

**IN THE SUPERIOR COURT OF COWETA COUNTY
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC. and)	
EDWARD A. STONE,)	
Plaintiffs,)	
)	Civil Action No. 07V215
v.)	
)	
COWETA COUNTY, GEORGIA,)	
)	
Defendant)	

COMPLAINT

Plaintiffs Georgiacarry.Org, Inc. and Edward A. Stone, by counsel, John R. Monroe, state the following as their Complaint:

Introduction

1. This is a Complaint for declaratory and injunctive relief, seeking to have a Coweta County ordinance banning the carrying of firearms in county recreation facilities, sports fields, or any surrounding areas being property of the county declared void and unenforceable, on the grounds that the ordinance is preempted by state law, the Georgia Constitution, and is *ultra vires*.
2. Plaintiff Edward A. Stone (“Stone”) is a natural person who resides in Coweta County, Georgia .
3. Plaintiff Georgiacarry.Org, Inc. (“GCO”) is a non-profit corporation organized under the laws of the State of Georgia. GCO is a member-oriented corporation whose goals include, among others, protecting the rights of its members to own and carry firearms. GCO has members residing in Coweta County, including Stone.

4. Defendant is a county organized under the laws of the State of Georgia, and it has offices at 22 East Broad Street; Newnan; Coweta County, Georgia 30263.
5. On August 25, 2006, Stone wrote a letter to his Coweta County Commissioner, Paul Poole, pointing out that Coweta County Ordinance 46-33(c) (the “Ordinance”) is preempted by O.C.G.A. § 16-11-173(b)(1), and requesting that the Ordinance be repealed. A true and correct copy of the August 25, 2006 letter is attached as Exhibit A.
6. On October 25, 2006, in reply to email inquiries from Stone, Commissioner Poole sent an email to Stone advising Stone that Commissioner Poole had forwarded the August 25, 2006 letter to the county attorney. A true and correct copy of the email exchange between Stone and Commissioner Poole is attached as Exhibit B.
7. On November 30, 2006, County Administrator L. Theron Gay wrote Stone a letter, in which Administrator Gay advised Stone that the county attorney’s opinion was that Defendant “is within its right to prohibit firearms on its own property.” A true and correct copy of the November 30, 2006, which included as an enclosure the county attorney’s opinion, is attached as Exhibit C.
8. On December 4, 2006, Stone wrote the county attorney (Jerry Ann Conner of the law firm of Glover & Davis, P.A.) in rebuttal to her written opinion. A true and correct copy of the December 4, 2006 letter is attached as Exhibit D.
9. On December 7, 2006, Stone addressed the Coweta County Board of Commissioners at its regular meeting and requested repeal of the Ordinance. In his remarks to the Board, Stone explained why he believed Atty. Conner’s opinion was incorrect and delivered to

each commissioner a copy of the preemption statute and an opinion by the Attorney General of the State of Georgia, U98-6, regarding the preemption statute..

10. Attorney Conner stated at the Board meeting that she would review the arguments and materials presented by Stone to the Board, and revise her opinion if appropriate.
11. On December 8, 2006, Stone sent Attorney Conner an email with additional arguments against Attorney Conner's opinion, including a copy of an opinion of the Lee County attorney (who opined that a Lee County ordinance similar to the Ordinance was preempted by state law), Stone has not received a reply to this email. A true and correct copy of the December 8, 2006 email is attached as Exhibit E.
12. On January 19, 2007, Stone left a voice mail message for Attorney Conner, requesting an update on the status of her 6 weeks of research and requesting a return call. Stone has not received a reply to this message as of the date of this filing.
13. On January 23, 2007, Stone's counsel wrote a letter to Attorney Conner, asking her to respond regarding the status of her research regarding the Ordinance. A true and correct copy of the January 23, 2007 letter is attached as Exhibit F.
14. On January 29, 2007, a different attorney from Attorney Conner's firm called Stone's counsel to request additional information about Stone's concern with the Ordinance. Stone's counsel provided the information requested the same day via email.
15. As of the writing of this Complaint, Defendant has not repealed the Ordinance as requested by Stone, nor has Defendant's counsel changed its opinion that the Ordinance is valid.

16. Stone is a resident of Coweta County, and a citizen of the State of Georgia and of the United States of America.
17. Stone possesses a valid Georgia Firearms License (“GFL”) issued to him pursuant to the Georgia Firearms and Weapons Act, O.C.G.A. § 16-11-120 *et. seq.*
18. Except for the Ordinance, Stone is otherwise entitled under law to carry a firearm in Coweta County recreation facilities, sports fields, or any surrounding areas being property of the county, subject to applicable state law provisions.
19. Stone is a user of Coweta County recreation facilities, sports fields, or any surrounding areas being property of the county, would like to exercise his right to carry a firearm in Coweta County recreation facilities, sports fields, or any surrounding areas being property of the county, but he is in fear of arrest and prosecution under the Ordinance for doing so.
20. The Ordinance states, “The following are prohibited on or about Coweta County recreation facilities, sports fields, or any surrounding areas being property of the county:
...(c) Firearms, air (or spring loaded) rifles/pistols, fireworks, and any device[s] firing or propelling a projectile are strictly prohibited.”
21. O.C.G.A. § 16-11-173(a) states, “It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern.”
22. O.C.G.A. § 16-11-173(b)(1) states, “No county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows; the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or

registration of firearms or components of firearms; firearms dealers; or dealers in firearms components.”

23. Article I, Section I, Paragraph VIII of the Georgia Constitution states, “The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne.”
24. Article I, Section II, Paragraph V states, “Legislative acts in violation of this Constitution or the Constitution of the United States are void, and the judiciary shall so declare them.”
25. Article IX, Section II, Paragraph I(a) of the Georgia Constitution states, in pertinent part, “The governing authority of each county shall have legislative power to adopt clearly reasonable ordinances...for which no provision has been made by general law....This, however, shall not restrict the authority of the General Assembly by general law to further define this power or to ... limit ... the exercise thereof.”
26. The General Assembly has made provision in general law for the carrying and possession of firearms through a comprehensive statutory framework. O.C.G.A. §§ 16-11-126 through 135.
27. The General Assembly has also exercised its authority to define even further and limit the exercise of Coweta County’s governing authority relating to the carrying and possession of firearms and the use of firearms in self defense. O.C.G.A. §§ 16-11-173 and 16-3-21(c).

Count I – The Ordinance is Preempted

28. The Ordinance is preempted by the General Assembly’s comprehensive regulation of the field of firearms, specifically including but not limited to possession, carrying, and the places where one may or may not carry, pursuant to O.C.G.A. §§ 16-11-126 through 135.
29. The Ordinance is further preempted by, and repugnant to, O.C.G.A. § 16-11-173, and is therefore void and unenforceable.
30. The Ordinance is preempted by, and repugnant to, Article I, Section I, Paragraph VIII of the Georgia Constitution, and is therefore void and unenforceable.

Count II – The Ordinance is *Ultra Vires*

31. Defendant has no power to enact the Ordinance, as such power is specifically withheld from Defendant by Article IX, Section II, Paragraph I(a) of the Georgia Constitution, and further limited by O.C.G.A. § 16-11-173, so the Ordinance is *ultra vires*.

Count III – The Ordinance is Void

32. The Ordinance is a legislative act in violation of the Georgia Constitution, and is therefore void, and must be declared void by this Court.

Prayer for Relief

Plaintiff demands the following relief

33. A declaration that the Ordinance’s provisions regarding firearms are preempted by O.C.G.A. § 16-11-173 and the Georgia Constitution.
34. A declaration that the Ordinance is *ultra vires* (as it pertains to firearms).
35. A declaration that the Ordinance is void.

36. An injunction prohibiting Defendant and its officers, agents, and employees from enforcing or attempting to enforce the Ordinance, to the extent it prohibits possessing or carrying firearms.
37. An injunction requiring Defendant to remove any signs on Coweta County property that cite a prohibition against possessing or carrying firearms pursuant to the Ordinance.
38. A jury to try this case.
39. Any other relief the court deems proper.

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