

FILED

MAY 21 2012

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY DW DEPUTY

CITY OF ST. LOUIS,)
)
Plaintiff,)
)
vs.)
)
JAMES W. LEMBKE,)
)
Defendant.)

Cause No. 1122-CR00921

Division 24

ENTERED

MAY 22ND, 2012

DW

ORDER/JUDGMENT

The following Motions were called for hearing on April 2, 2012:

1. Defendant's Motion for Acquittal as a Matter of Law.
2. Defendant's Motion to Dismiss Based on Defect in the Institution of the Prosecution.
3. Defendant's Motion for Leave to File Additional Affirmative Defense of Unlawful Rulemaking.
4. Plaintiff's Motion to Strike Affirmative Defense – Unlawful Rulemaking.

On April 2, 2012, the parties presented oral argument on all four (4) motions. The parties agreed to provide additional information to the Court, by way of a stipulation. The Stipulation of the parties was filed with the Court on May 15, 2012.

Defendant's Motion for Acquittal as a Matter of Law

Defendant's Motion for Acquittal as a Matter of Law asks this Court to acquit Defendant of the charge of Violating City Ordinance No. 66868, more commonly referred to as the Red Light Camera Ordinance. The basis for Defendant's request is a ruling made by Judge Mark Neill on February 17, 2012, in the case Alexa Smith, et al. v.

City of St. Louis, Cause No. 0922-CC10285. That case is currently on appeal to the Missouri Court of Appeals, Eastern District, Cause Number ED98263. Defendant asserts that the City Ordinance is void as a matter of law due to conflict with state statutes and as a violation of Defendant's constitutional right to procedural due process. Defendant asserts that the reasoning employed in the Smith decision to find that the City's Red Light Camera Ordinance violates procedural due process is persuasive and should be adopted by this Court in its ruling herein.


The Court, having reviewed the Order and Amended Final Judgment entered in Smith v. City of St. Louis, concurs with the opinion set forth therein, as it relates to the issue of whether the City's Red Light Camera Ordinance violates Defendant's right to procedural due process. The Court herein incorporates into this opinion pages 7 through 11 of the Order and Amended Final Judgment entered in Smith v. City of St. Louis on February 17, 2012. A copy of the Order and Amended Final Judgment entered in Smith v. City of St. Louis is attached hereto and incorporated herein by reference.

Based upon the foregoing, the Court finds that City of St. Louis Ordinance No. 66868, the Red Light Camera Ordinance, violates Defendant's right to procedural due process. The Court grants Defendant's Motion for Acquittal as a Matter of Law.

All Remaining Motions

In light of the Court's ruling on Defendant's Motion for Acquittal as a Matter of Law, all remaining motions are denied as being moot.

SO ORDERED:



Handwritten signature of Theresa Counts Burke in cursive script, written over a horizontal line.

THHERESA COUNTS BURKE
Associate Circuit Judge, Division 24

Dated: May 21, 2012

cc: Craig K. Higgins, Asst. City Counselor
W. Bevis Shock, Attorney for Defendant
Hugh A. Eastwood, Attorney for Defendant