arrest. He had to reduce the amount of time he spent panhandling and did not obtain donations that he would have otherwise received because of the Ordinance and its penalties.

62. Mr. Pagan does not currently panhandle in St. Johns County because he has obtained employment. However, if he were to lose his job, he would return to panhandling to support himself.

63. Mr. Pagan does not understand what the Ordinance means by making it unlawful “to make use of a public right-of-way in a manner that interferes with the safe and efficient movement of people and property on a public road.” Nor does he understand where the Ordinance applies and where in unincorporated St. John’s County it is unlawful to stand on a sidewalk, median or along the roadway and ask for a donation.

64. The threat of arrest had a chilling effect on Mr. Pagan’s exercise of his First Amendment rights in Consequently, Mr. Pagan has suffered and will likely in the future suffer damages and harm for the violation of his constitutional rights under the First Amendment.

CAUSES OF ACTION

COUNT I - FIRST AMENDMENT - FREEDOM OF SPEECH

Ordinance 2023-16 § 4A

65. Plaintiffs Joseph LaValley, Thomas D. Smith, and Dylan Torres Pagan reallege and incorporate each paragraph preceding the Causes of Action section and incorporate them by reference herein.

66. At all times relevant hereto, the St. Johns County Commission was the final policymaker for St. Johns County for the purpose of adopting ordinances regulating conduct within the boundaries of the County.

67. Requests for donations are recognized as speech entitled to First Amendment protection.

68. Streets, medians, and sidewalks are traditional public fora for purposes of engaging in constitutionally protected speech and expressive conduct.

69. Section 4A of the Ordinance was designed to target one subject area of speech—requests for donations—for different treatment than speech on other subject matters.

70. Because it targets one subject of speech, Section 4A of the Ordinance is subject to strict scrutiny, requiring the County to show that this regulation is narrowly tailored to serve a compelling government interest and is the least restrictive means of serving that interest.

71. Section 4A of the Ordinance is not narrowly tailored to, and is not the least restrictive means of serving any compelling government interest, and is therefore unconstitutional under the First Amendment.

72. Should Section 4A of the Ordinance be construed as not targeting one subject area of speech, this regulation is nonetheless unconstitutional because it is not a reasonable time, place, and manner restriction, in that it is not narrowly tailored to serve a significant governmental interest, and it does not leave open ample alternative channels of communication.

73. The Ordinance is substantially overbroad compared to its plainly legitimate sweep.

74. The County's adoption and ongoing enforcement of Section 4A of the Ordinance has proximately caused the past and continuing deprivation of the First Amendment rights of the Plaintiffs.

COUNT II – FOURTEENTH AMENDMENT – DUE PROCESS
Ordinance No. 2023-16 § 4A (interfering with safe and efficient movement of people and property)

75. Plaintiffs Joseph LaValley, Thomas D. Smith, and Dylan Torres Pagan incorporate and re-allege each paragraph preceding the Causes of Action section and incorporate them by reference herein.

76. Ordinance 2023-16 provides for criminal penalties.

77. The language in Section 4A of the Ordinance that makes it unlawful to use a public right-of-way “in a manner that interferes with the safe and efficient movement of people and property on a public road,” fails to provide notice that is adequate to enable an ordinary person to understand what conduct is prohibited and how to comply with its regulations.

78. Further, Section 4A of the Ordinance fails to provide adequate notice to the public as to where the Ordinance applies.

79. Section 4A of the Ordinance, both on its face and as applied, fails to establish adequate guidelines to govern law enforcement and hence, authorizes and encourages arbitrary and discriminatory enforcement.

80. The Ordinance is void for vagueness, in violation of the Due Process Clause of the Fourteenth Amendment.

81. As a direct and proximate result of Defendant's Due Process violations, Plaintiffs have and will continue to suffer irreparable harm and damages, which will continue absent relief.

REQUEST FOR RELIEF - ALL COUNTS

WHEREFORE, Plaintiffs respectfully request and seek the following relief:

A. A declaration that Section 4A of St. Johns County Ordinance 2023-16 violates the First Amendment of the U.S. Constitution facially and as applied to Plaintiffs.

B. A declaration that Section 4A of St. Johns County Ordinance 2023-16 violates the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution facially and as applied to Plaintiffs;

C. A preliminary and permanent injunction prohibiting the County from enforcing Section 4A of St. Johns County Ordinance 2023-16;

D. All damages permitted by law, including but not limited to compensatory and nominal damages;

- E. Attorneys' fees and costs; and
- F. Any other relief that is just and proper.

Jury Demand

Plaintiffs demand trial by jury on all counts alleged above.

Respectfully submitted,

Dante P. Trevisani

Florida Bar No. 72912

E-mail: dtrevisani@fji.law

Ray Taseff

Florida Bar No. 352500

E-mail: rtaseff@fji.law

Andrew Udelsman

Florida Bar No. 1051696

E-mail: audelsman@fji.law

Florida Justice Institute, Inc.

40 NW 3rd Street, Suite 200

Miami, Florida 33128

305-358-2081

305-358-0910 (Fax)

By: s/Ray Taseff

Ray Taseff

Chelsea Dunn

Florida Bar No. 1013451

Email: Chelsea.Dunn@southernlegal.org

Daniel Marshall

Florida Bar No. 617210

Email: Dan.Marshall@southernlegal.org

Jodi Siegel

Florida Bar No. 511617

Email: Jodi.Siegel@southernlegal.org

Southern Legal Counsel, Inc.

1229 NW 12th Avenue

Gainesville, Florida 32601

352-271-8890

352-271-8347 (fax)

Attorneys for the Plaintiff

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

CASE NO.

JOSEPH LAVALLEY, THOMAS D. SMITH,
and DYLAN TORRES PAGAN,

Plaintiffs,

vs.

ST. JOHNS COUNTY, FLORIDA,

Defendant.

DECLARATION OF JOSPEH LAVALLEY

I, Joseph LaValley, make this Declaration Under Penalty of Perjury, and declare that the statements below are true, and state:

My name is Joseph LaValley. I have reviewed the Verified Complaint above, and state that the facts which pertain to me are true and accurate to the best of my knowledge.

I understand that a false statement in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Joseph LaValley
Joseph LaValley

Date: October 7, 2024

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
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CASE NO.

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Plaintiffs,

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ST. JOHNS COUNTY, FLORIDA,

Defendant.

DECLARATION OF THOMAS DANIEL SMITH

I, Thomas Daniel Smith, make this Declaration Under Penalty of Perjury, and declare that the statements below are true, and state:

My name is Thomas Daniel Smith. I have reviewed the Verified Complaint above, and state that the facts which pertain to me are true and accurate to the best of my knowledge.

I understand that a false statement in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Thomas Daniel Smith
Thomas Daniel Smith

Date: October 7, 2024

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

CASE NO.

JOSEPH LAVALLEY, THOMAS D. SMITH,
and DYLAN TORRES PAGAN,

Plaintiffs,

vs.

ST. JOHNS COUNTY, FLORIDA,

Defendant.

DECLARATION OF DYLAN TORRES PAGAN

I, Dylan Torres Pagan, make this Declaration Under Penalty of Perjury, and declare that the statements below are true, and state:

My name is Dylan Torres Pagan. I have reviewed the Verified Complaint above, and state that the facts which pertain to me are true and accurate to the best of my knowledge.

I understand that a false statement in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Dylan Torres Pagan
Dylan Torres Pagan

Date: October 7, 2024