



Written by [Dave Bohon](#) on December 23, 2011

Federal Court Rules for Street Preachers at Minnesota Christmas Festival

A federal court in Minnesota ruled December 20 that the city of Duluth had no right to prevent two men from sharing the gospel with attendees at the city's Bentleyville Tour of Lights, an annual Christmas festival. (See picture at left.)



During the 2010 event, Peter Scott and Scott Jankowski were speaking with passers-by and handing out Christian literature in what observers said was a non-disruptive manner, when they were approached by a police officer who asked them to leave the area. According to the [Alliance Defense Fund](#) (ADF), the conservative legal advocacy group that filed a First Amendment lawsuit on behalf of the men, when the two returned at a later time, several officials with the event began to harass them for their beliefs. As Scott began sharing his faith in Christ, one of the officials responded with the threat, "If you don't back down, we will help you meet him quicker."

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As Scott tried to explain his First Amendment-guaranteed right to free speech, the official responded, "Well, it's my freedom of speech as well to tell you that you are imposing on other people's beliefs. They don't want to hear religious proselytizing; they don't want to hear religious crap."

The harassment the men received prompted them to call the police, but before the conflict over their rights to speak freely could be resolved, the event ended.

Later, however, according to ADF, the city of Duluth claimed that it had a right to enforce the decisions of the private, non-profit "Tour of Lights" organizers to ban whatever free speech viewpoints the event officials object to — even though the event is open to the public and held in a public park.

According to the [Minneapolis Star Tribune](#), "M. Alison Lutterman, a deputy city attorney, argued that the city's contract with the Bentleyville organizers implicitly granted them exclusive control over the event. As such, she said, they had a common-law right to enforce their own rules. If people violate the rules, she said, city police have little choice but to respond and enforce the trespassing laws."

But the federal court ruled otherwise. In a temporary injunction based upon the [recommendations of a magistrate judge](#), the U.S. District Court for Minnesota prohibited the city from banning free speech, explaining that "the agreement between the City and the non-profit expressly required the non-profit to keep the park free and open to members of the public." The court also noted that the U.S. Supreme



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Court “has indicated that a municipality may not destroy the ‘public forum’ status of streets and parks.” Referencing a 2010 [federal court decision](#) in favor of groups like the notorious Westboro Baptist Church, which try to disrupt the funerals of American soldiers killed in the Middle East, the court wrote that if “the governmental efforts to protect funeral attendees from inflammatory picketers cannot survive intermediate scrutiny, it is unlikely that the City could justify restricting the Plaintiffs’ activities, which by all accounts, are peaceful and respectful.”

While the Christmas event includes some religious symbolism in its light display, the list of rules on the event website includes a ban on “political campaigning, religious preaching, or public attempts to convert other’s beliefs.”

ADF Staff Counsel Jonathan Scruggs conceded that the two men were in violation of the event rules in “presenting a gospel message that people need to believe in Jesus and that Jesus saves people from their sins,” he told the [Christian Post](#). “That was the general message. They were doing that in conversation and in handing out literature, religious tracts about that message.”

He explained, however, that their key argument “was that the city cannot just by whim change a public park from being a public park. It can’t ban the First Amendment in a public park just because event officials don’t like the message of the person that is sharing the message.” He added that the “irony of it all is that in the midst of all these Christian symbols that event organizers were attempting to silence a Christian message....”

Duluth City Attorney Gunnar Johnson said the city would accept the temporary injunction served by the court. “The judge has issued a well-reasoned, thoughtful order, and the city is going to comply with it,” he told the [Duluth News Tribune](#). “For the next six days while Bentleyville is open we will be doing our best to comply with the judge’s order. As for next year, we may have to revisit the contract.”

Scruggs applauded the ruling, saying that “the court made the right decision in suspending the ban so that people can share their faith in a non-disruptive manner at this year’s event.” He added that Scott and Jankowski planned on sharing their gospel message at the event, which was scheduled to conclude on December 26.

Asked about the possibility that the city might try to modify its contract with the private group in order to bypass the injunction and reinstate the free speech restrictions at future events, Scruggs told the [Star Tribune](#) that he and the ADF “would then evaluate that” contingency, adding, “We take them as they come.”



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