

[Cite as *Cleveland v. State*, 2011-Ohio-922.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92663

CITY OF CLEVELAND

PLAINTIFF-APPELLANT

vs.

STATE OF OHIO

DEFENDANT-APPELLEE

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-618492

BEFORE: Cooney, P.J., Stewart, J., and E. Gallagher, J.

RELEASED AND JOURNALIZED: March 3, 2011

ATTORNEYS FOR APPELLANT

Robert J. Triozzi
Director of Law
Gary S. Singletary
Assistant Director of Law
Cleveland City Hall, Room 106
601 Lakeside Ave.
Cleveland, Ohio 44114-1077

ATTORNEYS FOR APPELLEE

Mike DeWine
Attorney General of Ohio
30 East Broad Street
26th Floor
Columbus, Ohio 43215

Pearl M. Chin
Craig A. Calcaterra
Assistant Attorneys General
Constitutional Offices Sect.
30 East Broad Street
16th Floor
Columbus, Ohio 43215

Benjamin Mizer
Solicitor General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

AMICI CURIAE

Frederick E. Kalmbach
Daniel T. Ellis
Lydy & Moan Ltd.
4930 Holland-Sylvania Road
Sylvania, Ohio 43560

William F. Abrams
Karen Lu
Bingham McCutchen LLP
1900 University Avenue
East Palo Alto, California 94303-2223

Mitchell H. Banchevsky
Stephen J. Smith
250 West Street
Columbus, Ohio 43215

David Cannon
Elizabeth Rumsey
Three Embarcadero Center
San Francisco, California 94111-4067

James N. Kline
Ulmer & Berne LLP
Skylight Office Tower
1660 West 2nd St., Suite 1100
Cleveland, Ohio 44113-1448

Max Rothal
166 South High Street
Akron, Ohio 44308

COLLEEN CONWAY COONEY, P.J.:

{¶ 1} This case is here upon remand from the Ohio Supreme Court for this court to address the remaining assignment of error pursuant to *Cleveland v. State*, Slip Opinion No. 2010-Ohio-6318, ¶35.

{¶ 2} The City argues in its third assignment of error that Sub.H.B. No. 347 violates the one-subject rule found in the Ohio Constitution. Section

15(D), Article II of the Ohio Constitution provides, “No bill shall contain more than one subject * * *.” Specifically, the City argues that R.C. 9.68, a part of Sub.H.B. 347, “does not even attempt to implement actual firearm regulations — it merely seeks to diminish and eliminate local authority.” The Ohio Supreme Court, however, held in *Cleveland v. State* at syllabus, that “R.C. 9.68 is a general law that displaces municipal firearm ordinances and does not unconstitutionally infringe on municipal home rule authority.” The court found it was part of a statewide comprehensive legislative enactment. *Id.* at ¶25. Therefore, we find no violation of the one-subject rule.

{¶ 3} The third assignment of error is overruled.

{¶ 4} The trial court’s judgment that R.C. 9.68 is a general law and that Sub.H.B. No. 347 did not violate the single subject rule is affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

COLLEEN CONWAY COONEY, PRESIDING JUDGE

MELODY J. STEWART, J., and
EILEEN A. GALLAGHER, J., CONCUR