

RICHARD W. HOWD, JR.,
Petitioner,

vs.

ROBERT S. MINTON, JR.,
Respondent.

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AMENDED TEMPORARY INJUNCTION

This cause coming on before the Court upon the Respondent's Motion to Modify Temporary Injunction for Protection Against Harassment and Violence and Respondent's Petition For Temporary Injunction. The hearing in the matter was held on the 29th day of November 1999. Both parties were present, together with their attorneys of record. The Respondent, ROBERT S. MINTON, JR. (hereinafter the "Respondent"), requested that the Court modify the temporary injunction issued in this cause on November 4, 1999.

FINDINGS OF FACT

On November 4, 1999, the Petitioner, RICHARD W. HOWD, JR. (hereinafter referred to as the "Petitioner"), filed his Petition for Injunction Prohibiting Harassment and Violence and on that same date obtained an ex parte Temporary Injunction against the Respondent, ordering the Respondent to refrain from committing any acts of violence against the Petitioner or any staff member or parishioner of the Church of Scientology Flag Service Organization or its facilities in Pinellas County, to stay away from these same persons, and to stay at least 150 yards away from 17 specified locations owned or leased by the Church of Scientology in the City of Clearwater, Florida.

This Court, at a hearing in this cause on November 15, 1999, extended the time for the temporary injunction to remain in effect to permit the Respondent to make his response to the petition.

On October 31, 1999, the Respondent was picketing in front of the Ft. Harrison Hotel, Clearwater, Florida, which is the headquarters of The Church of Scientology Flag Service Organization, a not-for-profit religious organization (hereinafter referred to as "Scientology"; members of this organization shall hereinafter be referred to as "Scientologists"). As Respondent walked back and forth in front of the hotel, Petitioner, who is a Scientologist and a member of the Security Force for the hotel, came outside and began videotaping Respondent. Petitioner proceeded to close in on the Respondent and ultimately was within a matter of a few feet from the Respondent as he picketed. Ultimately, an altercation occurred between the Petitioner and the Respondent. The Petitioner was struck in the face with the sign that Respondent was carrying. On November 1, 1999, the Respondent was charged by the Clearwater Police Department with assault and battery.

Evidence presented showed that the Respondent had been involved in a prior altercation with a Scientologist while picketing in front of Scientologist property in Boston, Massachusetts. Respondent was arrested and charged with assault and battery by means of a dangerous weapon by the Boston police. As a result of this arrest and court proceedings, a "stay-away order" was issued against the Respondent by the Boston court.

Additional evidence showed that there had been other altercations between Scientologists and the Respondent at other Scientologist locations throughout the country.

The Petitioner introduced these videotapes to show Respondent's violent propensities.

However, these same videotapes clearly showed that as Respondent picketed in front of the various Scientology properties, Scientology members would close within 1 to 2 feet of the Respondent and the two would get "in the face" of the other. They engaged in a type of "picket chicken". Unfortunately, when these confrontations took place, violence usually ensued.

As a result of the confrontation and violence between the parties here in Pinellas County, Florida, this Court enjoined Respondent from going within 150 yards of 17 different Scientology locations in the county.

LAW

Injunctive relief should be no more burdensome to the Respondent than necessary to provide complete relief to the Petitioner. *Madsen v. Women's Health Center, Inc.*, 512 U.S. 753 (1994); *Califano v. Yamasaki*, 442 U.S. 682 (1979).

In drafting orders of injunctions, "precision of regulation" is demanded. *NAACP v. Button*, 371 U.S. 415 (1963).

Parties seeking injunctions assert a violation of their rights; the Court hearing the action is charged with fashioning a remedy for a specific deprivation, not with the drafting of a statute addressed to the general public. *Madsen*.

In public debate, citizens must tolerate insulting, and even outrageous, speech in order to provide adequate breathing space to the freedoms protected by the First Amendment. *Boos v. Barry*, 485 U.S. 312 (1988).

In drafting an injunction, the Court must take into consideration the state's strong interest in ensuring the public safety and order. The Court must consider such things as promoting the free flow of traffic on public streets and sidewalks, and the protection of property rights of all citizens. *Madsen*.

Injunctions in the State of Florida shall be binding on the parties to the action, their officers, agents, servants, employees, and attorneys and on those persons in active concert or participation with them who receive actual notice of the injunction. Fla.R.Civ.P. 1.610; *Channell v. Applied Research, Inc.*, 472 So. 2d 1260 (Fla. 4th DCA 1985); *Dad's Properties, Inc. v. Lucas*, 545 So. 2d 926 (Fla. 2d DCA 1989); *Xavier J Fernandez, P.A. v. Sun Bank of Tampa Bay*, 670 So. 2d 1106 (Fla. 2d DCA 1996).

CONCLUSIONS

The initial Temporary Injunction entered by this Court is too broad and overbearing. The First Amendment rights of the Respondent are too limited.

The requirement that the Respondent has to stay 150 yards away from the specified 17 Scientology sites in Pinellas County must be modified.

Inasmuch as **BOTH** the Petitioner and the Respondent have engaged in the dangerous and threatening practice of seeing how close one can get to the other while each is exercising his respective constitutional rights, **BOTH** parties must be mutually restrained. The record shows that this practice of "picket chicken" has resulted in injuries when one of the participants makes an abrupt stop or sudden turn. Tempers have flared as a result of this gamesmanship. Although Respondent has been twice charged with violent acts against two different Scientologists, in two different states, the record shows that each incident evolved out of a session of "picket chicken".

It is quite simple. Two people while exercising their constitutional right of free speech cannot physically occupy the same amount of space without a touching or tempers flaring.

AFTER hearing all of the testimony, viewing all of the evidence, reading the petitions, the briefs and the cases submitted,

IT IS HEREBY ORDERED AND ADJUDGED that:

1. An immediate Amended Temporary Injunction is entered against the Respondent, ROBERT S. MINTON, JR., enjoining him from committing any acts of harassment or violence against Petitioner, RICHARD W. HOWD, JR., any staff member or parishoner of the Church of Scientology Flag Service Organization or its facilities in Pinellas County, Florida.
2. Respondent, ROBERT S. MINTON, JR., must stay at least 10 feet away from any Scientology property in Pinellas County hereinafter set forth in paragraph #7 below.
3. The provisions of paragraphs #1 and #2 shall be binding on the Respondent, his officers, agents, servants, employees, and on those persons in actual concert or participation with him who receive actual notice of this injunction.
4. An immediate Temporary Injunction is entered against Petitioner, RICHARD W. HOWD, JR., enjoining him from committing any acts of harassment or violence against Respondent, ROBERT S. MINTON, JR.
5. Petitioner, RICHARD W. HOWD, JR. must stay at least 20 feet away from Respondent, ROBERT S. MINTON, JR., at all times when Respondent is abiding by the terms of paragraphs #1 and #2 above.
6. The provisions of paragraphs #4 and #5 shall be binding on Petitioner, RICHARD W. HOWD, JR., his officers, agents, servants, employees, and on those persons in active concert or participation with him who receive actual notice of this injunction.
7. The 17 locations of real property owned or leased by the Church of Scientology Flag Service Organization to which Respondent, ROBERT S. MINTON, JR., must stay at least 10 feet away from as set forth in paragraph #2 above are as follows:
 1. Fort Harrison Hotel, 210 South Ft. Harrison Avenue, Clearwater, FL.

2. Sandcastle Building, 200 North Osceola Avenue, Clearwater, FL;
3. West Coast Building, 1118 North Ft. Harrison Avenue, Clearwater, FL;
4. Coachman Building, 500 Cleveland Street, Clearwater, FL
5. Clearwater Bank Building, 503 Cleveland Street, Clearwater, FL;
6. Hacienda Gardens, 551 Saturn Avenue, Clearwater, FL;
7. Yachtsman, 1024 Cleveland Street, Clearwater, FL;
8. Quality Inn, 16432 U. S. Highway 19 North, Clearwater, FL;
9. Mariner Hotel, 711 Cleveland Street, Clearwater, FL;
10. Bayside Student Motels, 1840 North Ft. Harrison Avenue, Clearwater, FL;
11. Clipper Student Motel, 1850 North Ft. Harrison Avenue, Clearwater, FL;
12. Tradewinds Student Motel, 1824 North Ft. Harrison Avenue, Clearwater, FL;
13. Osceola Inn, 211 N. Osceola, Clearwater, FL;
14. Burnside Building, 309 Garden Street, Clearwater, FL;
15. Auxiliary Building, 109 North Ft. Harrison, Clearwater, FL;
16. Student College, 531 Franklin Street, Clearwater, FL; and
17. Site of the former Graymoss Hotel in downtown Clearwater, FL, Ft. Harrison to the West, Pierce Street to the North, Garden Street to the East and Franklin Street to the South.

8. This AMENDED TEMPORARY INJUNCTION shall be in full force and effect for 180 days from this the 2nd day of December, 1999, or as modified by further order of this Court.

9. Any violation hereof shall constitute contempt of court, punishable by fine or imprisonment.

10. No bond shall be required for the issuance of this Amended Temporary Injunction since the injunction is issued solely to prevent the physical injury, harassment, or abuse of natural persons.

11. The Clerk of Court shall immediately return to Petitioner, RICHARD W. HOWD, JR., the \$1,000.00 bond he previously posted with the Court in this cause.

12. This injunction is valid and enforceable in all counties of the State of Florida.

13. Any sworn law enforcement officer may assist in the execution or service of this injunction.

DONE AND ORDERED in Chambers, at St. Petersburg, Pinellas County, Florida, this 2nd day of December 1999.

Thomas E. Penick, Jr.
CIRCUIT JUDGE

Copies furnished to:

Richard W. Howd, Jr., Petitioner
Robert S. Minton, Jr., Respondent
Paul B. Johnson, Esquire
Michael L. Hertzberg, Esquire
Denis M. deVlaming, Esquire
Douglas M. deVlaming, Esquire
Bruce G. Howie, Esquire

TRUE COPY
Original Signed
DEC 02 1999

Thomas E. Penick, Jr.
Thomas E. Penick, Jr.
Circuit Judge