

ALEXIS LUTTRELL,

Plaintiff,

v.

CITY OF GERMANTOWN,
TENNESSEE,

Defendant.

Civil Action No.: _____

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4. The Holiday Decorations Ordinance violates the First Amendment. It is a content-based and viewpoint-discriminatory restriction on speech. It is not narrowly tailored to a compelling government interest. And it is unconstitutionally vague, allowing government officials to arbitrarily punish holiday expression based on their subjective beliefs.

5. Without this Court's intervention, the Holiday Decorations Ordinance

Plaintiff

10. Plaintiff Alexis Luttrell is a resident of Germantown, Tennessee. She holds a J.D. from the University of Memphis School of Law, previously lectured journalism students on communications law, and now works in ethics and compliance.

11. With her family, Luttrell incorporates decorative skeletons into displays in her yard to celebrate various holidays and events, changing and updating the decorations seasonally. She wants to continue doing so.

12. Because of her decorative skeletons, she has received a citation from Germantown, and she risks additional citations, fines, and other penalties if she continues to display them.

Defendant

13. Defendant City of Germantown is an incorporated city in the County of Shelby and State of Tennessee. Germantown, Tenn., Charter § 1.01 (2024).

14. The Tennessee General Assembly granted it a Mayor-Aldermanic Charter. 1985 Tenn. Priv. Acts ch. 87. Municipalities with Mayor-Aldermanic Charters, such as Germantown, have authority to consider and pass ordinances. Tenn. Code Ann. § 6-2-102 (2023). Germantown, through its Board of Mayor and Aldermen, enacted the Holiday Decorations Ordinance.

15. Germantown also has the authority to enforce its ordinances, including the Holiday Decorations Ordinance. Germantown, Tenn., Charter § 2.02(27) (2024).

Germantown has enforced and continues to enforce the Holiday Decorations Ordinance against Luttrell and other residents.

16. Section 11-33 of Germantown’s Code of Ordinances restricts a resident’s freedom to decorate their houses and yards with holiday decorations.

17. This ordinance vests city officials with the power to punish residents who use decorations that—in the subjective view of city officials—are not “intended” to celebrate an upcoming, current, or recent holiday.

18. The Holiday Decorations Ordinance provides:

Holiday and seasonal decorations, including, but not limited to, holiday lights on houses or in the yard or shrubbery, yard ornaments or decorations, and the like, shall not be installed or placed more than 45 days before the date of the holiday for which said decorations are intended and shall be removed within a reasonable period of time, not to exceed 30 days, following the date of the holiday for which said decorations were intended. Holiday lights, even if not illuminated, are not permitted to remain on any house or structure year-round.

Germantown, Tenn., Code § 11-33(a) (2024).

19. It further provides: “Temporary residential and non-residential lighting displays shall not be installed or placed more than ten days prior to the special event and no more than 30 days total.” *Id.* § 11-33(b).

20. If a citizen violates the Holiday Decorations Ordinance, Germantown “shall

21. "If the notice of violation is not complied with," Germantown shall "institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation." *Id.* § 11-8(a).

22. Germantown authorizes a code official "to issue a citation to a person when, based upon personal investigation, the code official has reasonable cause to believe that the person has committed a violation." *Id.*

23. Any person who violates the Holiday Decorations Ordinance "shall be deemed guilty of a misdemeanor and, upon conviction, shall Be [sic] fined up to the maximum amount allowed by law." *Id.* § 11-8(b).

24. The code provides for "a fine or monetary penalty not exceeding \$500.00 for each such violations." *Id.* § 1-10.

25. "Each day's continuance of a violation shall be considered a separate offense." *Id.* § 11-8(b).

26. Any person who violates the Holiday Decorations Ordinance "shall also be subject to injunctive proceedings to enforce compliance." *Id.*

27. In addition, the code authorizes Germantown officials to "enter upon the property . . . to correct said violation" themselves. *Id.* § 11-9(a).

28. Luttrell's daughter is a member of a Facebook group for owners of decorative skeletons, in which members post photographs showing how they creatively incorporate decorative skeletons into yard displays for different holidays.

See 12 Foot Skeleton Owners Group, FACEBOOK, <https://m.facebook.com/groups/179562984163315/> (last visited Feb. 5, 2025).

29. With the help of her daughter and sister, Luttrell decorated her yard in advance of Halloween, creating a display that included two decorative skeletons—an eight-foot human and a correspondingly sized dog—that Luttrell purchased in early October 2024.

30. Germantown took no action against her for the display of the skeletons at Halloween.

31. In anticipation of Election Day on November 5, 2024, Luttrell placed campaign signs supporting various candidates in front of and behind her skeletons, including signs supporting Vice President Kamala Harris's campaign. The human skeleton held a flag depicting Donald Trump's hairdo with the words "Nope" and "Not again."

32. On December 6, 2024, a Germantown code officer visited Luttrell's property and left a notice of violation.

33. That notice marked "Removal of Seasonal/Holiday decorations" as the area of concern, and the code officer wrote "11-33" next to it, referring to the Holiday Decorations Ordinance, § 11-33. The notice gave Luttrell seven days to correct the alleged violation.

34. Shortly after receiving the notice, Luttrell redecorated her yard for Christmas.

35. Her Christmas display featured an inflatable Santa and Christmas tree and included her decorative skeletons, with the human in a green wreath necklace

and green-and-red tutu, holding a leash (made from garland) leading the dog, which wore a Christmas-tree hat:

36. On January 6, 2025,

matching red flower crown and a “Free Kisses” bandana. They are surrounded by two inflatable hearts, an inflatable “Love” sign, multiple heart decorations, and a “Love is Love” sign:



40. Luttrell has plans to incorporate her skeletons into decorations celebrating upcoming holidays, including St. Patrick’s Day, Easter, and Pride Month. She intends to continue incorporating her decorative skeletons into her holiday displays in the coming years.

41. Holiday decorations like Luttrell’s are inherently expressive, whether they are meant to commemorate a holiday in a secular or religious way, make a statement on an issue of social or political significance, or inspire joy or laughter in others.

42. Luttrell designs her holiday displays to celebrate special events in a fun and whimsical way, bringing joy to herself, her family, and people walking by her

home. In some of her holiday displays, Luttrell also incorporates commentary on social and political issues, such as supporting or opposing political candidates (as with her Election Day display) or expressing support for communities she allies with (as with the "Love is Love" theme in her Valentine's Day display).

43. Nevertheless, Germantown intends to continue enforcing its Holiday Decorations Ordinance against Luttrell and other residents who display decorations, on their homes or in their yards, that officials decide are holiday decorations celebrating the wrong holiday.

44. Commenting on Luttrell's holiday skeletons, Cameron Ross, Germantown's Economic and Community Development Director, told a reporter that Germantown has enforced the Holiday Decorations Ordinance against at least nine Germantown residents because of decorative skeletons, most of whom took down their skeletons to avoid fines or other penalties.

45. As to Luttrell, Ross said: "The resident in question has claimed the

48. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion)); accord *Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998).

49. Luttrell has suffered and continues to suffer irreparable harm due to the Holiday Decorations Ordinance’s prohibition on First Amendment-protected expression, which continues so long as the ordinance remains in effect.

50. Because of the Holiday Decorations Ordinance, Luttrell is facing

55. This irreparable harm will continue absent declaratory and prospective injunctive relief.

56. Because Germantown's ongoing restraint of and threat to Luttrell's protected expression presents an actual controversy within this Court's jurisdiction, Luttrell is entitled to a judgment declaring her rights and the legal relations between the parties.

57. Luttrell realleges and reincorporates the preceding paragraphs as though fully set forth herein.

58. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I.

59. "All manner of speech—from 'pictures, films, paintings, drawings, and engravings,' to 'oral utterance and the printed word'—qualify for the First Amendment's protections" 303 *Creative LLC v. Elenis*, 600 U.S. 570, 587 (2023) (quoting *Kaplan v. California*, 413 U.S. 115, 119–120 (1973)). Moreover, our law and culture accords "special respect" to expression occurring at one's home. *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994).

60. Luttrell's creation of holiday displays in her yard to celebrate different holidays and special events, including her incorporation of skeletons into those displays, is expression protected by the First Amendment.

61. The Holiday Decorations Ordinance violates the First Amendment, on its face and as applied to Luttrell, for several reasons. To start, it is a content-based regulation of protected expression that does not survive strict scrutiny.

62. Ordinances that subject speech to different requirements based on the speech's content are subject to strict scrutiny. *Reed v. Town of Gilbert*, 576 U.S. 155, 159 (2015). That includes ordinances that carve out "holiday signs" or "holiday decorations" for differential treatment. See, e.g., *Camp Hill Borough Republican Ass'n v. Borough of Camp Hill*, 101 F.4th 266, 269 (3d Cir. 2024). To survive strict scrutiny, an ordinance must be narrowly tailored to serve a compelling government interest. *Reed*, 576 U.S. at 172.

63. Because it treats expression "intended" to celebrate a holiday differently from other expression, the Holiday Decorations Ordinance is a content-based restriction on expression subject to strict scrutiny. Because it is not narrowly tailored to serve any compelling government interest, it violates the First Amendment.

64. In addition, the Holiday Decorations Ordinance violates the First Amendment because it discriminates based on viewpoint.

65. When a regulation targets not only the subject matter of speech but also the speaker's particular views on a subject, the First Amendment violation is "all the more blatant." *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829

(1995). Viewpoint discrimination is “an egregious form of content discrimination” and thus presumptively unconstitutional. *Id.*

66. The Holiday Decorations Ordinance, in restricting expression based on the “intended” holiday of celebration, discriminates based on viewpoint. The ordinance restricts expression that disagrees with government officials’ subjective view of what decorations appropriately celebrate a particular holiday.

67. In Luttrell’s case, for example, a Germantown official opined that, notwithstanding Luttrell’s

72. The content-based, viewpoint-discriminatory, and impermissibly vague Holiday Decorations Ordinance is the moving force behind the deprivation of Luttrell's constitutional rights.

73. Germantown's enforcement of the Holiday Decorations Ordinance—including warning Luttrell to take down her decorations or face consequences, citing her for her decorations, and summoning her to municipal court where she faces fines and additional penalties—is causing and will continue to cause the deprivation of Luttrell's constitutional rights.

74. Without declaratory and injunctive relief against Germantown's content-based and viewpoint-discriminatory Holiday Decorations Ordinance, Germantown will continue to violate Luttrell's First Amendment rights, requiring her to either self-censor protected expression or continue to express herself with holiday decorations and face additional citations, fines, and other penalties.

standardless that it authorizes or encourages seriously discriminatory enforcement.” *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (quoting *United States v. Williams*, 553 U.S. 285, 306 (2008)).

78. When a regulation “is capable of reaching expression sheltered by the First Amendment,” the vagueness doctrine “demands a greater degree of specificity than in other contexts.” *Smith v. Goguen*, 415 U.S. 566, 573 (1974).

79. The Holiday Decorations Ordinance is vague, on its face and as applied to Luttrell, because it provides no guidance to the public or to enforcing officials which decorations are “intended” to celebrate a qualifying “holiday” or how to make those determinations. That grants officials unfettered discretion to arbitrarily enforce the Holiday Decorations Ordinance according to their own beliefs about what decorations necessarily celebrate, or do not celebrate, a particular holiday.

80. For example, in discussing the citation Germantown gave to Luttrell, a Germantown official expressed the viewpoint that skeletons are necessarily “Halloween-themed” and thus prohibited on homes or in yards, for the celebration of other holidays or otherwise, outside of the designated window of time that the Holiday Decorations Ordinance provides on either side of Halloween.

81. Without declaratory and injunctive relief against Germantown’s Holiday Decorations Ordinance, the vague prohibition on decorations placed on days too long before or after their “intended” holiday will continue to violate Luttrell’s rights, requiring her to either self-censor protected expression or continue to express

herself with holiday decorations and face additional citations, fines, and other penalties.

For these reasons, Luttrell respectfully requests that this Court enter judgment against Germantown and issue the following relief:

A. Declare that Germantown's censorship of Luttrell for her holiday decorations violates her rights under the First and Fourteenth Amendments;

B. Declare that the Holiday Decorations Ordinance, Germantown, Tenn., Code § 11-33(a) (2024), violates the First Amendment, on its face and as applied to Luttrell's expression, because it is content based and viewpoint discriminatory and is not narrowly tailored to any compelling governmental interest.

C. Declare that the Holiday Decorations Ordinance violates the Due Process Clause of the Fourteenth Amendment, on its face and as applied to Luttrell's expression, because it is vague, fails to give fair notice to the public, and gives officials discretion to arbitrarily enforce it according to their own subjective beliefs.

D. Enter a preliminary and permanent injunction enjoining Germantown and its agents, officials, servants, employees, and persons acting in concert with it, from enforcing the Holiday Decorations Ordinance;

E. Award reasonable attorneys' fees and costs under 42 U.S.C. § 1988 and any other applicable law; and

F. Award such other relief as the Court may deem just and proper.

