

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

TOMMY MEAD,

Plaintiff,

– Versus –

The CITY OF CLINTON, Louisiana;
LORI ANN BELL, Mayor, City of
Clinton, in her official capacity; FRED
DUNN, Chief of Police, City of Clinton,
in his official capacity;

Defendants.

NUMBER: 3:13-cv-0484

JUDGE:

MAGISTRATE JUDGE:

VERIFIED COMPLAINT

INTRODUCTION

1. On May 30, 2013, the city of Clinton, Louisiana enacted a general curfew, barring everyone – adult and child, pedestrian and driver – from appearing in public between the hours of 11PM and 6AM, with few, if any, exceptions. Tommy Mead, a Clinton resident who regularly travels to and from his home while the curfew is in effect, brings this action under 42 U.S.C. §§ 1983 and 1988, and requests a temporary restraining order and preliminary injunction lifting the curfew.

JURISDICTION AND VENUE

2. The Court has original jurisdiction in this matter under 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the City of Clinton is located within the Middle District of Louisiana, and because the individual Defendants reside in this District.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. A declaration of law is necessary to determine the respective rights and duties of the parties.

THE PARTIES

5. Plaintiff TOMMY MEAD is an adult resident of Clinton, Louisiana. Like the rest of Clinton's residents, he is subject to the City's curfew and not allowed out of his home between 11PM and 6AM.

6. Defendant CITY OF CLINTON is a municipality of the State of Louisiana. At all relevant times, the City employed the individual defendants named below. The City is directly responsible for acts complained of herein due to the policies and practices of its police department and other employees, and because it enacted the Curfew. The City maintains the right and power to sue and be sued.

7. Defendant LORI ANN BELL is a resident of the Middle District of Louisiana and the Mayor of Clinton, LA. She is responsible for the final supervision of the Clinton Police Department, and for the final execution and enforcement of the City's ordinances. She is a final policymaker on all issues related to the ordinance challenged here, and she is sued in her official capacity.

8. Defendant FRED DUNN is a resident of the Middle District of Louisiana and the Chief of the Clinton Police Department. He enforces Louisiana's criminal laws

and the City's ordinances. Dunn is a final policymaker on all issues related to the ordinance challenged here, and he is sued in his official capacity.

FACTUAL ALLEGATIONS

The Curfew

30. On May 30, 2013, the town of Clinton, Louisiana implemented a general curfew barring all residents from going outside their homes between the hours of 11PM and 6AM.

31. The curfew initially was set to expire on July 31, 2013, but at a Clinton City Council meeting on July 10, 2013, it was renewed at the request of Defendant Police Chief Dunn until August 14, 2013.

32. Upon information and belief, the Clinton City Council intends to revisit the curfew at the August 14, 2013 city council meeting, at which time it will be renewed again.

33. Upon learning of the curfew, Plaintiff went to the offices of Clinton city government and asked for a copy. He was provided the five-page document attached to this complaint as **Exhibit A**.

34. The first page of the document, signed by Defendant Mayor Lori Ann Bell and displayed in full below, appears to be an excerpt of relevant minutes from the city council meeting at which the adult curfew was established. It explains that City Council created the adult curfew, at the request of Defendant Police Chief Dunn, by amending Clinton City Code §14-2, the City's existing juvenile curfew.

35. Per the document's express language, §14-2 was amended "to include all citizens of the Town of Clinton, basically for walking, hanging out in the streets and suspicious vehicles and riding all hours of the night." **Ex. A**, p.1.

36. The first page of the document:

MAYOR & STAFF

Lori Ann Bell, Mayor
Anjanetha Shropshire, Town Clerk
Fredrick G. Dunn, Chief of Police
William Jarrell, Maintenance Supervisor
Douglas Beauchamp, Jr., Fire Chief

Town of Clinton
11209 Bank Street
P.O. Box 513
Clinton, Louisiana 70722-0513
(225) 683-5531 Phone
(225) 683-6890 Facsimile



BOARD OF ALDERMEN

Johnny Beauchamp
George Kilbourne
Clovis Matthews, Sr.
Lisa Davis Washington
Kim Wilson Young

LEGAL ADVISOR

Charles E. Griffin, II

Clinton Municipal Code

Sec. 14-2 Curfew for adults and certain minors.

Curfew hours means:

- (1) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, and Thursday until 5:00 A.M. of the following day, and
- (2) 12:01 A.M. until 5:00 A.M. on any Friday or Saturday.

Chief of Police, Fred Dunn asked the board for approval to amend the curfew to include all citizens of the Town of Clinton, basically for walking, hanging in the streets and suspicious vehicles and riding all hours of the night.

A motion was made by Alderman George Kilbourne seconded by Alderman Johnny Beauchamp to approve the curfew starting, May 30, 2013 - July 31, 2013; hours 11:00 P.M. - 6:00 A.M. Sunday - Saturday. Motion carried.


Lori Ann Bell
Mayor

37. The rest of City Code §14-2 appears on the last three pages of the document.

38. Undersigned counsel formally requested the actual text of the amended ordinance under the Louisiana Public Records Act (La R.S. §44:1 *et seq.*), but counsel's request was ignored.

Plaintiff Tommy Mead

39. Mead is a resident of Clinton, and is subject to the curfew.

40. The curfew has affected Mead both personally and professionally. Personally, Mead, like many young adults, likes to go to parties and stay out late. He often visits friends' houses for social events, frequently traveling out of town and returning well after midnight. Such behavior is unquestionably a curfew violation, and Mead fears arrest and possible prosecution every time he returns home after 11PM.

41. Professionally, Mead regularly commutes to Baton Rouge to attend school at Louisiana State University, and he often stays on campus studying until late at night. As with his personal travels, he fears arrest and possible prosecution under the curfew each time he returns home from campus after 11PM.

42. Mead also regularly commutes to Baton Rouge to look for work, and was recently offered a position there with Catholic Charities. While no firm date has been set, that job most likely starts on August 11, 2013, and will require him to commute to Baton Rouge every day. Mead knows that he will often be required to work late and return to Clinton after 11PM, thereby violating the curfew.

CAUSES OF ACTION

FIRST CLAIM

The Curfew Violates Plaintiff's Fourteenth Amendment Substantive Due Process Rights

43. The curfew impinges on Plaintiff's fundamental right to free movement and travel in and among the several states.
44. Because the curfew burdens a fundamental right, it is subject to strict scrutiny.
45. The City has no compelling interest necessitating the curfew.
46. Even if the City had a compelling interest necessitating the curfew, the curfew is not so narrowly-tailored that no less restrictive measures would satisfy the City's interest.
47. The curfew is unconstitutional under the Due Process Clause of the Fourteenth Amendment.

SECOND CLAIM

The Curfew is Unconstitutionally Vague Under the Fourteenth Amendment

48. The City Council's attempt to apply the curfew to adults, reflected in page one of **Exhibit A**, produced an unintelligible government mandate not subject to reasonable, objective interpretation, and likely to be enforced in an arbitrary and irrational manner.
49. The curfew is therefore unconstitutionally vague.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tommy Mead, having no adequate remedy at law, requests the following:

1. A temporary restraining order, preliminary injunction and eventually, permanent injunction barring Defendants and their agents from enforcing the Curfew;
2. A declaratory judgment that Ordinance, as amended to apply to the adult residents of Clinton, is unconstitutional;
3. Nominal damages;
4. Reasonable attorneys' fees, expenses and costs under 42 U.S.C. § 1988 and any other applicable law; and
5. Any equitable and additional relief which the Court deems proper.

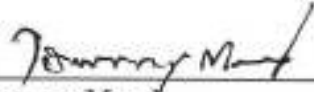
Respectfully submitted by:

/s/ Justin Harrison
Justin P. Harrison, La No. 33575
Legal Director
ACLU FOUNDATION OF LOUISIANA
P.O. Box 56157
New Orleans, Louisiana 70156
Telephone: (504) 522-0628
Facsimile: (888) 534-2996

Attorney for Plaintiff

VERIFICATION

I hereby verify that the allegations of this complaint are factually correct to the best of my knowledge.



Thomas Mead