

IN THE ASHLAND MUNICIPAL COURT
ASHLAND COUNTY, OHIO

STATE OF OHIO,

Case No. 23TRD00798, 23TRD 03198,
23TRD01188, 23TRD03348

Plaintiff

-vs-

ANDREW SLABAUGH,
DAN TROYER, EMERY TROYER,
AND JACOB GINGERICH

Defendant

JUDGMENT ENTRY
REGARDING DEFENDANTS'
MOTIONS TO DISMISS

This matter came before the Court for evidentiary hearing on the Motions to Dismiss filed by Defendants. The cases were heard together, and The Court has combined them for purposes of decision. The Defendants are all members of Old Order Amish sects within Ashland County, consisting of the Swartzentruber family and allied families, who share the same religious beliefs. Defendants have all been charged with violations of Section 4513.114(B)(1), a relatively new Ohio statute which requires all horse drawn vehicles operated on public roads or streets within the State to have a flashing yellow light, which is visible from a distance of at least one-thousand feet, at all times of the day or night. Defendants assert that Section 4513.114(B)(1) violates their right to freely exercise their religion under the First and Fourteenth Amendments of the U.S. Constitution and under Article 1, Section 7 of the Ohio Constitution.

All four Defendants were present, unrepresented by Counsel. The State of Ohio was represented by Assistant Director of Law Joseph Olecki. All parties were given the opportunity to present evidence and did so. Each of the Defendants testified regarding their religious objections to the statute, and regarding the impacts complying with the statute would have upon their lives and

their consciences. Defendant's also presented the testimony of Dr. Corey Anderson, a sociologist who studies Amish culture. Dr. Anderson's Master's Thesis was on the subject of buggy crashes. Abraham Hershberger, a member of the local Amish buggy safety committee, also testified for Defendants, as did Andy Zook, a leader among the conservative Ashland County Amish community.

The Defendants and their witnesses explained the basis for their religious objections to Section 4513.114(B)(1). In doing so they often referred to the "traditions" of their ancestors relating to living a simple life with as little technology as possible. They also explained their objections to bright colors, flashing lights, and other things that would call attention to themselves. While the witnesses often spoke of "traditions" and "matters of conscience," it was patently clear to the Court that those objections were based on sincerely held religious beliefs, as opposed to mere cultural practices. For example, they believe that the Christian Bible, through the Ten Commandments, requires them to honor the traditions and practices of their ancestors, including dark clothing and unlit buggies. Their objection to bright colors has its origins in the colorful robes worn by those the New Testament says persecuted Christ. The testimony of the Defendants regarding their faith and the lifestyle it demands, was as credible as any testimony the Court has ever heard. Frankly, it is hard to see how anyone could, in good faith, question the sincerity of the Defendants' religious beliefs. The Defendants object to the flashing yellow light requirement because the light is yellow, because it flashes, and because the light requirements can only be met by using electricity. Their Bishops have forbidden electric lights being installed on their buggies, and complying with the statute is likely to result in them being "shunned," which is a form of excommunication that would result in even their own families disowning them.

The State presented the testimony of Rep. Scott Wigham, a member of the Ohio General Assembly. Rep. Wigham testified at length regarding the process the General assembly went through to arrive at the terms of Senate Bill 30, which became Section 4513.114 when passed. Rep. Wigham was a primary sponsor of the Bill in the House. He described over two years' worth of meetings with various Amish groups and public safety officials, reviews of numerous traffic safety studies, and amendments and modifications of the Bill's requirements. Rep. Wigham testified that every effort was made to address the very real problem of car on buggy crashes, while having as little impact on the ability of the Amish religious practices as possible. He indicated that several suggested regulations were rejected by the General Assembly because they were deemed too restrictive. According to Rep. Wigham, the State of Ohio has been trying to address the unacceptable number of car on buggy crashes for at least thirty years. He described the past efforts, including requiring lanterns, reflective tape, reflectors, and slow moving vehicle signs. The State has also provided educational materials to the Amish and the non-Amish alike, and posted signs warning of the presence of buggies in areas where they are likely to be encountered. Those efforts have failed to reduce the number of car on buggy crashes. The primary reason for this is that, contrary to the myths spread by people who harbor animus against the Amish, most car on buggy crashes do not occur on hills, or curves, or in the dark. The majority of car on buggy crashes occur in broad daylight, and on straight sections of road. Most car-buggy accidents occur on State Routes where motorists are traveling at or in excess of 55 miles per hour. Over 80% of car-buggy accidents occur on dry pavement with no adverse weather. The State has determined, through years of studying car-buggy crashes, that the primary cause of those crashes is the speed differential between motor vehicles and horse-drawn vehicles. Motorists have only a few seconds to recognize that the object

ahead of them is a buggy and abruptly slow down. Testimony in this case established that, if a car is going 55 m.p.h. and comes upon a buggy going less than 6 m.p.h., 500 feet ahead, the driver of the car will have six seconds to slow down dramatically, or a crash will probably result. If the motorist is distracted, speeding, impaired or not paying attention, that window for reaction closes even tighter. According to Rep. Wigham, reducing the number of car on buggy crashes can be achieved by helping the motorists identify buggies more quickly. That is the rationale behind the flashing yellow light requirement of Section 4513.114(B)(1). The State has determined that yellow is a color associated by motorists with caution, and that most motorists tend to lift off the throttle pedal, almost subconsciously, when they see a flashing yellow light. The State has determined that a flashing yellow light is superior to reflective tape, slow moving vehicle signs, reflectors and lanterns, because all of those devices are only effective at night. Reflective tape, reflectors and SMV signs require the application of head lights from behind in order to function. They have very little value in daylight conditions when most car on buggy crashes occur. According to Rep. Wigham, the General Assembly considered alternatives to requiring a flashing yellow light, but found them all to be inadequate.

The State also presented the testimony of retired Ohio State Highway Patrol Lieutenant Stephanie Norman. The Lieutenant testified about various efforts the State has made over the years, primarily through education, to decrease the number of car-buggy crashes. She also testified regarding various traffic studies which had been performed by the State and others. The Court found her testimony to be largely redundant.

Lt. Bishop of the Ashland OSP post also testified for the State. Lt. Bishop is also a Technical Crash Investigator for the State Highway Patrol. His testimony primarily covered the

severity of the problem of car on buggy crashes. According to Lt. Bishop, between January 1, 2018 and June 26, 2023, there were 720 car on buggy crashes in Ohio. Seventeen of those were fatal. That represents an average of 135 car on buggy crashes per year in the State. Lt. Bishop confirmed that most of those crashes have occurred during the day on State Routes. According to the Lieutenant, in the time between Section 4513.114(B)(1) becoming effective (8/31/22) and the time of the Court's hearing on Defendants' Motions to Dismiss, there were 80 car-buggy crashes in Ohio. The average number of car-buggy crashes in the State for that same period over the last eight years was 103. This appears, quite convincingly, to show that the yellow light requirement has in fact resulted in a significant reduction in car on buggy crashes, a reduction of roughly 22 percent. Lt. Bishop could not point to any explanation for the 22 percent decline, other than the enactment of section 4513.114(B)(1).

Lt. Donald Sims of the Ashland County Sheriff's Department also testified for the State. Lt. Sims is the Community Policing Officer and works closely with members of the Amish community in Ashland County. Lt. Sims estimated that roughly half the Amish in the County are complying with the flashing yellow light requirement. He indicated that most of the Amish in the western half of the county are in compliance, while the Swartzentrubers and families allied with them are not. Lt. Sims testified that he believes, based on conversations he has had with numerous members of the Amish community that most of the younger people want the buggy lights but some are being prevented by their Bishops from using them.

The First Amendment to the United States Constitution prohibits governmental establishment of religion and also prohibits the government from interfering with the free exercise of religion. Both clauses are made applicable to the states through the Fourteenth Amendment.

***Cantwell v. Connecticut* (1940), 310 U.S. 296.** Section 7 of Article 1 of the Ohio Constitution provides even greater protection for religious liberty. It provides that ‘all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience.’ It further prohibits “any interference with the rights of conscience” by the government. However, the Supreme Court of the United States and the Supreme Court of Ohio have held that Constitutional religious liberty is not absolute. Under certain circumstances, States may enact legislation narrowly tailored to achieve a legitimate public purpose, which infringes on religious liberty. The standard is very high when reviewing such a piece of legislation.

The United States Supreme Court has ruled that in deciding whether a state regulation, such as section 4513.114(B)(1), violates an individual’s right to freely exercise their religion, a Court must consider three issues: (1) is the objection to the regulation based on a sincerely held religious belief; (2) does the government regulation burden the exercise of that religious belief; and (3) if so, is the burden justified by a compelling state interest, which cannot be served by a less intrusive alternative.

***Thomas v. Review Board* (1981), 450 U.S. 707, 713-719.** A state government cannot condition the receipt of benefits or privileges upon conduct which violates a person's religious beliefs. ***Sherbert v. Verner* (1963), 374 U.S. 398.** Federal and State Courts have also held that a reviewing Court must look at the importance of the regulated activity to the impacted individual. When a benefit or privilege is to be considered important must be decided on a case by case basis. The test is objective, and not subjective. An important benefit or privilege is one that is needed to function in society. Such benefits or privileges include income from governmental welfare programs; the privilege to use the streets and highways to move about; or a privilege that the exercise of which is essential to a person's religion. ***Quaring v. Peterson* (C.A. 8, 1984), 728 F. 2d 1121.** While the language of

Section 7 of Article 1 of the Ohio Constitution is more broad than the First Amendment to the U.S. Constitution, the standard for reviewing whether a statute violates an individual's right to freely exercise his religion is the same under both provisions. *State v. Bontrager*, 114 Ohio App. 3d 367 3rd Dist. 1996).

This Court is not the first to try to apply the above criteria to a legislative attempt to regulate Amish buggies operated on public roads. The Supreme Courts of several States have weighed in on the issue. Some, have struck down the regulations as being not the "least restrictive alternative" to address the "compelling state interest." *State v. Hershberger*, 444 N.W.2d 282 (Sup. Ct. of Minn. 1989). Others, have taken the exact opposite approach and upheld the regulations as legitimate exercises of the State's police powers. *Gingerich v. Commonwealth of Kentucky*, 2011 SC 000379 (Sup. Ct. of Kentucky 2012). One thing that is consistent across every case the Court has reviewed is that the Courts all found the Amish objections to the traffic regulations to be based on sincere religious beliefs. The Ohio Supreme Court has not ruled on the Constitutionality of Section 4513.114(B)(1).

In the present cases, the Court found the testimony of the Defendants regarding their religious objections to section 4513.114(B)(1) to be compelling, honest and sincere. The Court is, therefore, finding that Defendants' objections to the statute at issue are based on sincerely held religious beliefs.

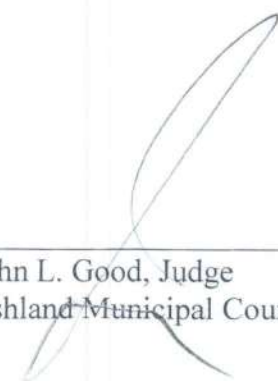
Further, the Court finds that the privilege being impacted by Section 4513.114(B)(1), that being the privilege to travel on public roads, is one that is important to Defendants. Travel on public roads is rather obviously necessary to function in society, and travel to religious ceremonies and meetings is necessary for Defendants to practice their religion. The privilege to travel on public

roads is distinguishable from unimportant privileges, such as the privilege to hunt deer, which do not significantly impact a person's ability to practice their religion. *State v. Swartzentruber*, 52 Ohio Misc. 2d 1 (1989). The Court also finds that Section 4513.114(B)(1) burdens Defendants' right to exercise their sincerely held religious beliefs, by requiring flashing yellow lights, to which they are religiously opposed, on their buggies as a condition for use of the public roads.

However, the Court also finds that the burden imposed by Section 4513.114(B)(1) on Defendants' right to freely exercise their religion, under the First Amendment and Section 7 of Article 1, is justified by a compelling State interest. That State interest being the compelling need to reduce the number of car on buggy accidents in the State of Ohio. It is clear to the Court that the purpose of Section 4513.114(B)(1) is saving lives. That is, in the Court's view, a compelling and legitimate State interest. The Court also finds that the flashing yellow light requirement embodied in Section 4513.114(B)(1) is the least restrictive method available for addressing that compelling State interest. It is evident that the State, over a period of years, has considered, and even employed, various other methods. Numerous traffic studies have demonstrated that those less restrictive methods failed to reduce car on buggy crashes, and fatalities from such accidents. Section 4513.114(B)(1) appears to be reducing both.

For the reasons set forth above, Defendants' Motions to Dismiss are found not to be well-taken and are hereby denied.

IT IS SO ORDERED.



John L. Good, Judge
Ashland Municipal Court