

GOVERNMENT-OPERATED VEHICLE STORAGE FACILITIES: FEDERAL COURT DECISIONS

Giddens v. City of Shreveport
901 F.Supp. 1170 (W.D. La. 1995)

The inquiry here is whether ... there exist[s] any statute, ordinance or regulation which might be construed as entitling plaintiffs to store "no preference" and impound vehicles on referral from the City. Plaintiffs have not cited any such provision, and the Court is aware of none. * * * In summary, plaintiffs have not established that by virtue of any state or local law, they have a property interest in storing "no preference" and impound vehicles on referral from the City. Accordingly, the "property interest" aspect of their due process cannot be sustained.

* * *

The ordinance does not prohibit the plaintiffs from engaging in the business of vehicle storage. The ordinance does not restrict their right to store preference tows or to store vehicles for other public agencies. For example, plaintiff James Rials stores "no preference" and impound vehicles for the City of Greenwood Police Department, and is presently the only company that does so. Other local potential sources of business include the Louisiana State Police and the Caddo Parish Sheriff's Department.

Plaintiffs respond that there is little or no market for preference storage, and that without referral business from the City of Shreveport, they may not be able to survive economically in the storage business. Unfortunately, the evidence does indicate that at least one or two of the plaintiff storage companies will suffer significant economic hardship as a result of the loss of the City's business. Yet a law or ordinance does not violate the Constitution solely because it directly or indirectly results in economic hardship to some sector of the private market. Were that the case, few regulatory statutes could pass constitutional muster. In this case, even if some of the plaintiffs suffer adverse economic effects as a result of the change to central storage, they have not established that they were deprived of a protected liberty interest under the Fourteenth Amendment.

Id. at 1177.

In this case, plaintiffs fail to establish an anticompetitive practice within the meaning of antitrust law. The only types of towing and storage transactions at issue in this case are those in which the vehicle owner, for whatever reason, is unable or unwilling to participate in the decision of where his vehicle will be stored. Both before and after the amendment to the ordinance, the consumer simply did not participate in the storage decision. Thus, it is not possible to conclude that the change to a central storage facility, even if injurious to the business interests of some of the plaintiffs, reduced consumer welfare or bargaining power. Any instance where the consumer is involved in the decision of where his vehicle is to be stored is beyond the purview of this case (and there is of course no city ordinance which prohibits an owner from storing his vehicle at the location of his choice).

The absence of an anticompetitive injury to the market is enough to terminate the antitrust injury. Even assuming that an anticompetitive practice were present, however, its consequences are outweighed by the legitimate public interests served by a central storage facility, as discussed above in connection with the substantive due process issue.

In summary, rule of reason analysis leads to the conclusion that the City's contract [for] its use of a central storage facility is not an unreasonable restraint of trade or commerce.

Id. at 1180 -1181.

Magnum Towing & Recovery, LLC v. City of Toledo
430 F.Supp.2d 689 (N.D. Ohio 2006)

The City Council enacted the changes to serve legitimate legislative ends: to increase revenues and facilitate administration of the tow program. The City Council sought to decrease the costs of its towing and vehicle storage program and expenses incurred from inspecting and maintaining storage facilities. The City also desired to increase public convenience.

All the legislative actions Magnum challenges ([including] opening of the City-owned lot and requirement that police-ordered tows be taken there) are valid regardless of the fact that Magnum received no individual due process before their enactment and implementation. Magnum's recourse is not here but through the political process by adoption of ordinances more favorable to private towers.

Id. at 696-697.