International Municipal Lawyers Association
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IMLA NEWS
Issue 2 – January 23, 2014

Due Process: Mandatory $30 Booking Fee Payable By All Arrestees, Even If Not Guilty Or Charges Are Later Dismissed, Is Rational And Does Not Violate Due Process

Markadonatos v. Village of Woodridge, No. 12-2619 (7th Cir. Jan. 8, 2014)

In Woodbridge, Illinois any individual arrested, no matter whether their later adjudication is guilty, not guilty, or dismissed, is required to pay a booking fee of $30. The fee is applied without a hearing and arrestees are unable to challenge the fee or seek reimbursement. Jerry Markadonatos was arrested for theft in January 2011 and had to pay the fee. Ultimately he was adjudicated not guilty after entering a supervision program that he successfully completed. Thereafter, he filed a class action arguing Woodbridge's booking fee violated both his procedural and substantive due process rights. The district court dismissed the case, holding he failed to state a claim for which relief could be granted. He appealed to the Seventh Circuit.

HELD: The Seventh Circuit affirmed, holding both the procedural and substantive due process claims failed.

DISCUSSION: As to procedural due process the Court applied the *Matthews v. Eldridge* test to determine whether Markadonatos stated a claim, therefore evaluating "(1) Mr. Markadonatos' private interest in his $30; (2) the risk of erroneous deprivation under Woodridge's ordinance and probable value of any additional safeguards; and (3) the Government's interest, including the function involved and the fiscal and

administrative burdens that the additional or substitute procedural requirement would entail."

As to the first point, the Court favored Woodridge's argument that small amounts of money are generally given little weight in the test – though it was given "at least some weight." As to erroneous deprivation, the Court held it was practically nonexistent because "every person who is arrested is charged the booking fee, regardless of whether they were arrested without probable cause." Since the Court "could not envision" a situation where someone not arrested would pay the fee it saw no need for additional safeguards. And finally, the Court found Woodridge did have an interest in the $30 it collected because it offset, at least partially, the administrative costs associated with prosecuting Markadonatos. Moreover, the Court noted Woodridge has an interest in avoiding an additional hearing before or after taking the booking fee because it would likely add "substantial costs." As a result of this balance, the Court ultimately held that "Woodridge's general interest in covering booking costs of the arrestees in its custody, and specifically in offsetting the costs of holding Mr. Markadonatos temporarily, outweighs Mr. Markadonatos' own interest in his money, especially when balanced with the exceedingly low likelihood that the fee would be imposed on him or other arrestees erroneously."

The Circuit Court easily disposed of Markadonatos' substantive due process claim by taking the position that the $30 fee was extremely modest and therefore did not implicate a fundamental right. Given that finding, all the court had to determine was that the fee was rational and not arbitrary. The fee was deemed rational, as collecting money from arrestees was clearly related to the goal of offsetting the costs of booking them.

DISSENT: The dissent found the booking unconstitutional on its face given that it takes property without due process of law. It noted first that the right to property is one of the most fundamental rights in our country and therefore the government cannot deprive one of it without due process. In this case the dissent saw the deprivation as inevitable from the moment a police officer arrests a person – since there is no hearing and since the money is taken from all defendants regardless of the outcome of the case, the prosecution, or the validity of the arrest. The dissenting judge therefore found it a prematurely applied criminal fine.

The dissent found the majority's *Eldridge* test application circular and erroneous; the majority had held that since the fee is imposed on all, there is zero chance of erroneous deprivation. For the dissent, the test should yield the opposite result: (1) a person's cash is private property protected by the Constitution; (2) the risk of erroneous deprivation is very high since it is one single police officer who determines whether the booking fee will be charged and there is no review process whatsoever, and (3) the government interest in charging such a fee to defendants who will not be convicted is nil. Lastly, for the dissent, there is no marginal cost for the government because putting off fee collection until defendants are actually convicted does not prejudice the Village.

In the end, the problem for the dissent was that the fee was charged to all individuals no matter the disposition of their case, resulting in punishment before adjudication.

http://legaltimes.typepad.com/files/usca7-booking-fees.pdf (Last Accessed January 23, 2014)

Eminent Domain: Idaho Law Does Not Grant Cities Extraterritorial Eminent Domain Powers Unless Specifically Enumerated

Alliance for Property Rights v. City of Idaho Falls, No. 12-35800 (9th Cir. Dec. 31, 2013).

The City of Idaho Falls, Idaho owns Idaho Falls Power, which supplies electricity to thousands of commercial and residential customers in the City. The power lines and distribution systems for the electricity are both inside and outside the City's borders. With growing needs, the City embarked on an expansion, first put in place in the 70s and re-affirmed in 2007, which included plans to build transmission lines outside the City's borders to connect to existing substations. To execute the plans, easements for private property were needed. The City initially sought to buy the necessary properties, but when some owners refused to sell, the City sought to condemn the properties. In response the property owners joined together as the Alliance for Property Rights and sought injunctive and declaratory relief, contending 1) Idaho Falls could not condemn extraterritorial property in order to build transmission lines and 2) that without that authority, the condemnation would violate the Due Process Clause of the Fourteenth Amendment.

The City removed the case to federal district court which entered summary judgment for the Alliance, holding Idaho law did not give Idaho cities the power to condemn extraterritorial property for the purpose of building transmission lines. The City appealed.

HELD: The Ninth Circuit affirmed the district court, holding that Idaho law does not grant cities the express or implied authority to exercise the right of eminent domain over extraterritorial property for the purpose of constructing transmission lines.

DISCUSSION: The issue on appeal was whether Idaho law granted Idaho cities the power of eminent domain over easements that lie outside the borders of the City for the specific purpose of building electric transmission lines. Under Idaho Supreme Court precedent municipalities have three sources of power: "(1)] [p]owers granted in express words; [(2)] [p]owers fairly implied in or incident to those powers expressly granted; and [(3)] [p]owers essential to the accomplishment of the declared objects and purposes of the corporation."