the facts here did not indicate that was the case. Furthermore, if employers fear such an abuse they can require certifications from doctors before signing off on the leave. In the end the Circuit Court was fixed on the fact that FMLA leave would have been granted if Ballard had asked for the time to care for Sarah in Chicago or if Sarah lived in Las Vegas and Ballard traveled there to care for her. The court did not see a reason to treat the scenario of traveling with a parent any differently.

http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2014/D01-28/C:13-1445:J:Flaum:aut:T:fnOp:N:1281302:S:0 (last accessed Feb. 5, 2014)

Field Code Changed

Formatted: Font: (Default) Arial

Guns: Louisiana Laws Prohibiting Juvenile Gun Possession and Concealed Carry Are Not Invalidated by Revised Constitution Stating "Any Restriction of this Right Shall Be Subject to Strict Scrutiny."

Formatted: Font: (Default) Arial

***State of Louisiana in the Interest of J.M.*, No. 2013-CK-1717 (La. Jan. 28, 2014).**

Formatted: Font: (Default) Arial

In December 2012, J.M., a juvenile in Baton Rouge was charged with knowingly possessing a handgun in violation of La. R.S. 14:95.8, and intentionally concealing a weapon in violation of La. R.S. 14:95(A). The first of these laws prohibits juveniles from carrying handguns, but provides seven exceptions, including those for hunting and shooting ranges and parental supervision and/or permission. None of the exceptions applied to J.M, and the State brought charges against him in juvenile court for East Baton Rouge Parish..

Formatted: Font: (Default) Arial

Just four days before J.M.'s arrest for these offenses, Louisiana had passed a Constitutional amendment. It changed La. Const. art. I, §II from the statement that "The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person," to instead read "The right of each citizen to keep and bear arms is fundamental and shall not be infringed. Any restriction of this right shall be subject to strict scrutiny."

Formatted: Font: (Default) Arial

J.M.'s lawyer challenged the statutes under which the juvenile was charged, alleging both were unconstitutional because they failed strict scrutiny.

Formatted: Font: (Default) Arial

The juvenile court found the State had a compelling interest in preventing juveniles from possessing handguns, but that only three of the seven exceptions were narrowly drawn, striking the rest from the statute. As to the second statute, which prohibited carrying concealed weapons, the court found the government had a compelling interest in such a law, but that it was not narrowly drawn—the law was unconstitutional as it related to juveniles since juveniles were already prohibited from carry handguns under the first statute. The State challenged both findings, seeking direct review in the state supreme court.

Formatted: Font: (Default) Arial

HELD: The Louisiana Supreme Court reversed the juvenile court, finding both statutes constitutional.

DISCUSSION: The court began by laying out the general contours of strict scrutiny analysis, including that the state is not entitled to a presumption of validity, but instead has a "heavy burden" to prove the compelling reason for the regulation and that no less restrictive rule was available. As for the first statute – prohibiting handgun possession by juveniles except in seven circumstances – the court easily found the state's interest in protecting children and the public in general to be compelling. It noted "common sense, science and social science agree that juveniles exhibit a sometimes transient lack of maturity, impetuosity, suggestibility and vulnerability which would make the possession of a handgun by a juvenile a danger for the public and the juveniles themselves." Unlike the juvenile court, which struck down four of the seven exceptions, the court found the entire law narrowly tailored because it limited only one type of gun – handguns – from a specific group – those 16 and younger – and allowed this group to have a gun in two general circumstances – transporting to or using a gun for a shooting range, firearms safety course, or hunting activity and when a parent gives a juvenile permission to use a gun on his/her property or the property of another.

As for the second statute at issue, which prohibits the intentional concealment of a firearm, the court also held it withstood strict scrutiny analysis. J.M. initially argued that the change in the language of the state Constitution eliminated the legislature's authority to prohibit carrying concealed weapons. The Court disagreed, saying that in changing the law the voters and legislators did not intend to restrict the passage of all laws on the subject or invalidate those already on the books, but instead to simply ensure that all new laws, and those already existing, pass strict scrutiny. The court disagreed with the juvenile court finding that, because the law prohibiting concealed carrying overlapped with the law prohibiting juveniles from possessing handguns, the latter failed strict scrutiny. The court was "not aware of how this statutory arrangement conflicts with any constitutional principle."

J.M. offered three reasons why the law should fail strict scrutiny, but the court disagreed with all of them. First, he posited that there is no compelling reason for the law as applied to juveniles. However, the court pointed to a long history in the state of limiting concealed carrying, citing laws and cases as far back as 1813, and said that it exactly the type of "long-standing limitation on the right to keep and bear arms . . . which voters were aware of when they voted for the constitutional amendment." Second, J.M. argued since the state gives out concealed carry weapon permits with extremely low standards, the government's stated interest in public safety as a rationale for the law is negated. The court disagreed, noting that when a person turns over his ID and shows he is competent with a handgun, there is "at least some indicia that the individual intends to carry a concealed weapon for a lawful purpose, i.e. the defense of self or property."

J.M.'s final argument was that there is no need for the concealed carry law because the Second Amendment and the Louisiana Constitutional article protecting the right to keep and bear arms are themselves public safety measures. The court answered however that the legislature has the authority to enact overlapping statutes prohibiting carrying concealed weapons.

Lastly, the court found the concealed carry law narrowly tailored because it does not prohibit any more conduct than necessary – it stops people from carrying a concealed weapon in public – and it even allows people to carry concealed weapons with a permit. Moreover, it is not under-inclusive because it includes all firearms and anything else "customarily used or intended for probable use as a dangerous weapon." The court reversed the juvenile court, and held both laws met strict scrutiny and were lawful under the new Louisiana Constitution.

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

http://theadvocate.com/csp/mediapool/sites/dt.common.streams.StreamServer.cls?STREAMOID=ORQKKbS$ZKNCePS65HCatJM5tm0Zxrvol3syvaAHBAkOG234cJ8J5nCx3J1Imtf9E0$uXvBjavsllACLNr6VhLEUIm2tympBeeq1Fwi7sliqrCfKm_F3DhYfWov3omce$8CAqP1xDAFoSAqEcS6kSQ--&CONTENTTYPE=application/pdf&CONTENTDISPOSITION=LaSupremeCourt.pdf (last accessed Feb. 5, 2014)

RLUIPA: Ordinance Prohibiting Non-Commercial Entities Including Churches From "Highway Commercial" Area Does Not Violate RLUIPA or First Amendment

***Alger Bible Baptist Church v. Township of Moffat*, No. 13 cv. 13637 (E.D. Mich. Feb. 5, 2014).**

Moffatt Township, Michigan (Moffatt) enacted a zoning ordinance (Ordinance) that precludes non-commercial buildings, including churches, in any area zoned "Highway Commercial." The purpose of that district "is to encourage the development of general retail, service, warehousing and distribution business, and light industry in conjunction with the M-76/M-33/I-75 interchange area." The Ordinance provides for six different types of zoned districts: (1) forested; (2) agricultural/rural residential; (3) residential; (4) village mixed use; (5) general commercial; and (6) highway commercial. Churches are not included as a primary use for any of the six districts; they are permissible "conditional uses"—upon acquiring a "Special Use Permit"—in forested districts, agricultural/rural residential districts, residential districts, and village mixed districts.

Despite the Ordinance, Alger Bible Baptist Church (ABBC) attempted to purchase an ice cream shop surrounded by 5.5 acres located in the highway commercial district, intending to erect a church in close proximity to I-75. After signing an agreement to purchase the land, ABBC attempted to have the property rezoned to "forested" land, which might allow a church as a Special Use. In July 2013, Moffatt's Planning Commission and Township Board held public meetings at which each body unanimously voted to deny the requested rezoning. ABBC filed suit, alleging that Moffatt "continues to enforce a Zoning Ordinance that treats religious organizations on less than equal terms compared to similar non-religious assemblies" in violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA). ABBC also alleged claims under the First and Fourteenth Amendments and the Michigan Constitution and moved for injunctive relief to prevent Moffatt from enforcing the Ordinance.

HELD: The United States District Court for the Eastern District of Michigan granted Moffat's motion to dismiss.

DISCUSSION: The court's analysis centered on ABBC's likelihood of success; without that factor, the church's motion to enjoin would fail. Each of ABBC's five charges was evaluated.

The first was that the Ordinance violated ABBC's right to freely exercise its religion. Despite the sweeping scope of the First Amendment's Free Exercise Clause, however, the Supreme Court has established, "[the] right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion proscribes (or prescribes)." *Dep't of Human Res. of*

Formatted: Font: (Default) Arial, Not Bold
Field Code Changed
Formatted: Font: (Default) Arial
Formatted: Font: (Default) Arial
Formatted: Font: (Default) Arial
Formatted: Font: Arial
Formatted: Font: Arial
Formatted: Font: Arial
Formatted: Font: Arial
Formatted: Font: Arial