

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania	:	
	:	
v.	:	No. 286 C.D. 2010
	:	SUBMITTED: August 27, 2010
Gregory B. Jackson,	:	
Appellant	:	

OPINION NOT REPORTED

**MEMORANDUM OPINION
PER CURIAM**

FILED: October 14, 2010

Gregory B. Jackson appeals, *pro se*, from the order of the Court of Common Pleas of Allegheny County, which found him guilty of reselling professional sports tickets without a license, and imposed a fine of \$300, plus costs.¹ Jackson’s arguments are difficult to glean from his submissions to this court, but he appears to argue that he was denied due process at trial, and that the ordinance under which he was convicted is preempted by statute. We affirm.

The trial record reveals the following relevant facts. Jackson was observed by an officer of the City of Pittsburgh Police selling tickets for a Pittsburgh Pirates game in an area where a license to sell such tickets is required by Section 726.01 of the City of Pittsburgh Code (Code).² The officer approached

¹ This appeal was originally filed with the Superior Court, but was transferred to this court as a matter involving rights under an interpretation of a local ordinance. *See* 42 Pa. C.S. § 762(a)(4).

² Section 726.01(a) reads, in relevant part:

A person may not sell or offer for sale any ticket for admission to any event at Heinz Field or PNC Park on a public street, sidewalk, public right-of-way, or any other City or publicly owned property,

(Footnote continued on next page...)

Jackson and asked him to move out of the area in which ticket resale is prohibited. When the officer later observed that Jackson had not moved, he asked Jackson to produce a license to resell tickets. When Jackson did not produce one, the officer wrote a citation.

At trial, Jackson appeared to argue that Section 726.01 of the Code was preempted by statute. He also attempted to read a lengthy written statement and two news articles into the record. The common pleas judge allowed Jackson to begin his statement, but soon cut him off, instead allowing both the statement and the news articles to be put into the record. The statement was not entirely coherent, but seemed to allege that Jackson's prosecution in this case was a malicious attempt to keep him from being financially able to participate in an unrelated lawsuit, in which he alleged that prison guards in the state of Texas were covertly administering stolen drugs to inmates. The two articles Jackson attempted to read into the record both involved unrelated crimes of violence committed by law enforcement officers. Jackson was found guilty, and an appeal to this court followed.

On appeal, Jackson argues that the ordinance under which he was convicted was preempted by statute, and that his due process rights were violated when the common pleas judge did not let him finish reading his statement.

(continued...)

except in the Reselling Zone created in [section] 726.06 of this chapter, without first obtaining a license from the Bureau of Building Inspection ("Bureau"). The licensee shall carry the license at all times while engaging in the business of ticket sales, and shall if requested to do so by a law enforcement officer, permit the officer to examine and review the license.

Jackson appears to argue that the Code is preempted by Sections 2 and 3 of the Act of May 2, 1947, P.L. 143, *as amended*, 4 P.S. §§ 202-203. The doctrine of preemption establishes a priority between potentially conflicting laws enacted by various levels of government. Under this doctrine, local legislation cannot permit what a state statute or regulation forbids or prohibit what state enactments allow. *Penneco Oil Co., Inc. v. County of Fayette*, ___ A.2d ___, 2010 WL 2853639 (Pa. Cmwlth. 2010), citing *Liverpool Twp. v. Stephens*, 900 A.2d 1030 (Pa. Cmwlth. 2006). Jackson appears to argue that the statutory provisions preempt the Code because they govern the distance between a sports venue and the location from which tickets must be sold. However, there is simply nothing in the statutes cited that can be construed as doing so. In addition, while the cited statute deals with the same general subject matter as the Code provision at issue, the resale of tickets, there appears to be no conflict between the statutes and the Code and, therefore, no case can be made for preemption.³

In addition, we find that Jackson’s due process rights were not violated at trial. Due process requires that an individual be given adequate notice of the charges against him and an opportunity to be heard. *Schwalm v. Pa. Sec. Comm’n.*, 965 A.2d 326 (Pa. Cmwlth. 2009). However, that right was not violated when the common pleas judge refused to let Jackson read his entire prepared statement into the record. A trial judge “has the responsibility and authority to maintain in the courtroom the appropriate atmosphere for the fair and orderly

³ In fact, an examination of Code and statute at issue reveals that, far from being at odds with each other, the two are entirely consistent. 4 P.S. § 202 bans the resale of tickets unless the seller has first obtained a license from the local authority in which the sale will take place; Section 726 of the Code establishes how one obtains such a license in Allegheny County, and regulates the circumstances in which they can be used.

disposition of the issues presented.” *Commonwealth v. Smith*, __ Pa. __, __, 995 A.2d 1143, 1154 (2010). Part of that responsibility involves keeping the argument focused on relevant topics. A careful review of the transcript makes clear that Jackson was given every opportunity to respond to the allegations against him, and that he was cut off only when it was clear that he had gone irretrievably off topic. Even then, the statement and articles were admitted, just not allowed to be read in court. The trial judge did not err in requiring Jackson to limit his comments to the case at bar.

For all the foregoing reasons, we affirm.

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ORDER

PER CURIAM

AND NOW, this 14th day of October, 2010, the order of the Court of Common Pleas of Allegheny County in the above-captioned matter is hereby AFFIRMED.