IN THE CITY OF FOREST PARK MUNICIPAL COURT
STATE OF GEORGIA

CITY OF FOREST PARK, *v.* JASON WESLEY CANTRELL, *Defendant.*	Citation No. 723080

DEFENDANT'S PLEA IN BAR

Now comes Defendant, Jason Cantrell, by and through undesigned counsel, and respectfully moves this Court for an Order dismissing the charges against him, pursuant to the First and Fourteenth Amendments to the United States Constitution and Article I, Section I, Paragraphs IV and V of the Georgia Constitution and the Georgia Religious Freedom Restoration Act. Defendant shows the Court the following in support thereof:

1. Defendant, Jason Cantrell, is a street evangelist and preacher who works in the greater Atlanta area.

2. Mr. Cantrell specifically focuses on speaking out on an issue of great public concern: abortion. Mr. Cantrell is passionate in his religious conviction that he should persuade and convince mothers seeking abortions into alternatives that protect unborn lives.

3. Mr. Cantrell, in an effort to maximize the reach of his protected speech, has applied for, and received, permits to utilize amplification in such speech.

4. Specifically, on June 27, 2025, Mr. Cantrell received a "Sound Amplifying Device Permit" to speak at 519 Forest Parkway, Forest Park, GA 30297 (the location of A Preferred Woman's Health Center of Atlanta, an abortion clinic) from 8:00 am – 5:00 pm on July 1, 2025 through September 30, 2025. *See* Exhibit A.

5. However, the permit contained a note that, "If complaints are received about noise level, this Permit will become null and Void." *Id*.

6. On July 31, 2025, Mr. Cantrell went to 519 Forest Parkway and, pursuant to his issued permit, began the use of amplified sound to spread his pro-life message.

7. On that day, an unidentified person who self-identified as "Police" approached Mr. Cantrell and told him he could not use amplification; however, Mr. Cantrell showed the officer his permit, and the officer left.

8. Later that day, the same person approached Mr. Cantrell and stated that he was "disturbing businesses," and continued to insist that Mr. Cantrell reduce the volume. Mr. Cantrell again reminded the officer of his permit and asked that the officer get a supervisor.

9. Later that day, Lieutenant Brittney Sparks of the Forest Park Police Department (FPPD) approached Mr. Cantrell and asked that he produce his permit, and Mr. Cantrell complied. Lt. Sparks then reiterated that, due to complaints received, Mr. Cantrell needed to lower his volume. Lt. Sparks also confirmed that there was no decibel meter in use, and complaints received were the only basis for her decision.

10. Despite his permit, Mr. Cantrell agreed to lower his volume, but told Lt. Sparks that, without any objective measure, he was unsure how much to lower it.

11. Later that day, FPPD Officer Jamal Hunter and a supervising Sgt. Pitts approached Mr. Cantrell and again repeated that they had received complaints about Mr. Cantrell's noise level. They also told him that if they continued to received complaints he would be cited.

12. Later that day, Sgt. Pitts approached Mr. Cantrell and issued him a Uniform Traffic Citation, Summons, and Accusation, charging Mr. Cantrell with "CO-NOISE VIOLATION," violating Forest Park Ordinance 11-1-26.[1]

LEGAL CITATIONS AND ARGUMENT

"A plea in bar can be 'in confession and avoidance, that is admitting the facts charged but setting up new facts, either by way of discharge or in excuse, or justification, in avoidance of liability.'" *Davis v. State*, 838 S.E.2d 233, 234-35 (Ga. 2020) (quoting William H. Lloyd, *Pleading*, 71 U. PA. L. REV. 26, 30 (1922). Here, Defendant concedes that he used amplification, but he did so pursuant to a valid permit. The City attempted to revoke Defendant's permit on the grounds that the permit was conditioned on not "receiving complaints." This is a heckler's veto, something which has been consistently rejected by courts as antithetical to the First Amendment, codified as a condition of the

[1] This is presumably an error, since Sections 26 and 27 of Chapter 1 of Title 11 of the Forest Park City Code have been repealed by Ordinance Number 20-14. *See* § 11-5-1 *et seq.*, Forest Park City Code. This is discussed in Defendant's *General Demurrer*.

permit. As such, that condition is unenforceable as a matter of law, the permit was never revoked, and Defendant's activity was at all times lawful. For that reason, the case should be dismissed.

I. The "If complaints are received" limitation to Mr. Cantrell's Permit is Unenforceable Under the U.S. and Georgia Constitutions.

The use of amplification is protected under the First Amendment to the Constitution. *Saia v. New York* 334 U.S. 558 (1948). Moreover, "[t]he First and Fourteenth Amendments do not permit a State to make criminal the exercise of the right of assembly simply because its exercise may be 'annoying' to some people." *Coates v. Cincinnati*, 402 U.S. 611, 615 (1971). It is true that "the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content' of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). On the other hand, "[c]ontent-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

"A heckler's veto occurs when unpopular speakers are 'convicted upon evidence which show[s] no more than that the opinions which they were peaceably expressing were sufficiently opposed to the views of the majority of the community to attract a crowd and necessitate police protection.'" *Jackson v. Cowan*, 2022 U.S. App. LEXIS 24736, *22 (11th Cir., Sept. 1, 2022) (quoting *Edwards v. South Carolina*, 372 U.S. 229, 237 (1963)). An ordinance cannot "grant… the authority to enforce a 'heckler's veto.'" *Burk v. Augusta-Richmond Cnty.*, 365 F.3d 1247, 1258 (11th Cir. 2004) (Barkett, J., concurring). This is because "[l]isteners' reaction to speech is not a content-neutral basis for regulation. Speech cannot be… punished or banned, simply because it might offend a hostile mob." *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992) (internal citation omitted). A "heckler's veto concern is not enough to survive First Amendment scrutiny." *Oakes Farms Food & Distrib. Servs., LLC v. Adkins*, 154 F.4th 1338 (11th Cir. 2025).

"The First Amendment is a broad umbrella that shelters all political points of view… The 1983 Constitution of Georgia provides even broader protection." *State v. Miller*, 398 S.E.2d 547, 550 (Ga. 1990) (citing GA. CONST. art. I, § 1, par. V). While the Georgia Supreme Court has not yet clearly articulated an independent approach to the issue of heckler's vetoes specifically, it has stated that if faced with a heckler's veto, it will at the very least apply the Federal standard articulated in *Forsyth County* and "dismissively label" then "proudly disregard" the law. *Tucker v. Atwater*, 815 S.E.2d 34, 34-35 (Ga. 2018) (citing *Forsyth Cnty.*, 505 U.S. at 134-35).

II. The "If complaints are received" limitation to Mr. Cantrell's Permit is Unenforceable Under the Georgia RFRA.

The First Amendment to the Federal Constitution also protects the free exercise of religion. While the U.S. Supreme Court has held that this does not abrogate rules of general applicability, *see Employment Div. v. Smith*, 494 U.S. 872 (1990), the Georgia legislature has held the City of Forest Park to a much higher standard by adopting the Georgia Religious Freedom Restoration Act ("RFRA"). GA. CODE ANN. § 50-15A-1 *et seq.* (2025). The Georgia RFRA's definition of "religious exercise" certainly covers Mr. Cantrell's activity, since it covers "any exercise of religion" regardless of whether it is "compelled by, or central to, a system of religious belief." GA. CODE ANN. 50-15A-2. There is simply no argument that mere annoyance of nearby businesses, on a busy and noisy street no less, rises to the "compelling state interest" necessary to satisfy the statute.

The Georgia RFRA states that, if burdening religious exercise, any subdivision of the State must demonstrate a "compelling governmental interest," and that the restriction is the "least restrictive means" of furthering that interest. GA. CODE ANN. §§ 50-15A-1(b); 50-15A-2. This is the articulation of strict scrutiny which is an exacting and well-established standard. To meet it, "[t]he State must specifically identify an 'actual problem' in need of solving, and the curtailment of free speech must be actually necessary to the solution." *Brown v. Entm't Merchs. Ass'n*, 564 U.S. 786, 799 (2011). The Supreme Court went on to say that "[i]t is rare" that regulations ever meet this standard. *Id*.

"A compelling government interest is one that advances 'interests of the highest order.'" *Thai Meditation Ass'n of Ala., Inc. v. City of Mobile*, 83 F.4th 922, 931 (11th Cir. 2023) (quoting *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993)). The Supreme Court has made it clear what categories of speech meet this "highest order" level: incitement, obscenity, defamation, speech integral to criminal conduct, so-called "fighting words," child pornography, fraud, true threats, and speech presenting some grave and imminent threats. *See United States v. Alvarez*, 567 U.S. 709, 717 (2012). Annoyance of passers-by simply does not make the list.

III. The Case Must be Dismissed

The City was never authorized to condition a permit on listeners' reactions to Defendant's speech. Firstly, this clearly violated the U.S. and Georgia Constitutions and their respective guarantees of freedom of speech. Furthermore, as a restriction on Mr. Cantrell's religious activity, the City's interest in protecting local businesses from noise annoyance cannot possibly meet the Georgia Religious Freedom Restoration Act's high burden placed on religious activity. For those reasons, and any other adduced at a hearing on this matter, the Demurrer should be granted and the charges against Defendant should be dismissed.

Respectfully submitted this 20th day of January 2026.

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