

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

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|-------------------------|---|------------------|
| GEORGIACARRY.ORG, INC., |) | |
| |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil Action No. |
| v. |) | |
| |) | |
| STONE MOUNTAIN MEMORIAL |) | |
| ASSOCIATION, |) | |
| Defendant |) | |

VERIFIED COMPLAINT

Plaintiff states the following as its Verified Complaint:

Introduction

1. This is a Complaint for declaratory and injunctive relief, seeking to have certain of the Defendant’s ordinances (the “Ordinances”) declared unlawful. The Ordinances ban the possession of firearms in Stone Mountain Park, and such Ordinances are preempted by state law, the Georgia Constitution, and are *ultra vires*.
2. 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 throughout the State of Georgia, and many such members visit Stone Mountain Park and use the facilities of Stone Mountain Park.
3. Defendant is a public corporation organized by special law of the State of Georgia, O.C.G.A. § 12-3-192.

4. Pursuant to O.C.G.A. § 12-3-194.1(b), Defendant is vested with legislative powers “to adopt reasonable ordinances ... for which no provision has been made by general law and which are not inconsistent with the general laws or the Constitution of this state”
5. On April 9, 2008, Plaintiff wrote a letter to Defendant, pointing out that the Ordinances are preempted by O.C.G.A. §16-11-173 and § 16-11-127, and requested that the Ordinances be repealed
6. On May 9, 2008, the Office of the Attorney General, representing Defendant, responded to Plaintiff’s letter stating without explanation that it disagreed with Plaintiff’s position.
7. Many of Plaintiff’s members possesses a valid Georgia Firearms License (“GFL”) issued to him or her pursuant to the Georgia Firearms and Weapons Act, O.C.G.A. § 16-11-120 *et. seq* .
8. Except for the Ordinances, Plaintiff’s members are otherwise entitled under law to carry and possess firearms in Stone Mountain Park, but they are in fear of arrest and prosecution under the Ordinances for doing so.
9. Defendant’s Ordinance 4-104 states, in pertinent part, “No person shall use, carry, or possess in the Park firearms of any description....”
10. Defendant’s Ordinance 4-106 states, in pertinent part, “No person, except a member of the Park Police or other peace officer, shall possess a firearm....”
11. Defendant routinely enforces the Ordinances, prosecutes violators, and confiscates firearms from violators.
12. O.C.G.A. § 16-11-173(a)(1) states, “It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern.”

13. 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.”
14. 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.”
15. 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.
16. The General Assembly has also exercised its authority to define even further and limit the exercise of the Defendant’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 Ordinances are Preempted, *Ultra Vires*, Void, and Unenforceable

17. The Ordinances are 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.
18. The Ordinances are further preempted by, and repugnant to, O.C.G.A. § 16-11-173, and is therefore void and unenforceable.
19. The Ordinances are preempted by, and repugnant to, Article I, Section I, Paragraph VIII of the Georgia Constitution, and is therefore void and unenforceable.
20. The Ordinances are a legislative act in violation of the Georgia Constitution, and are therefore void, and must be declared void by this Court.

21. Plaintiff's members are without an adequate remedy at law for the harms being caused by Defendants.
22. Plaintiff members have a property interests in their GFLs.
23. The Ordinances interfere with the enjoyment of Plaintiff's members' property interests in their GFLs, reduce the value of such property interests, and destroy a portion of the usefulness of such property interests.
24. The Ordinances unnecessarily and illegally endanger Plaintiff's members by prohibiting them from implementing a valid and legal means of defending themselves.
25. Plaintiff has many members that are citizens and taxpayers in the state of Georgia.
26. Defendant illegally spends public funds to enforce and defend the Ordinances, which are illegal, unenforceable, void, unconstitutional, and *ultra vires*.

Count II – Civil Rights Violations

27. The Fourteenth Amendment to the Constitution of the United States declares, "...nor shall any deprive any person of life, liberty, or property without due process of law."
28. Defendant has denied Plaintiff's members of their property interests in their GFLs without due process of law, in violation of the Fourteenth Amendment and 42 U.S.C. § 1983.

Prayer for Relief

Plaintiff demands the following relief

29. A declaration that the Ordinances' provisions regarding firearms are preempted by O.C.G.A. § 16-11-173, O.C.G.A. § 16-11-127 and the Georgia Constitution.
30. A declaration that the Ordinances are *ultra vires* (as they pertains to firearms).
31. A declaration that the Ordinances are void.

32. A declaration that the Ordinances violate the 14th Amendment to the Constitution of the United States.
33. An injunction prohibiting Defendant and its officers, agents, and employees from enforcing or attempting to enforce the Ordinances, to the extent they prohibit possessing or carrying firearms.
34. An injunction requiring Defendant to remove any signs on Defendant's property that cite a prohibition against possessing or carrying firearms (or weapons, without exceptions for firearms) pursuant to the Ordinances.
35. The costs of bringing this action including reasonable attorney's fees.
36. A jury to try this case.
37. Any other relief the court deems proper.

John R. Monroe,
Attorney for Plaintiff
9640 Coleman Road
Roswell, GA 30075
678-362-7650
State Bar No. 516193

VERIFICATION

Edward A. Stone on oath states as follows:

1. I am at least 18 years of age and otherwise competent to make this verification.
2. I am the president of GeorgiaCarry.Org, Inc., the plaintiff in this case.
3. I know of my own knowledge that the facts alleged in the Verified Complaint are true.

Edward A. Stone

The above-named Edward A. Stone personally appeared before me on May _____, 2008 and subscribed to and swore to this Verification in _____ County, Georgia.

Notary Public

My commission expires _____