

No. 24-993

IN THE
Supreme Court of the United States

GABRIEL OLIVIER,

Petitioner,

v.

CITY OF BRANDON, ET AL.,

Respondents.

**On Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit**

JOINT APPENDIX

ALLYSON N. HO
GIBSON, DUNN & CRUTCHER LLP
2001 Ross Avenue, Suite 2100
Dallas, TX 75201
(214) 698-3100
AHO@gibsondunn.com

Counsel of Record for Petitioner

G. TODD BUTLER
PHELPS DUNBAR LLP
1905 Community Bank Way,
Suite 200
Flowood, MS 39232
(601) 352-2300
ButlerT@phelps.com

Counsel of Record for Respondents

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
NORTHERN DIVISION**

GABRIEL OLIVIER,

Plaintiff,

vs.

CITY OF BRANDON,
MISSISSIPPI, and
WILLIAM A. THOMP-
SON, JR., individually
and in his official capac-
ity as Chief of Police for
Brandon Police Depart-
ment

Defendants.

CIVIL ACTION NO:
3:21-cv-636-HTW-LGI

**VERIFIED
COMPLAINT**

Comes now Plaintiff Gabriel Olivier and avers the following:

INTRODUCTION

1. This is a civil rights action brought by Gabriel Olivier (“Olivier”) against City of Brandon, Mississippi (“Brandon”) and William A. Thompson, Jr., individually and in his official capacity as Chief of Police for City of Brandon Police Department (“Chief Thompson”), challenging the constitutionality of Brandon Code of Ordinance § 50-45 “Designating a protest area and related provisions regarding public protests/demonstrations during events at the Brandon Amphitheater.”

2. Section 50-45 prohibits Olivier from communicating his religious beliefs—whether conveyed through oral dialogue, signs, literature, or one-on-one

conversation—on city-owned sidewalks bordering city street in a city park outside the amphitheater, forcing him to go to a “protest” area where he does not have a meaningful audience for his message.

3. Pursuant to 42 U.S.C. §§ 1983 and 1988, Olivier seeks injunctive relief, declaratory relief, and nominal damages against defendants.

4. Defendants have invoked and applied § 50-45 to deprive Olivier of his constitutional rights.

5. Every act specified herein was committed by defendants under the color of state law and authority.

JURISDICTION AND VENUE

6. This cause of action raises federal questions, particularly, under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

7. The Court has jurisdiction over Olivier’s claims for injunctive relief and nominal damages under 28 U.S.C. §§ 1331 and 1343. This Court has jurisdiction over Olivier’s request for declaratory relief under 28 U.S.C. §§ 2201 and 2202. And the Court has jurisdiction over Olivier’s claims for costs and attorney fees under 42 U.S.C. § 1988.

8. Venue is proper in the Southern District of Mississippi under 28 U.S.C. § 1391(b) since defendants reside in this district and all claims arise out of this district.

PLAINTIFF

9. Plaintiff Olivier is a resident of Terry, Mississippi.

DEFENDANTS

10. Defendant Brandon is a municipal governmental authority in the State of Mississippi and has the capacity to enact regulations pertaining to the use of city sidewalks, streets, and parks.

11. Defendant Chief Thompson is the Chief of Police for the Brandon Police Department. In his official capacity, Chief Thompson is responsible for overseeing and implementing all policies affecting law enforcement, including enforcement of ordinances on public sidewalks, streets, and parks in the city. Chief Thompson is sued individually and in his official capacity.

STATEMENT OF FACTS***Olivier's Desire to Engage in Evangelistic Expression***

12. Olivier is an evangelical Christian who wants to share the gospel (good news) of Jesus Christ and other aspects of his Christian beliefs with others.

13. He imparts a religious, evangelistic message that everyone sins and deserves eternal damnation but Jesus Christ grants salvation to those who repent and believe in him.

14. In delivering this message, Olivier identifies sins he believes are relevant for the community at large, like drunkenness and abortion, that require repentance.

15. Olivier evangelizes in public areas outside of well-attended events where he can find significant pedestrian traffic so he can reach as many people as possible with his message.

16. When sharing his faith, Olivier is often accompanied by family and friends.

17. Olivier uses various means to spread his evangelistic message.

18. Among which, he uses signs and banners that reference the gospel message with scriptural references. He typically has a sign dealing with abortion with him as well.

19. Olivier also hands out literature expounding on the gospel message. Leafletting is a particularly effective method for Olivier because he can give his information to people as they walk by him.

20. Additionally, Olivier wears expressive clothing bearing religious messages.

21. Olivier especially wants to engage individuals in friendly one-on-one conversations while standing at a comfortable, conversational distance away from them. He believes this method is an effective means to get his message across, allowing for questions and give-and-take verbal exchanges.

22. Moreover, to bring attention to his message, Olivier often delivers speeches about his faith, which he refers to as preaching.

23. When preaching, Olivier uses a hand-held amplification device so he can address individuals in a conversational tone.

24. Olivier strives to be respectful and winsome with his communications. He does not block pedestrian traffic or hurl insults at people.

25. Olivier particularly wants to share an evangelistic message on public sidewalks located on either side of Boyce Thompson Drive, a public street in

Brandon, where the street runs in Quarry park near an intersection with the main paved entryway into the Brandon Amphitheater. At these locations Olivier can find meaningful pedestrian traffic flow on days of amphitheater events.

Olivier Shares his Religious Beliefs on Public Sidewalks Outside Brandon Amphitheater

26. Brandon owns and maintains Quarry park, a 250-acre park that contains baseball facilities, a dog park, running/biking/nature trails, multiple large green spaces, and several parking lots, as well as the Brandon Amphitheater.

27. The Brandon Amphitheater is likewise owned by the city. Opening in the spring of 2018, the entertainment venue acts as host to various musical concerts, comedy acts, and other ticketed events.

28. After learning about the Brandon Amphitheater, Olivier, along with family and friends, went to Quarry park on event days to share his religious message about 5 or 6 times in 2018 and 2019, starting with the first concert occurring in the amphitheater in April of 2018.

29. On these occasions, Olivier stood on the public sidewalks on both sides of Boyce Thompson Drive near the intersection with the main entryway to the amphitheater to share his message.

30. Olivier intentionally used these portions of the sidewalks near the intersection because these locations give him an opportunity to address pedestrians as they walked to the amphitheater without getting in their way.

31. Per his custom, Olivier shared an evangelistic message on these sidewalks through preaching,

literature, and conversation. He also displayed a sign sharing his views on abortion.

32. On several of these visits, Brandon police officers working amphitheater events approached Olivier and company and inquired of their purpose. Referring to Olivier's speech as a "protest," the officers suggested they move to a place where attendees would not see or hear their message.

33. However, Olivier was not inclined to move. He reminded the police officers of his constitutional right to speak on public sidewalks and the officers relented, letting Olivier continue with his speech.

***Brandon Passes Ordinance to Curb
Olivier's Speech***

34. Unknown to Olivier, on December 2, 2019, Brandon passed ordinance § 50-45 entitled: "Designating a protest area and related provisions during events at the Brandon Amphitheater" designed to curb his speech.

35. Section 50-45 reads:

**Sec. 50-45. Designating a protest area and
related provisions regarding public
protests/demonstrations during events
at the Brandon Amphitheater.**

- (a) Three hours prior to the opening of the Brandon Amphitheater to event attendees for a live ticket concert event ("event") and one hour after the conclusion of the event, individuals and/or groups engaging in public protests and/or demonstrations, regardless of the content and/or expression thereof, are prohibited within the restricted area shown in exhibit "A" attached hereto, except in the

designated protest area as shown on exhibit "A" attached hereto.

- (b) The protest area is available to individuals and/or groups during the time specified in subsection (a) above, without the necessity of pre-notice or permit, subject to the following terms and conditions:
 - (1) All individuals and/or groups shall be and remain wholly within the protest area while actively engaged in public protests and/or demonstrations. Vehicles are prohibited in the protest area;
 - (2) The use of lasers, blinking or blinding lights, electric drums, or other amplified percussion or musical instruments, or equipment except as provided herein-below, is prohibited;
 - (3) The use of a megaphone and/or loudspeaker which is clearly audible more than 100 feet from where the protest area is located is prohibited;
 - (4) Libel, slander, obscenities, and/or speech that incites imminent violence or law breaking is prohibited;
 - (5) The use of ladders, step stools, tables, chairs, buckets and/or any other object or thing that is customarily used to heighten an individual from the ground is prohibited;
 - (6) Temporary signs are permitted; however, wooden, or metal signs or sign stakes made from hard material that may be used as a weapon are prohibited. All signs must be hand-held and shall not be affixed to anything in the protest area or otherwise affixed to the

protest area. The top of any sign may not be elevated more than four feet beyond the height of its holder.

- (7) Anything brought onto the protest area shall be removed within 75 minutes of the conclusion of an event.
- (8) Each group shall have a representative who shall be present at all times while the group is, in whole or in part, within the protest area. The representative shall, when reasonably requested by the chief of police and/or his designee, provide photo identification.

Individuals who are engaged in a demonstration and/or protest shall maintain on their possession while in the protest area photo identification and provide the same to the chief of police and/or his designee as and when reasonably requested. Requests for identification by the chief of police and/or his designee shall only be made in the event of a credible complaint and/or an observed violation of the provisions herein or other applicable federal or state law or municipal ordinance.

- (c) In the event of a violation of the provisions herein, in addition to the general fines and penalties provided in section 1-12 of the Code of Ordinances of the City of Brandon, the offending individual will be removed from the protest area and is not be permitted to return to the protest area during the event on the day of the violation and if the same individual violates the provisions herein again during an event in the same calendar year, the individual shall be removed from the protest area and is not be permitted to return to the protest

area during any event for the remainder of that calendar year.

36. Section 50-45 references an Exhibit "A" showing a map of The Quarry, the restricted area, and the designated "protest" area, as shown below:

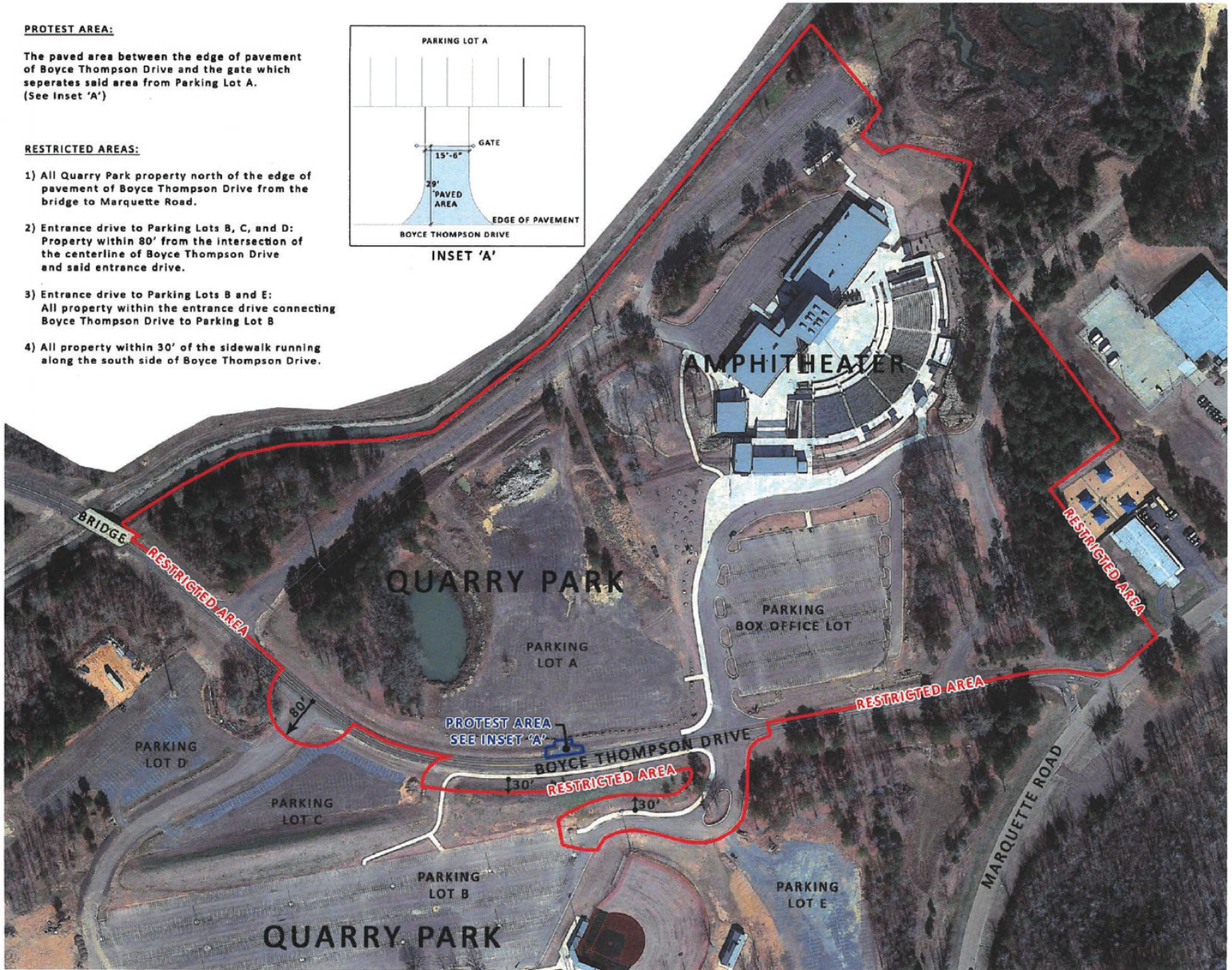
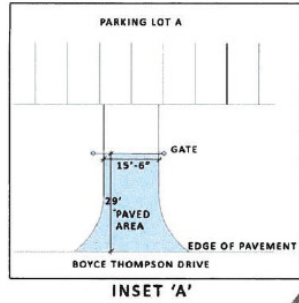
Exhibit "A"

PROTEST AREA:

The paved area between the edge of pavement of Boyce Thompson Drive and the gate which separates said area from Parking Lot A. (See Inset 'A')

RESTRICTED AREAS:

- 1) All Quarry Park property north of the edge of pavement of Boyce Thompson Drive from the bridge to Marquette Road.
- 2) Entrance drive to Parking Lots B, C, and D: Property within 80' from the intersection of the centerline of Boyce Thompson Drive and said entrance drive.
- 3) Entrance drive to Parking Lots B and E: All property within the entrance drive connecting Boyce Thompson Drive to Parking Lot B
- 4) All property within 30' of the sidewalk running along the south side of Boyce Thompson Drive.



37. Due to the advent and effect of COVID-19, and resultant cancellation of amphitheater events, Olivier was not able to share his message on the sidewalks outside the Brandon amphitheater in 2020 or during the first several months of 2021. He therefore did not encounter enforcement of § 50-45 until he came back to visit the area in May of 2021.

Brandon Applies Ordinance to Eliminate Olivier's Speech Outside Brandon Amphitheater

38. In March of 2021, Brandon announced that it would soon bring concerts to the Brandon amphitheater.

39. Olivier heard this news about reopening the amphitheater and planned to attend the first concert of the year, a Lee Brice concert, slated for May 1, 2021.

40. Olivier also heard about a new ordinance Brandon passed that could possibly restrict his speech and he read it online. The ordinance did not dissuade him from going back to the area, though. He did not believe Brandon would limit his protected speech on a public sidewalk.

41. On the day of the concert, May 1, 2021, Olivier drove to Quarry park and parked in parking lot B at around 6:00 p.m. that evening, about an hour and a half before the Lee Brice concert was scheduled to start. Olivier was joined by his wife, daughter, and several friends who intended to share the gospel that night.

42. Olivier and his group brought some signs with them, including an abortion sign, gospel literature, and a hand-held amplification device. They also wore expressive clothing with scriptural messages.

43. As Olivier exited his vehicle and waited on his friends to join him, he noticed a couple of police officers riding up in a golf cart.

44. The cart came to a stop and Chief Thompson stepped out of it. He walked up to Olivier and abruptly told Olivier about § 50-45, handing him a copy of it with an attached map showing the restricted area.

45. The chief informed Olivier they have a “special” spot set up for them on the other side of the hill off of a sidewalk and out of traffic, indicating that it was not far from a parking lot.

46. Olivier found it strange the chief approached them before they began to speak but he wanted to cooperate if possible. He asked the chief if the area was sectioned off and the chief confirmed the markings.

47. Chief Thompson added that the “only big thing” for the designated spot was some unspecified limitation on amplified devices.

48. The chief concluded that if the group follows the conditions and stays out the road that they will not hear from the police. He tells Olivier his name, hops back in the golf cart, and leaves.

49. Olivier reviewed the ordinance. He and his group decided to go check out the designated spot, hoping the area would be at or somewhere close to where they usually stand and speak.

50. Olivier and his friends prayed and then walked up the sidewalk running alongside parking lot B and onto the sidewalk bordering Boyce Thompson Drive on the southern side of the street and started looking for the designated area.

51. After reaching Boyce Thompson Drive, Olivier did not see any marked-off area close to where they typically stood near the main entryway to the amphitheater.

52. Olivier initially had trouble finding the designated spot. He looked where the chief seemed to be indicating on the south side of the street but did not see a designated area.

53. Someone in Olivier's group suggested the spot must be located west of where they were standing. He could not see a designated area but started walking in a westerly direction.

54. As they walked, Olivier spotted what appeared to be a marked-off area on the north side of street approximately 265 feet away from the intersection area where they usually stand and speak.

55. Observing where the spot was located, Olivier figured the designated area was not workable because it is so far away from the intersection area and pedestrian traffic patterns. But he walked toward the spot to inspect it up close.

56. Arriving at the spot, Olivier noticed the protest area was a marked-off box between Boyce Thompson Drive and parking lot A. He also observed that there is no adjoining sidewalk on this portion of the street.

57. He also noticed the protest area is a relatively small area of 29 x 15.9 feet, which is a tight space for his size group of 7 people.

58. Olivier saw a sign in the back of the box labeling the space as a "protest" area and containing a list of rules for behavior in the area as set out in § 50-45. The city placed a rope between two poles in the back

of the protest area to mark off the boundary line for the box between the area and parking lot A.

59. Olivier determined he could hardly reach anyone with his message if he was forced to stay in the protest area.

60. The protest area does not offer Olivier opportunity to hand out literature or have conversations with people because no pedestrians walk by the protest area. This space is not part of or near a pathway running between the amphitheater and where someone would park for an event.

61. Olivier also deduced he could not hand out literature or converse with anyone parking in parking lot A. The rope boundary marker kept Olivier and his group approximately 10 feet from the parking places nearest to the protest area. And Olivier doubted anyone would park that close to the protest area anyway, since those parking places are furthest in the lot from the amphitheater.

62. Olivier further assessed he could not effectively use his expressive clothing or signs in that space. No one could read the messaging on his or his friend's shirts due to the distance between them and pedestrian flow.

63. Neither could his signs or banners be read due to the rules imposed in the protest area. One of the rules prevents him from using a pole for his signs and banners. He could only hold up a sign with his hands and then only no higher than 4 feet of height of the holder. They are also not allowed to use a step stool or anything else that could elevate their signs. No pedestrian could read his signs due to distance and limited elevation.

64. Olivier also concluded that his preaching would be futile in the box due to the rule prohibiting amplified speech audible from 100 feet away. Under this constraint, he could not speak in the protest area and be heard, much less understood, by a vast number of visitors walking from their cars to the amphitheater through the main entryway. The pedestrian traffic flow crosses at least 200 feet away from the protest area.

65. Given the inherent difficulties with the protest area, Olivier wanted to explore other options. He did not see any other available protest area.

66. Olivier further did not believe their speech should be relegated to the protest area. Though they had a sign conveying an objection to abortion, their purpose was to evangelize. Olivier also believed the restrictions were an unconstitutional infringement on his speech.

67. Wanting a place where they could convey their message, Olivier and his group walked to the sidewalk on the north side of Boyce Thompson Drive near the intersection with the entryway for the amphitheater, where they had shared their faith on previous visits.

68. However, a Brandon police officer approached Olivier and company as soon as they arrived at the desired spot.

69. The police officer reminded Olivier that his chief had already provided them with a copy of § 50-45 and that they have a designated spot for them down the road where a box is marked off.

70. Olivier asked the police officer if the road is public and he confirmed it is public but added Oliver has to be in the box to conduct his speech.

71. Olivier then asked the police officer if the sidewalk where they were standing is a public sidewalk and he confirmed this point as well, then reiterated to Olivier that he had to go the box to protest.

72. The police officer informed Olivier they needed to go to the protest area or he would ask them to leave.

73. Olivier did not believe they should have to go to the box to speak. He informed the officer that they were not planning to protest but exercise their religious freedoms. Olivier advised how he could not reach anyone if forced to stay in the box.

74. In lieu of addressing his concerns, the officer advised his supervisor was on the way.

75. Convinced of having a right to share religious views on that sidewalk, Olivier advised his friends to carry on with their speech. One friend started to preach and another held up a gospel banner. Olivier cautioned the group to stay on edge of sidewalk so as not to block egress.

76. The police officer repeated to Olivier that the group needed to move to designated area.

77. Olivier raised his constitutional rights, but the officer was steadfast, repeating that they had to go to the protest area.

78. Olivier referenced the public nature of the area and the police officer referenced the ordinance.

79. Olivier advised the city could not keep them from exercising his religious freedoms.

80. He also asked the police officer to identify himself but the officer declined.

81. At that point, Chief Thompson drove up in a golf cart.

82. The chief told Olivier he had to enforce the ordinance and the ordinance required Olivier to go to the designated area.

83. Olivier advised Chief Thompson of his concerns and his calling to share the gospel. He told him they are not protestors and that he could not effectively share his views in a place so far away.

84. The chief responded they do not make the law but enforce it. He said the ordinance is the law and that they could go back to the designated area or leave.

85. Olivier was willing to comply with the chief's order but he knew the police were violating his constitutional rights. He asked the chief if he could confirm that Boyce Thompson Drive and the sidewalks on both sides of the street are public, and he did.

86. The chief then asked Olivier whether he would go back to the area or leave.

87. Olivier informed he was trying to figure it out but did not understand how Brandon could disallow their speech on a public sidewalk.

88. The chief was unwilling to engage in the constitutional propriety of the restriction. He reiterated that he will do what the law says, that he is there to enforce the law, and reminded Olivier of his options.

89. Olivier asked if the request was made under the threat of arrest and Chief Thompson confirmed that it was under such threat.

90. Olivier was astounded. He asked the chief if he would really arrest people for standing and speaking on the sidewalk.

91. The chief then declared he was arresting Olivier for violating the city ordinance.

92. Chief Thompson looked toward others in the group and asked if any of them wanted to leave.

93. Noting the real threat of arrest, Olivier advised he and the others would voluntarily leave the area. But at that point Chief Thompson was determined to arrest them.

94. The chief arrested Olivier's friend who was preaching on the sidewalk and directed another police officer to arrest Olivier. The police officers handcuffed Olivier and his friend behind their backs and had them sit down on the grass to wait for a patrol car.

95. After sitting there for several minutes, a few police officers drove up in separate vehicles. One of the officers escorted Olivier to the back of a patrol car, where he sat for several more minutes without the patrol car moving.

96. The police officer then drove Olivier to the Brandon police station. The officer retrieved Olivier from the back seat and walked him to a processing area, where they kept the handcuffs on him.

97. After processing, which lasted about an hour, the police released Olivier on his own recognizance. The police officer had him fill out a release on recognizance bond and handed him a notice of court appearance requiring Olivier to appear in Brandon municipal court on May 5, 2021.

***Brandon Prosecutes Olivier for
Violating § 50-45***

98. Olivier obtained a continuance of his court date until June 23, 2021.

99. On his scheduled court date, Olivier appeared and pled no contest to the charge. The municipal judge rendered a sentence of 10 days of jail and a fine of \$304.00.

100. Olivier paid the fine of \$ 304.00 on August 2, 2021.

***Brandon Continues to Stymie
Olivier's Speech with § 50-45***

101. Olivier yearns to share his religious message on public sidewalks bordering Boyce Thompson Drive near the main entryway to the Brandon Amphitheater but he is chilled and deterred from returning to the area during amphitheater events and engaging in his desired expression due to § 50-45 and Brandon's demonstrable willingness to enforce this ordinance against him.

102. Section 50-45 persists in restricting Olivier's religious expression on city-owned sidewalks bordering a city street in a city park.

103. Olivier's fear of criminal arrest and other sanctions stymies his constitutionally protected expression on public ways.

104. The adverse impact of chilling and deterring Olivier from exercising his constitutional rights on public ways constitutes irreparable harm to him.

105. Olivier has no adequate remedy at law for the loss of his constitutional rights.

FIRST CAUSE OF ACTION

Violation of Free Speech Clause

106. Olivier's religious expression constitutes protected speech under the First Amendment.

107. Section 50-45:

- a. enforces overly broad restrictions on protected speech;
- b. singles out a select type of speech for discriminatory restriction;
- c. chills the free speech and free exercise of religious expression of Olivier as well as that of third-party citizens;
- d. restricts speech on basis of content and viewpoint; and
- e. lacks narrow tailoring, fails to achieve any legitimate government purpose, and fails to leave open alternative avenues for expression.

108. Defendants have no compelling or significant interest that can justify their undue restriction on religious viewpoints which Olivier seeks to communicate on public ways.

109. Defendants have no compelling or significant interest that can justify enforcement of § 50-45 to eliminate speech in traditional public fora.

110. Section 50-45 violates the Free Speech Clause of the First Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment.

WHEREFORE, Olivier respectfully prays the Court grant the equitable and legal relief set forth in his prayer for relief.

SECOND CAUSE OF ACTION

Violation of Due Process Clause

111. Section 50-45 contains vague language and lacks objective standards for guiding police officers. Vague language allows Defendants to enforce § 50-45 in an *ad hoc*, arbitrary, and in a discriminatory manner.

112. Defendants have no compelling or significant interest that can justify the unduly vague language of the ordinance.

113. Section 50-45 is void for vagueness and violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Olivier respectfully prays the Court grant the equitable and legal relief set forth hereinafter in his prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Olivier respectfully prays for relief in that this Court:

A. Assume jurisdiction over this action;

B. Enter a judgment and decree declaring § 50-45 is unconstitutional on its face and as applied to Olivier's religious speech, violating Olivier's rights and those of third parties not before the Court, as guaranteed under the First and Fourteenth Amendments to the United States Constitution;

C. Enter a preliminary and permanent injunction enjoining Defendants, their agents, officials, servants,

employees, and all persons in active concert or participation with them, or any of them, from applying § 50-45 to Olivier's religious expression on public sidewalks in Quarry park;

D. Enter a preliminary and permanent injunction enjoining Defendants, their agents, officials, servants, employees, and all persons in active concert or participation with them, or any of them, from enforcing § 50-45 to restrict protected speech in traditional public fora;

E. Adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment;

F. That this Court award Olivier compensatory damages for injuries sustained and expenses incurred;

G. That this Court award Olivier nominal damages arising out of violation of his constitutional rights;

H. That this Court award Olivier his costs and expenses of this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988 and other applicable law; and

I. Grant such other and further relief as appears to this Court to be equitable and just.

Respectfully submitted,

/s/Nathan W. Kellum
NATHAN W. KELLUM
MS BAR # 8813; TN BAR #13482
Center for Religious Expression
699 Oakleaf Office Lane, Suite 107
Memphis, TN 38117
Telephone: (901) 684-5485
Email: nkellum@crelaw.org
Attorney for Plaintiff Gabriel Olivier

VERIFICATION OF COMPLAINT

I, Gabriel Olivier, a citizen of the United States and a resident of Terry, Mississippi hereby declare that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

Gabriel Olivier
GABRIEL OLIVIER

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
NORTHERN DIVISION**

GABRIEL OLIVIER,

Plaintiff,

vs.

CITY OF BRANDON,
MISSISSIPPI, and
WILLIAM A.
THOMPSON, JR.,
individually and in his
official capacity as Chief
of Police for Brandon
Police Department

Defendants.

CIVIL ACTION NO:

**AFFIDAVIT OF
GABRIEL OLIVIER**

1. I am Gabriel Olivier, the plaintiff in this action. Everything set out herein is based on my own person knowledge.
2. I am 29 years old and live in Terry, Mississippi.
3. I work as a professional landscaper.
4. I am also a born-again Christian who believes the Holy Bible is the Word of God.
5. I believe the Bible teaches all followers of Jesus Christ that they should tell others about the gospel, meaning the good news of Jesus dying for our sins.

Exhibit "A"

6. In sharing the good news of salvation by faith in Jesus Christ, I point out our need for salvation due to sin, including sin prevalent in our community, like abortion and drunkenness.

7. I convey this message to evangelize. I tell people Jesus Christ grants salvation to anyone who repents and believes in Him.

8. I share my faith in public places, following what Scripture calls the Great Commission, taking the gospel wherever I can find people.

9. To reach as many people as I can with the gospel, I especially like to go to public places near popular events, like music concerts. Such places give me an opportunity to reach many pedestrians with my message.

10. I share the gospel in a lot of different ways. I like to hand out gospel tracts, which are pamphlets explaining the gospel and why we need Jesus. Tracts are a great way to get the gospel in people's hands. I will also wear t-shirts with biblical messages on them.

11. I try to have one-on-one conversations with anyone who has time to talk with me. This is my preferred way to share the gospel because I can explain biblical concepts and answer questions.

12. I also use banners and signs for spreading God's Word. I have several banners that are approximately 3 by 5 feet in size. They are made of cloth, bear a scriptural passage, and are attached to a pole. I have several signs too, each containing a different scriptural reference and most of them have a stick attached to them so I can hold above my head. I also have smaller signs of about 2 feet by 1 ½ feet that I can hold without a pole or stick.

13. I preach the gospel too. Preaching is specifically mentioned in the Bible as a way to share the gospel. Preaching also leads to some meaningful conversations.

14. When I preach, I do not yell or scream at people. To be effective I have to be calm and speak in conversational way. For this reason, I often use a hand-held amplification device so I can be heard while speaking conversationally.

15. It is important for me to be winsome in my speech. I do not utilize personal insults, use curse words, or try to engage in unnecessary debate with anyone. I just want people to know Jesus.

16. I am careful not to get in anyone's way when sharing the gospel. I do not block any paths, sidewalks, or streets. I'll stand off to the side of the sidewalk so people can walk past me.

17. I want to share the gospel on public sidewalks on either side of Boyce Thompson Drive in Brandon where the street is in Quarry park near the intersection with the main paved entryway into the Brandon Amphitheater. In these spots I can share the gospel with people attending events at the amphitheater.

18. I live close to Brandon and heard about the city building an amphitheater in Quarry park and it immediately dawned on me that these events would offer me a great chance to share the gospel.

19. The Brandon Amphitheater started having concerts in the spring of 2018 and I did not waste any time going out there, going to the park for the very first concert in April of 2018.

20. Starting with that concert in April of 2018, I went to Quarry park about 5 or 6 times in 2018 and

2019 and each time I went I was with my family and friends who also wanted to share the gospel. I usually had 5 or 6 people with me.

21. I figured out where we needed to go in Quarry park to share our message the first time I went out there. Noticing where people parked and where they walked to get to the amphitheater, it became clear that we needed to be on either side of Bryce Thompson Drive near where the street intersects with the driveway to the amphitheater to reach them.

22. Attendees walk from their cars in the parking lots toward the direction of the amphitheater. Standing off to the side on either sidewalk bordering Bryce Thompson Drive we can reach most of the attendees as they walk by. No other spot in Quarry park allows us to reach nearly as many people as the spots by that intersection.

23. When we were out there for those times in 2018 and 2019, I wore an expressive t-shirt and handed out literature. I often held up a sign and/or banner and was also blessed to have conversations with many people. Additionally, I preached at a conversational level with a hand-held amplification device.

24. Also, during these visits, I usually had a sign dealing with abortion. This sin is one of the sins we like to point out in communicating our salvation message.

25. While we were there, we never had any problems with anyone. A few people indicated they did not agree with our message but we never had physical altercations or encountered any threats of violence.

26. Even so, Brandon police officers working amphitheater events frequently approached us while we

were there on event days. They referred to our speech as a “protest” and asked us to leave the spot where we were, suggesting we go elsewhere in the park where no one would receive our message.

27. I politely declined their invitation to leave. I did not want to move, especially to some spot where we couldn’t reach anyone. I reminded the police officers of our constitutional right to speak on public sidewalks and they eventually left us alone.

28. I was planning on going to Quarry park for amphitheater concerts in 2020 but the season was cancelled due to COVID-19. They cancelled some events in early part of 2021 too.

29. But in March of 2021 Brandon announced it would soon bring concerts to the Brandon amphitheater, beginning with a Lee Brice concert on May 1, 2021. I planned on going to Quarry park for the Lee Brice concert and was looking forward to it.

30. Also, around the same time, I heard from some friends of mine who were under the impression that Brandon passed a new ordinance to deal with our speech outside the amphitheater.

31. I found it hard to believe Brandon would pass a law shutting down free speech. But I went online to see what Brandon had done and found § 50-45.

32. I did not know what to make of § 50-45 when I read it. I did not think the law could apply to us since it dealt with protests and we don’t protest, but I did recall police officers referring to our speech as a protest.

33. Regardless, I resolved to go to Quarry park for the Lee Brice concert and share the gospel with the

assumption that Brandon would continue to respect our constitutional rights.

34. On the day of the Lee Brice concert, on May 1, 2021, I drove into Quarry park and found a parking space in parking lot B at around 6:00 p.m. that evening, about an hour and a half before the Lee Brice concert was scheduled to start. I drove up there with my wife and daughter. I had also arranged for several of my friends to meet me in the same lot.

35. I brought some signs, including an abortion sign, and some gospel literature, with me. I also brought a hand-held amplification device for preaching. We all wore expressive clothing with scriptural messaging.

36. As I got out of my car, I noticed a couple of police officers in a golf cart driving straight towards us.

37. The police chief stepped out of the cart, walked toward me and said we were welcome to be there but wanted us to know about the new ordinance. He handed me a copy of § 50-45 with an attached map of Quarry park showing where a protest area is located.

38. I was surprised the chief came up to us just as we parked in the lot. It was strange because we did not have a chance to do anything. It was obvious the police knew who we were and it looked like they were waiting for us.

39. The chief told me they set up a “special” spot for us on the other side of the hill off of a sidewalk and out of the way of traffic, indicating it was not far from the parking lot. We could not see the spot from where we were standing in parking lot B.

40. I wanted to cooperate with the police but hoped we had a good spot for our speech. I wanted to see for myself. I asked the chief if the area was sectioned off and he said it was marked off.

41. The chief added that the “only big thing” about our designated spot was some limitation on amplification. He didn’t elaborate on the limitation.

42. The chief told us that if we followed the rules and stayed out the road we would not hear from the police.

43. He then turned to hop back in his golf cart but I realized we had not formally met. We exchanged names and he left right after that.

44. I read over the ordinance and remembered it was the § 50-45 that I read before.

45. I talked with the others and we decided to check out the designated spot. I was hoping the area would be at or somewhere close to where we usually share the gospel.

46. We prayed and then walked up the hill on a sidewalk running alongside parking lot B and onto the sidewalk bordering Boyce Thompson Drive on the south side of the street and looked for the designated area.

47. Initially, I didn’t see the spot. I looked in the direction where I thought the chief was talking about but did not see any marked-off area close to where we typically stand near the main entryway to the amphitheater.

48. A friend in the group mentioned the spot must be west of where we were standing. I looked over there and could not see a designated spot but walked in that direction.

49. We kept walking and eventually spotted what appeared to be a marked-off area on the north side of Boyce Thompson Drive.

50. Measuring the distance, the designated spot is about 265 feet away from the intersection area where we usually stand and speak.

51. Noticing where this spot is located, I quickly figured it was totally unworkable for our speech purposes. The area is so far away from the intersection area and pedestrian traffic patterns I knew I could hardly reach anyone if forced to stay there.

52. But we kept walking toward the spot because I wanted to see it up close and inspect it.

53. Coming to the spot I noticed the protest area was a marked-off box between Boyce Thompson Drive and parking lot A. I also noticed there was no adjoining sidewalk on that portion of the street.

54. I discerned the protest area is a relatively small area. I read from the map that the spot is 29 x 15.9 feet and determined that the size is too tight for my group of 7 people.

55. Also, I looked around the designated area and saw a sign in the back of the box labelling the space as a "protest" area. The sign listed rules for behavior in the "protest" area, like those set out in § 50-45. I also saw a rope the city put between two poles in the back of the protest area to mark off the boundary line.

56. As I deduced when we were walking toward it, the area is an extremely poor space for our speech. It's unworkable. The location and the rules would keep us from sharing our message with event attendees, which seemed to be the whole idea behind it.

57. The protest area does not give us an opportunity to hand out literature or have conversations with anyone because no pedestrians walk by the protest area. The space is not part of or near a pathway running between the amphitheater and any place where someone would park for an event.

58. Neither could I hand out literature or have a conversation with anyone parking in parking lot A. The rope boundary marker keeps us approximately 10 feet from the parking places nearest to the protest area. And I doubted anyone would park in those spaces or anywhere close to those spaces anyway, since those parking spots are furthest in the lot from the amphitheater.

59. It was clear that our expressive clothing was useless in the space. No one could read the messaging on my or anyone else's shirt because they would not be close enough to read it.

60. Also, my signs and banners could not be read due to the location of the protest area and the rules we have to follow there. It is unlikely someone could see and read our signs and banners because no one walks by the area or has reason to look in the direction of the area. But if they did, they still could not read our signs and banners because of the rules imposed on our use of them.

61. The rules keep us from elevating the signs at a height so they can be read from the distance where people are located. I cannot use a pole or a stick, I can only hold up a sign with my hands. I cannot lift a sign so that the top of the sign is more than four feet than my height. And I cannot use a step stool or anything else that could elevate their signs. I only had one hand-held sign, of about 2 by 1 ½ feet, and it could not

be read. No pedestrian could read my signs due to distance and restricted elevation.

62. I also concluded that my preaching would be futile because of the rule that prohibits amplified speech that is audible from 100 feet away. This constraint does not allow me to speak at a volume so I can be heard. A vast number of attendees walking from their cars to the amphitheater remain at least 200 feet away from the area. Not able to use amplification, I would have to yell at the top of my lungs. I doubt anyone could hear me from that distance, but if they did, the yelling would undermine what I'm trying to do.

63. Given all the difficulties with the protest area, I knew it we could not reach anyone from there. I wanted to go somewhere else, but I did not see any other protest area.

64. I decided to go back to where we usually go. We were not protesting. We do have a sign about abortion, but we are not protesting abortion, just preaching about it, as part of our overall evangelistic efforts.

65. The group and I walked on the sidewalk on the north side of Boyce Thompson Drive toward the intersection with the entryway for the amphitheater where we could reach people with our message.

66. As soon as we arrived, another Brandon police officer approached us.

67. The officer reminded me the chief had given us a copy of § 50-45 and that we have a designated spot down the road where a box is marked off.

68. I was frustrated that they were enforcing this law against us. I believed we should have a right to speak on the public sidewalk like we had before.

69. I asked the police officer to confirm the road is public and he did but added that we must be in the box to conduct our speech.

70. I asked the police officer if the sidewalk where we were standing is a public sidewalk and he confirmed this sidewalk is public, but insisted we go to the box to protest.

71. I told the officer we were not protesting but exercising our religious freedoms. And I told him we could not reach anyone from the box.

72. But none of this seemed to matter to the police officer. He informed me his supervisor was on the way.

73. As we waited, I remained convinced of our right to share the gospel on the public sidewalk and encouraged one of my friends to start preaching. He did and another held up a gospel banner. I cautioned them to stay on the edge of sidewalk so as not to block anyone's way.

74. The police officer reiterated we needed to move to the designated area for our expressive activities.

75. In response, I reiterated our constitutional rights, but the officer was steadfast, repeating that we had to go to the protest area.

76. The officer referenced the ordinance and I referenced the public forum.

77. I asked the officer to identify himself but he declined.

78. Soon, Chief Thompson arrived in his golf cart.

79. The chief told me he had to enforce the ordinance and the ordinance required us to go the designated area.

80. I tried to explain my concerns to Chief Thompson. I told him that we are not protestors and do not belong in a protest area. I told him we could not share our views in a place so far away from people.

81. The chief responded that they do not make laws but enforce them. He said the ordinance is the law and we had to go back to the designated area or leave.

82. I was willing to comply with the chief's order but I knew they were violating my constitutional rights. I did not understand the basis for removing us and wanted the chief to explain it to me.

83. I asked the chief if he could confirm Boyce Thompson Drive and the sidewalks on both sides of the street are public, and he confirmed this reality.

84. But the chief insisted we go back to the protest area or leave. He asked if we would go.

85. I told the chief I was trying to figure it out. I advised I did not understand how Brandon could disallow our speech on a public sidewalk.

86. The chief, though, was unwilling to engage in any discussion about First Amendment rights. He repeated that he will do what the law says, that he is there to enforce the law, and explained our options again.

87. I did not want to get arrested. I asked the chief if his request was made under the threat of arrest and he confirmed that it was.

88. I was shocked the Brandon police would arrest us for sharing the gospel on a public sidewalk. I asked the chief if he would really arrest people for standing and speaking on the sidewalk.

89. The chief did not answer the question but declared that he was arresting me for violating the city ordinance. He looked toward my group and asked if any of them wanted to leave.

90. Wanting to avoid arrest, I told the chief we would voluntarily leave the area. But the chief proceeded with the arrest.

91. The chief arrested my friend who was preaching on the sidewalk and told another police officer to arrest me. The police officers handcuffed us with our arms behind our backs and told us to sit down in the grass. We waited on a patrol car.

92. After sitting there for several minutes, a few police officers drove up to us in separate vehicles. One of the officers escorted me the back of a patrol car, where I sat for several more minutes without the patrol car moving.

93. The police officer then drove me to the Brandon police station. I was escorted out of the car into a processing area in the police station. He did not take the handcuffs off.

94. Processing lasted for about an hour. The police officer released me after I filled out a recognizance bond, a copy of which is attached to the Motion for Preliminary Injunction as Exhibit "C".

95. The officer also gave me a notice of court appearance requiring me to appear in Brandon municipal court on May 5, 2021, a copy of which is attached to Motion for Preliminary Injunction as Exhibit "D".

96. I obtained a continuance of his court date until June 23, 2021. On this date, I pled no contest to the charge. The municipal judge rendered a sentence of 10 days of jail and a fine of \$304.00. I paid the fine of \$ 304.00 on August 2, 2021.

97. I still want to share an evangelistic message on public sidewalks bordering Boyce Thompson Drive near the main entryway to the Brandon Amphitheater, but I fear returning to the area during amphitheater events and engaging in my expression because of § 50-45 and the willingness of the Brandon police to enforce against me.

98. I have not returned and tried to speak in Quarry park since I was stopped on May 1, 2021. I have missed a lot of opportunities to share the gospel and would like to go back as soon as possible.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

G. Olivier
GABRIEL OLIVIER

STATE OF MISSISSIPPI
COUNTY OF Hinds

On this 4th day of October 2021, before me, a Notary Public of the State and County aforesaid, personally appeared Gabriel Olivier, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he executed the foregoing instrument for the purpose therein contained.

Cherish Smith
Notary Public

My Commission Expires: 01/30/2024



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
NORTHERN DIVISION**

GABRIEL OLIVIER **PLAINTIFF**

VS. **3:21-CV-00636-
HTW-LGI**

**CITY OF BRANDON,
MISSISSIPPI,
ET AL.** **DEFENDANTS**

**DEFENDANTS' ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendants the City of Brandon, Mississippi and William A. Thompson, Jr. in his official and individual capacities provide their affirmative defenses and answer to Plaintiff Gabriel Olivier's complaint as follows:

FIRST AFFIRMATIVE DEFENSE

The complaint fails to state claims upon which relief can be granted, in whole or in part.

SECOND AFFIRMATIVE DEFENSE

Defendants plead all applicable statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

Because Plaintiff's alleged injuries were not caused by a policy or custom of the City of Brandon, Mississippi, there is no municipal liability under federal law.

FOURTH AFFIRMATIVE DEFENSE

Punitive damages have not been pled but nonetheless cannot be assessed against the City of Brandon, Mississippi or Thompson in his official capacity.

Even if Plaintiff had asserted a punitive damages request against Thompson in his individual capacity, Plaintiff's claim for punitive damages would be barred because Thompson did not engage in any conduct with actual malice or wanton or willful disregard for Plaintiff's rights.

FIFTH AFFIRMATIVE DEFENSE

While denying that Plaintiff is entitled to punitive damages, Defendants affirmatively plead that an award of punitive damages would violate both the federal and Mississippi Constitutions.

SIXTH AFFIRMATIVE DEFENSE

Municipal Defendants plead the defenses of good faith and/or honest belief.

SEVENTH AFFIRMATIVE DEFENSE

To the extent applicable, Plaintiff's claims are barred by the doctrines of collateral, equitable, and/or judicial estoppel and/or res judicata.

EIGHTH AFFIRMATIVE DEFENSE

Municipal Defendants plead after-acquired evidence.

NINTH AFFIRMATIVE DEFENSE

To the extent Plaintiff has failed to comply with his duty to mitigate his request for damages, his entitlement to which is expressly denied, such damages must be reduced.

TENTH AFFIRMATIVE DEFENSE

Municipal Defendants possess sovereign, absolute, and/or qualified immunity from suit and/or liability and/or damages.

ELEVENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff seeks special damages, such damages have not been specifically stated.

TWELFTH AFFIRMATIVE DEFENSE

Municipal Defendants are entitled to an award of attorney's fees because this action is vexatious and was brought in bad faith.

THIRTEENTH AFFIRMATIVE DEFENSE

Municipal Defendants plead all statutory damage caps, including those applicable to requests for compensatory and punitive damages.

FOURTEENTH AFFIRMATIVE DEFENSE

Municipal Defendants plead the doctrine of unclean hands.

FIFTEENTH AFFIRMATIVE DEFENSE

Municipal Defendants acted in good faith at all times in their conduct toward Plaintiff, and Plaintiff's own actions, or the actions of a third party for whom Municipal Defendants are not responsible, were the proximate and superseding cause of any damages Plaintiff may have sustained. Municipal Defendants invoke all applicable contribution and comparative fault principles.

SIXTEENTH AFFIRMATIVE DEFENSE

Municipal Defendants are entitled to all rights, immunities, and privileges contained in Miss. Code § 11-46-1, et seq., including, but not limited to, all exemptions from liability set forth therein, the notice of claim requirements set forth therein, the limitations on liabilities set forth therein, and the fact that Plaintiffs are not entitled to a jury trial.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by *Heck v. Humphrey*, 512 U.S. 477 (1994).

EIGHTEENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff did not exhaust his administrative remedies under federal or state law for some or all of his allegations, claims, or theories, those allegations, claims, or theories may not be pursued in this action.

NINETEENTH AFFIRMATIVE DEFENSE

To the extent applicable, Plaintiffs lack standing.

ANSWER

Without waiving any of the aforementioned affirmative defenses, and expressly reserving the right to assert any future defenses that may be necessary, Defendants respond to the complaint as follows:

Defendants deny the unnumbered paragraph preceding section I. of the complaint.

INTRODUCTION

1. In response to the allegations contained in paragraph 1 of the complaint, Defendants admit only that Plaintiff has filed a lawsuit against them.

2. The allegations contained in paragraph 2 of the complaint are denied.

3. The allegations contained in paragraph 3 of the complaint are denied, and Defendants further deny that Plaintiff is entitled to any relief whatsoever.

4. The allegations contained in paragraph 4 of the complaint are denied.

5. The allegations contained in paragraph 5 of the complaint state legal conclusions and therefore do not require a response. To the extent a response is required, the allegations are denied.

JURISDICTION AND VENUE

6. The allegations contained in paragraph 6 of the complaint state legal conclusions and therefore do not require a response.

7. The allegations contained in paragraph 7 of the complaint state legal conclusions and therefore do not require a response.

8. The allegations contained in paragraph 8 of the complaint state legal conclusions and therefore do not require a response.

PLAINTIFF

9. The allegations contained in paragraph 9 of the complaint are denied for lack of sufficient information.

DEFENDANTS

10. The allegations contained in paragraph 10 of the complaint are admitted.

11. The allegations contained in paragraph 11 of the complaint are denied.

STATEMENT OF FACTS

Olivier's Desire to Engage in Evangelistic Expression

12. The allegations contained in paragraph 12 of the complaint are denied for lack of sufficient information.

13. The allegations contained in paragraph 13 of the complaint are denied for lack of sufficient information.

14. The allegations contained in paragraph 14 of the complaint are denied for lack of sufficient information.

15. The allegations contained in paragraph 15 of the complaint are denied.

16. The allegations contained in paragraph 16 of the complaint are denied for lack of sufficient information.

17. The allegations contained in paragraph 17 of the complaint are denied for lack of sufficient information.

18. The allegations contained in paragraph 18 of the complaint are denied for lack of sufficient information.

19. The allegations contained in paragraph 19 of the complaint are denied for lack of sufficient information.

20. The allegations contained in paragraph 20 of the complaint are denied for lack of sufficient information.

21. The allegations contained in paragraph 21 of the complaint are denied.

22. The allegations contained in paragraph 22 of the complaint are denied for lack of sufficient information.

23. The allegations contained in paragraph 23 of the complaint are denied for lack of sufficient information.

24. The allegations contained in paragraph 24 of the complaint are denied.

25. The allegations contained in paragraph 25 of the complaint are denied for lack of sufficient information.

Olivier Shares his Religious Beliefs on Public Sidewalks Outside Brandon Amphitheater

26. The allegations contained in paragraph 26 of the complaint are admitted.

27. The allegations contained in paragraph 27 of the complaint are admitted.

28. The allegations contained in paragraph 28 of the complaint are denied for lack of sufficient information.

29. The allegations contained in paragraph 29 of the complaint are denied.

30. The allegations contained in paragraph 30 of the complaint are denied.

31. The allegations contained in paragraph 31 of the complaint are denied for lack of sufficient information.

32. The allegations contained in paragraph 32 of the complaint are denied.

33. The allegations contained in paragraph 33 of the complaint are denied for lack of sufficient information.

Brandon Passes Ordinance to Curb Olivier's Speech

34. The allegations contained in paragraph 34 of the complaint are denied for lack of sufficient information.

35. The allegations contained in paragraph 35 of the complaint simply quote the ordinance and therefore do not require a response. To the extent a response is required, the allegations are admitted.

36. The allegations contained in paragraph 36 reproduce Exhibit “A” of the ordinance and therefore do not require a response. To the extent a response is required, the allegations are admitted.

37. The allegations contained in paragraph 37 of the complaint are denied for lack of sufficient information.

Brandon Applies Ordinance to Eliminate Olivier’s Speech Outside Brandon Amphitheater

38. The allegations contained in paragraph 38 of the complaint are denied.

39. The allegations contained in paragraph 39 of the complaint are denied.

40. The allegations contained in paragraph 40 of the complaint are denied for lack of sufficient information.

41. The allegations contained in paragraph 41 of the complaint are denied for lack of sufficient information.

42. The allegations contained in paragraph 42 of the complaint are denied for lack of sufficient information.

43. The allegations contained in paragraph 43 of the complaint are denied for lack of sufficient information.

44. The allegations contained in paragraph 44 of the complaint are denied.

45. The allegations contained in paragraph 45 of the complaint are denied.

46. The allegations contained in paragraph 46 of the complaint are denied for lack of sufficient information.

47. The allegations contained in paragraph 47 of the complaint are denied.

48. The allegations contained in paragraph 48 of the complaint are denied for lack of sufficient information.

49. The allegations contained in paragraph 49 of the complaint are denied for lack of sufficient information.

50. The allegations contained in paragraph 50 of the complaint are denied for lack of sufficient information.

51. The allegations contained in paragraph 51 of the complaint are denied for lack of sufficient information.

52. The allegations contained in paragraph 52 of the complaint are denied for lack of sufficient information.

53. The allegations contained in paragraph 53 of the complaint are denied for lack of sufficient information.

54. The allegations contained in paragraph 54 of the complaint are denied for lack of sufficient information.

55. The allegations contained in paragraph 55 of the complaint are denied for lack of sufficient information.

56. The allegations contained in paragraph 56 of the complaint are denied for lack of sufficient information.

57. The allegations contained in paragraph 57 of the complaint are denied for lack of sufficient information.

58. The allegations contained in paragraph 58 of the complaint are denied for lack of sufficient information.

59. The allegations contained in paragraph 59 of the complaint are denied for lack of sufficient information.

60. The allegations contained in paragraph 60 of the complaint are denied.

61. The allegations contained in paragraph 61 of the complaint are denied.

62. The allegations contained in paragraph 62 of the complaint are denied.

63. The allegations contained in paragraph 63 of the complaint are denied.

64. The allegations contained in paragraph 64 of the complaint are denied.

65. The allegations contained in paragraph 65 of the complaint are denied for lack of sufficient information.

66. The allegations contained in paragraph 66 of the complaint are denied for lack of sufficient information.

67. The allegations contained in paragraph 67 of the complaint are denied for lack of sufficient information.

68. The allegations contained in paragraph 68 of the complaint are admitted.

69. The allegations contained in paragraph 69 of the complaint are admitted.

70. The allegations contained in paragraph 70 of the complaint are admitted.

71. The allegations contained in paragraph 71 of the complaint are denied for lack of sufficient information.

72. The allegations contained in paragraph 72 of the complaint are admitted.

73. The allegations contained in paragraph 73 of the complaint are denied for lack of sufficient information.

74. The allegations contained in paragraph 74 of the complaint are denied for lack of sufficient information.

75. The allegations contained in paragraph 75 of the complaint are denied for lack of sufficient information.

76. The allegations contained in paragraph 76 of the complaint are denied for lack of sufficient information.

77. The allegations contained in paragraph 77 of the complaint are denied for lack of sufficient information.

78. The allegations contained in paragraph 78 of the complaint are denied for lack of sufficient information.

79. The allegations contained in paragraph 79 of the complaint are denied for lack of sufficient information.

80. The allegations contained in paragraph 80 of the complaint are denied for lack of sufficient information.

81. The allegations contained in paragraph 81 of the complaint are denied for lack of sufficient information.

82. The allegations contained in paragraph 82 of the complaint are admitted.

83. The allegations contained in paragraph 83 of the complaint are admitted.

84. The allegations contained in paragraph 84 of the complaint are admitted.

85. The allegations contained in paragraph 85 of the complaint are denied.

86. The allegations contained in paragraph 86 of the complaint are admitted.

87. The allegations contained in paragraph 87 of the complaint are denied.

88. The allegations contained in paragraph 88 of the complaint are denied as stated.

89. The allegations contained in paragraph 89 of the complaint are denied for lack of sufficient information.

90. The allegations contained in paragraph 90 of the complaint are denied for lack of sufficient information.

91. The allegations contained in paragraph 91 of the complaint are admitted.

92. The allegations contained in paragraph 92 of the complaint are admitted.

93. The allegations contained in paragraph 93 of the complaint are denied.

94. The allegations contained in paragraph 94 of the complaint are admitted.

95. The allegations contained in paragraph 95 of the complaint are admitted

96. The allegations contained in paragraph 96 of the complaint are admitted.

97. The allegations contained in paragraph 97 of the complaint are admitted.

***Brandon Prosecutes Olivier for
Violating § 50-45***

98. The allegations contained in paragraph 98 of the complaint are denied for lack of sufficient information.

99. The allegations contained in paragraph 99 of the complaint are admitted.

100. The allegations contained in paragraph 100 of the complaint are admitted.

***Brandon Continues to Stymie
Olivier's Speech with § 50-45***

101. The allegations contained in paragraph 101 of the complaint are denied for lack of sufficient information.

102. The allegations contained in paragraph 102 of the complaint are denied.

103. The allegations contained in paragraph 103 of the complaint are denied.

104. The allegations contained in paragraph 104 of the complaint are denied.

105. The allegations contained in paragraph 105 of the complaint are denied.

FIRST CAUSE OF ACTION

Violation of Free Speech Clause

106. The allegations contained in paragraph 115 of the complaint call for a legal conclusion and thus do not require a response. To the extent a response is required, the allegations contained in paragraph 106 of the complaint are denied for lack of sufficient information.

107. The allegations contained in paragraph 107 of the complaint, including subparagraphs a through e, are denied.

108. The allegations contained in paragraph 108 of the complaint are denied.

109. The allegations contained in paragraph 109 of the complaint are denied.

110. The allegations contained in paragraph 110 of the complaint are denied.

The allegations contained in the unnumbered paragraph following paragraph 110 of the complaint do not seem to require a response. To the extent a response is required, the allegations are denied, and Defendants further deny that Plaintiff is entitled to any relief whatsoever.

SECOND CAUSE OF ACTION

Violation of Due Process Clause

111. The allegations contained in paragraph 111 of the complaint are denied.

112. The allegations contained in paragraph 112 of the complaint are denied.

113. The allegations contained in paragraph 113 of the complaint are denied.

The allegations contained in the unnumbered paragraph following paragraph 113 of the complaint do not seem to require a response. To the extent a response is required, the allegations are denied, and Defendants further deny that Plaintiff is entitled to any relief whatsoever.

PRAYER FOR RELIEF

Defendants deny the allegations contained in the last unnumbered paragraph of the Complaint entitled “PRAYER FOR RELIEF,” including subparagraphs A through I, and further deny that Plaintiff is entitled to any damages or relief whatsoever.

Consistent with the affirmative defenses and answers set forth herein, Defendants request that the complaint be dismissed, with all costs taxed to the Plaintiff and an award of attorney’s fees provided to Defendants.

Dated: November 4, 2021.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/ Mallory K. Bland

G. Todd Butler, MB #102907

Mallory K. Bland, MB #105665

4270 I-55 North

Jackson, Mississippi 39211-6391

P. O. Box 16114

Jackson, Mississippi 39236-6114

Telephone: (601) 352-2300

Telecopier: (601) 360-9777

Email: butlert@phelps.com

mallory.bland@phelps.com