

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RYAN KIRBY,

Plaintiff,

vs.

CASE NO.

HILLSBOROUGH COUNTY, FLORIDA,

Defendant.

_____ /

**VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND DAMAGES**

The Plaintiff, Ryan Kirby, sues the Defendant, Hillsborough County, Florida (County), alleging as follows:

PRELIMINARY STATEMENT

1. Under a Hillsborough County Ordinance, standing along a roadway and asking people in motor vehicles for charitable contributions is banned on all public roads in the county. The County also prohibits people along all public roads from displaying advertising, soliciting business, or distributing materials. All these actions are punishable by up to 60 days in jail. In the last fourteen months, hundreds of people have been arrested or cited for violating the ordinance, many of whom have spent time in jail because of these arrests.

2. However, a person seeking to engage in other forms of speech along public roadways—such as asking for votes, encouraging people to join a church, or requesting signatures on a petition—may do so without fear of arrest. Because the

Ordinance singles out charitable solicitation and other forms of speech, it is content-based and subject to strict scrutiny. Because it is not narrowly tailored to any compelling government interest, nor is it the least restrictive means of advancing any governmental interest, it is an unconstitutional restriction of free speech.

3. Plaintiff Ryan Kirby is an individual of limited means who engages in panhandling, a First Amendment protected activity, along the public streets and roads of Hillsborough County. He has been cited and arrested under the Ordinance and warned by police to cease his activity.

4. On its face and as applied to Plaintiff, the County Ordinance violates the First Amendment because it is an overbroad restriction on speech in a traditional public forum.

5. As the result of the County's adoption and enforcement of the Ordinance, Plaintiff has been hindered in the exercise of his First Amendment rights, faces a continuing threat of citation and arrest for merely asking for or receiving donations, and has suffered damages.

6. Plaintiff brings this action for declaratory and injunctive relief and damages pursuant to 42 U.S.C. § 1983 for past and ongoing injury to his rights guaranteed by the First Amendment to the U.S. Constitution.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

8. Venue lies in the Middle District of Florida pursuant to 28 U.S.C. §1391(b). The parties are located in this District and all the acts and omissions complained of herein occurred and will continue to occur in this District.

PARTIES

9. Plaintiff Ryan Kirby was born in Tampa, Florida, and is a longtime resident of Hillsborough County. Mr. Kirby is without permanent housing and often does not have enough income to pay for monthly expenses. As a result, he must solicit charitable contributions from others to contribute to his survival.

10. Defendant Hillsborough County, Florida, is a governmental entity organized under the laws of the State of Florida, with the capacity to sue and be sued.

11. The Hillsborough County Commission sets final policy on the creation and adoption of County ordinances.

12. The County is sued for injunctive and declaratory relief and damages based on the acts of officials, agents and employees of the County which were taken pursuant to official policy, practice and/or custom.

13. The Hillsborough County Sheriff and municipal police departments located in Hillsborough County are authorized to and do enforce Hillsborough County ordinances on behalf of the County.

STATEMENT OF FACTS

A. Solicitation and Distribution on Public Roads Ordinance

14. On November 6, 1991, the Hillsborough County Commission passed Ordinance 91-24, titled the “Hillsborough County Solicitation and Distribution on Public Roads Ordinance” (Ordinance), which has subsequently been codified in Article II, Sections 42-19 -- 42-27 of the Hillsborough County Code of Ordinances.

15. The Ordinance banned people from standing along county roadways and asking people in motor vehicles for charitable donations. It further prohibited people along all county roads from soliciting business, displaying advertising and distributing materials to people in motor vehicles.

16. Over time, the County Commission became increasingly frustrated with the increasing presence of homeless and poor people who were soliciting donations along county roads.

17. In August 2010, the County Commission created a working subgroup, the Committee on Panhandling Ordinance, and directed county administrative staff to present a set of recommendations on how to proceed with a process to limit panhandling in the county.

18. The committee met numerous times over the subsequent six-month period and held public hearings.

19. On February 2, 2011, the County Administrator presented its findings to the Board of County Commissioners.

20. The County Administrator did not present any evidence to the Commission that those who solicit donations along county roads were either involved in or caused motor vehicle accidents.

21. In response, the Board directed the County Attorney to draft an amendment to the Ordinance to expand its scope to prohibit charitable solicitation on state roads, as well as county roads.

22. On March 10, 2011, the Board of County Commissioners unanimously approved County Ordinance 11-2, which amended the Solicitation and Distribution on Public Roads Ordinance to expand its coverage to apply to state roads as well as county and municipal roadways. Ordinance 11-2 was later codified in Section 42-24 of the Hillsborough County Code of Ordinances

23. In its present form, Section 42-23(a) of the Hillsborough County Code of Ordinances makes it unlawful to “be upon or go upon any road” “for the purpose of displaying advertising of any kind or distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of Hillsborough County.”

24. Section 42-23(b) of the Hillsborough County Code of Ordinances makes it unlawful to “be within four feet of the edge of the road” “for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of Hillsborough County.”

25. The prohibitions in Sections 42-23 (a) and (b) are intended to apply “only when they are directed by pedestrians toward occupants of motor vehicles that are on the traveled portion of public roads that are open to traffic.” Section 42-23 (c).

26. Under the Ordinance, “*Roads* includes streets, shoulders, roadbeds, medians, and all other ways open to travel by operators of motorized vehicles within Hillsborough County.” Section 42-21.

27. The provisions of the Ordinance “shall embrace all public roads that are open to motor vehicle traffic within the legal boundaries of Hillsborough County, including State roads, interstate ramps, County roads, and municipal roads.” Section 42-24.

28. The scope of the Ordinance is exceedingly overbroad and severely restricts expressive activity by people along public roads which is directed at people in motor vehicles. The Ordinance can be enforced to prohibit people from standing and holding a sign, soliciting and receiving donations, and leafleting alongside *all* public roads in Hillsborough County, including many areas where there is little to no traffic.

29. A violation of the Ordinance can be punished by a fine not to exceed \$500.00, by imprisonment in the county jail not to exceed sixty days, or by both fine and imprisonment. Section 42-26 (a).

Enforcement of the Ordinance

30. The Ordinance has long been aggressively enforced by the County Sheriff and municipal police departments against poor and homeless people who were soliciting for charitable contributions along public roadways.

31. From January 1, 2024, to February 17, 2025, law enforcement agencies in Hillsborough County issued over 700 citations for violations of the

Ordinance. Many of those individuals cited were arrested and spent at least one day in jail.

Plaintiff Ryan Kirby

32. Plaintiff Kirby is without permanent housing and often does not have enough income to pay for monthly expenses. As a result, he must peacefully solicit charitable contributions from others to contribute to his survival.

33. Mr. Kirby solicits donations along the major roads of Hillsborough County from people in motor vehicles. He typically stands along the sidewalk or the edge or shoulder of county roads at intersections and asks for donations from people in cars who are stopped at a traffic light. He does not block or obstruct traffic.

34. When he solicits for donations, he typically holds a sign which states, “Broke and Hungry.”

35. Mr. Kirby chooses to hold his sign along roadways because his message is seen by the most people that way. If he were to hold his sign elsewhere, he would have to spend more time to reach the same audience and receive the same amount of donations.

36. Mr. Kirby receives donations from fellow citizens, including food, water, and cash.

37. When Mr. Kirby panhandles in Hillsborough County, he is regularly harassed by law enforcement officers who drive up to where he is standing and yell at him to leave the area immediately, and warn him that if they see him again, they

will arrest him. Mr. Kirby has also witnessed County deputies harassing others on county roads for panhandling.

38. On December 27, 2024, Mr. Kirby was arrested by Hillsborough County Sheriff's Deputy Shannon and charged with violating the Solicitation and Distribution on Public Roads Ordinance, Section 42-23.

39. In the affidavit in support of the charge, Deputy Shannon alleged that Mr. Kirby was holding a sign and standing on the sidewalk on Zambito Road near N. Dale Mabry Drive. Mr. Kirby then stepped down from the sidewalk into the roadway and reached into the passenger window of a stopped car and retrieved cash.

40. Deputy Shannon placed Mr. Kirby under arrest and booked him into the Hillsborough County Jail. Friends of Mr. Kirby posted bail in the amount of \$150.00, and he was released after spending 36 hours in jail.

41. Mr. Kirby was prosecuted in the Hillsborough County Court for a violation of the Ordinance.

42. On June 30, 2025, Hillsborough County Judge Jeffrey M. Rich issued an Order finding the Ordinance was a content-based restriction on speech and that it could not withstand strict scrutiny. The Court struck the Ordinance as facially unconstitutional and dismissed the charge against Mr. Kirby.

43. Mr. Kirby panhandles sparingly in Hillsborough County. He wants to be able to panhandle more but does not do so more frequently because he fears being arrested under the Ordinance and taken to jail. Because he has been

deterred from panhandling more, he has not been able obtain donations that he would otherwise receive if he panhandled more frequently. Further, the constant threat of arrest and the actions of the officers have been humiliating and taxing, causing him emotional and mental distress.

44. The ongoing threat of arrest has had a chilling effect on Mr. Kirby's exercise of his First Amendment rights in Hillsborough County. Consequently, Mr. Kirby has suffered and continues to suffer damages and harm for the violation of his constitutional rights under the First Amendment.

CAUSES OF ACTION

COUNT I - FIRST AMENDMENT - FREEDOM OF SPEECH **Solicitation and Distribution on Public Roads Ordinance**

45. Plaintiff Ryan Kirby realleges and incorporates each paragraph preceding the Causes of Action section and incorporates them by reference herein.

46. At all times relevant hereto, the Hillsborough County Commission was the final policymaker for Hillsborough County for the purpose of adopting ordinances regulating conduct within the boundaries of the County.

47. Requests for donations are recognized as speech entitled to First Amendment protection.

48. Streets, medians, and sidewalks are traditional public fora for purposes of engaging in constitutionally protected speech and expressive conduct.

49. The Hillsborough County Solicitation and Distribution on Public Roads Ordinance" (Ordinance), as codified in Article II, Sections 42-19 -- 42-27 of

the Hillsborough County Code of Ordinances, was designed to target specific subject areas of speech—requests for donations—for different treatment than speech on other subject matters.

50. The Ordinance is content based and thus subject to strict scrutiny, requiring the County to show that this regulation is narrowly tailored to serve a compelling government interest and is the least restrictive means of serving that interest.

51. The Ordinance is not narrowly tailored to and is not the least restrictive means of serving any compelling government interest, and is therefore unconstitutional under the First Amendment.

52. Should the Ordinance or any section thereof be construed as not targeting one subject area of speech, this regulation is nonetheless unconstitutional because it is not a reasonable time, place, and manner restriction, in that it is not narrowly tailored to serve a significant governmental interest, and it does not leave open ample alternative channels of communication.

53. The Ordinance is substantially overbroad compared to its plainly legitimate sweep.

54. The County's adoption and ongoing enforcement of the Ordinance has proximately caused the past and continuing deprivation of the First Amendment rights of the Plaintiff.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests and seeks the following relief:

A. A declaration that the Hillsborough County Solicitation and Distribution on Public Roads Ordinance violates the First Amendment of the U.S. Constitution facially and as applied to Plaintiff;

B. A preliminary and permanent injunction prohibiting the County from enforcing the Hillsborough County Solicitation and Distribution on Public Roads Ordinance;

C. All damages permitted by law, including but not limited to compensatory and nominal damages;

D. Attorneys' fees and costs; and

F. Any other relief that is just and proper.

Jury Demand

Plaintiff demand trial by jury on all counts alleged above.

Respectfully submitted,

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HILLSBOROUGH COUNTY, FLORIDA,

Defendant.

DECLARATION OF RYAN KIRBY

I, Ryan Kirby, make this Declaration Under Penalty of Perjury, and declare that the statements below are true, and state:

My name is Ryan Kirby. I have reviewed the Verified Complaint above, and state that the facts which pertain to me are true and accurate to the best of my knowledge.

I understand that a false statement in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Ryan Kirby
Ryan Kirby

Date: July 2, 2025