

IN THE FRANKLIN COUNTY MUNICIPAL COURT
COLUMBUS, OHIO

FILED
2018 JUL 19 AM 11:06

STATE OF OHIO

Plaintiff,

v.

BRITTANY WALTERS

Defendant.

FRANKLIN COUNTY
Municipal Court
LOCAL BOOK
CASE NO. 2018 CR B 14533

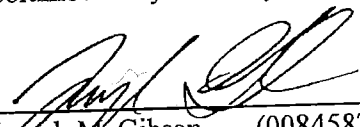
JUDGE O'GRADY

MOTION TO DISMISS

Now comes the State of Ohio, represented by City of Columbus, and respectfully moves this Court to dismiss the above captioned case. For reasons set forth in the foregoing memorandum in support, the State cannot proceed on the charge alleged in the complaint.

Respectfully submitted,

Zach Klein
Columbus City Attorney


Joseph M. Gibson (0084587)
Deputy Chief Prosecutor
375 S. High St., 7th Floor
Columbus, Ohio 43215
Phone: (614) 645-8081
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MEMORANDUM IN SUPPORT

I. Facts

On July 11, 2018, Defendant was performing at Sirens Gentleman's Club (hereinafter "Sirens") located at 6190 Cleveland Ave., Columbus, Ohio 4323. During the July 11 performance, four Columbus Police Department detectives on duty in an undercover capacity state that they observed a violation of RC 2907.40(2). Specifically, detectives allege defendant, while "topless and wearing a G-string did knowingly touch a patron in a specified anatomical area... [Defendant] put her face into Officer Praither's breast, who is not a member of the employee's immediate family."

II. Law and Argument

Defendant is charged with a violation of Illegal Sexual Oriented Activity in a Sexually Oriented Business. Specifically, Defendant was charged under section 2907.40(C)(2) of the Ohio Revised Code. That statute states, in pertinent part, that "No person *who regularly appears* nude or seminude on the premises of a sexually oriented business, while on the premises of *that sexually oriented business* while seminude, shall knowingly touch a patron." RC 2907.40(C)(2) [emphasis supplied]. "Regularly" means consistently or repeatedly." RC 2907.40(A)(10). "Patron" is defined in the statute and means anyone on the premises of a sexually oriented business, with a few exceptions, including "*a public employee* or a volunteer firefighter emergency medical services worker *acting within the scope of the public employee's* or volunteer's *duties as a public employee* or volunteer." RC 2907.40(A)(8)(c) [emphasis supplied].

As in two related cases (State v. Stephanie Clifford, 2018 CRB 14055; State v. Miranda Panda, 2018 CRB 1414532), detectives in this case fail to allege Defendant regularly performed nude or seminude at Sirens. As such, the complaint in the case fails to allege an element of RC

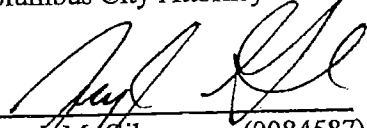
2907.04(C)(2). Additionally, the complaint fails to allege Defendant touched a "patron" as defined in RC 2907.40(A)(8)(c). Here, Defendant is alleged to have touched an on-duty police detective who was at Sirens in an undercover capacity carrying out her duties as a detective. Police detectives are public employees and investigative work is one of the duties they are charged with performing. The State cannot find any case or statutory law exempting undercover officers from RC 2907.40(A)(8)(c). As such, Defendant is not alleged to have touched a patron.

III. Conclusion

For the above reasons, the State respectfully requests that Case No. 2018 CRB 14533 be dismissed.

Respectfully submitted,

Zach Klein
Columbus City Attorney

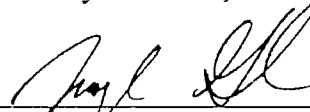


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 18, 2018, a true and accurate copy of the foregoing was served by hand to defense counsel, Ed Hastie.

Respectfully submitted,



Joseph M. Gibson (0084587)
Deputy Chief Prosecutor
Columbus City Attorney's Office

IN THE FRANKLIN COUNTY MUNICIPAL COURT
COLUMBUS, OHIO

FILED

2018 JUL 18 AM 11:06

FRANKLIN COUNTY
MUNICIPAL COURT
CLERK

CASE NO. 2018 CR B 14532

JUDGE O'GRADY

STATE OF OHIO

Plaintiff,

v.

MIRANDA PANDA

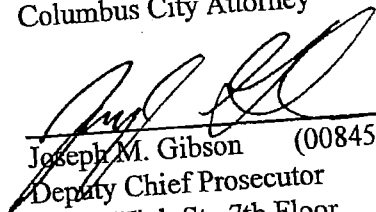
Defendant.

MOTION TO DISMISS

Now comes the State of Ohio, represented by City of Columbus, and respectfully moves this Court to dismiss the above captioned case. For reasons set forth in the foregoing memorandum in support, the State does cannot proceed on the charge alleged in the complaint.

Respectfully submitted,

Zach Klein
Columbus City Attorney


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MEMORANDUM IN SUPPORT

I. Facts

On July 11, 2018, Defendant was working as a server at Sirens Gentleman's Club (hereinafter "Sirens") located at 6190 Cleveland Ave., Columbus, Ohio 43231 during a performance by Stephanie Clifford, also nationally known as "Stormy Daniels." Defendant had been employed by Sirens as a server for less than one week at the time of the alleged offense. While working the night of July 11, Defendant was wearing a bra and panties. Columbus Police Department detectives state that while present at Sirens on July 11, they observed Defendant grab another Sirens server in violation RC 2907.40(2). Specifically, detectives allege in their complaint Defendant "did open handed grab but [sic] then proceeded to shake it with both hands."

II. Law and Argument

Defendant is charged with a violation of Illegal Sexual Oriented Activity in a Sexually Oriented Business. Specifically, Defendant was charged under section 2907.40(C)(2) of the Ohio Revised Code. That statute states, in pertinent part, that "No person *who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business while seminude, shall knowingly touch a patron.*" RC 2907.40(C)(2) [emphasis supplied]. "Regularly" means consistently or repeatedly." RC 2907.40(A)(10). The statute under which Defendant is charged refers to RC 2907.39 for the definition of "seminude." Under this law, seminude "means a state of dress in which opaque clothing covers not more than genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices." RC 2907.39(A)(12).

In this case, there has been no evidence presented to the State that Defendant performed nude or seminude in her duties as a server during her week of employment as a server at Sirens. Detectives do not allege in their complaint or probable cause affidavit that Defendant regularly performs nude or seminude. There is also no allegation in the complaint that Defendant was nude or seminude at the time of the offense, as a person wearing bra and panties does not fit the statutory definition of either. Therefore, the complaint fails to allege that she committed at least two elements of RC 2907.40(C)(2).

Payroll records provided to the State by defense counsel Ed Hastie show that Defendant clocked in twice as a server at Sirens. Additionally, defense counsel has provided the State with photos of Defendant from the night of the offense in which the bra worn by Defendant is opaque and the remainder of the outfit worn by her fails to meet the definition of nude or seminude under RC 2907.40(C)(2) and RC 2907.39(A)(12).

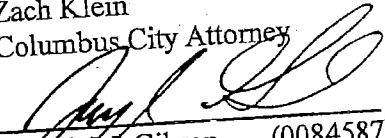
The filed complaint does not make the allegation that Defendant regularly appears nude or seminude at Sirens and therefore is facially defective. It also fails to accurately allege that Defendant was nude or seminude at the time of the offense as required by statute. Even if those elements were properly alleged in the complaint, the State has not been presented with evidence either that Defendant regularly performed nude or seminude at Sirens or that she was nude or seminude when she touched her co-worker. Therefore, the State respectfully requests that Case No. 2018 CRB 014532 be dismissed.

III. Conclusion

For the above reasons, the State respectfully requests that Case No. 2018 CRB 14055 be dismissed

Respectfully submitted,

Zach Klein
Columbus City Attorney

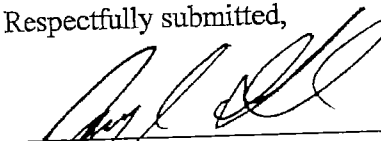


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