Arkansas Supreme Court to consider trash collection dispute in new city

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In "Arkansas's Newest City," a dispute between an area businessman and the municipality has made its way to the state's highest court and drawn the attention of several national libertarian-leaning organizations.

The point of controversy: trash collection.

In 2022, barely more than a year after Holiday Island was officially designated a city of the second class -- cities with populations of more than 500 but less than 2,500 -- local officials adopted an ordinance establishing regulations for solid waste and recycling collection. The ordinance allowed the city to work exclusively with a single provider, prohibiting anyone aside from the selected contractor from collecting solid waste in the city's limits.

That includes Steven Hedrick, owner of X-Dumpsters, which rents 10 and 15 cubic yard roll-off dumpsters to clients when needed.

Frustrated, he took to the courts, filing a lawsuit against the city in 2023, claiming the Holiday Island ordinance violated the Arkansas Constitution's anti-monopoly provision and unconstitutionally interfered with his rights to earn a living.

"It was just time to do something," Hedrick said in an interview.

The lawsuit in 2024 was tossed by Carroll County Circuit Judge Scott Jackson, who sided with the city of Holiday Island that the ordinance was fully legal under state law, which gives municipalities the authority to regulate the collection of solid waste as it is a matter of public health and safety.

"This same statute allows a municipality to utilize only one provider," the order signed by Jackson states, later noting the agreement with the contractor is "proper" and "not an illegal monopoly."

Hedrick appealed the ruling, bringing it to the seven-member Arkansas Supreme Court. He is being represented, in part, by attorneys from the Goldwater Institute -- a Phoenix-based libertarian-leaning organization that touts itself on its website as "the nation's preeminent liberty organization scoring real wins for freedom from coast to coast." Other prominent libertarian-leaning groups such as the Pacific Legal Foundation and the Institute for Justice weighed in on the case, filling amicus briefs -- "friend of the court" briefs from someone not a party to a case. Oral arguments are scheduled for early October.

"We believe that this monopoly goes far beyond what is necessary to protect public health and safety," said attorney Adam Shelton at the Goldwater Institute. That's because it bars Hedrick's company from providing what they contend are supplemental or additional services to those currently done by the current group the city contracts with.

"Steven is still getting calls from residents who want and need his services," Shelton said in an interview.

The end goal, Shelton said, "is to have the (state) Supreme Court declare that monopolies cannot go farther than absolutely necessary to protect public health and safety, and to allow Steven to continue providing his supplemental services within Holiday Island."

Shelton emphasized that would not null the contract between the city and their chosen provider of routine trash pickup services, nor interfere with the city requiring its residents utilize those services, but it would allow providers of supplemental services to also work in city limits.

"I don't think I should be commenting on a pending case other than to say that our Appellee brief has been filed," said Holiday Island Mayor Dan Kees in a written statement.

"I'm confident the City of Holiday Island's ordinances are constitutional, and that the city is following law," Kees added.

In the city's brief in the case before the state Supreme Court, it claims that it "does not have the resources to supervise various trash haulers, and thus enacted the Ordinance to combat illegal dumping, issues with trash storage on property, and wear and tear on the roads, as well as to ensure compliance with the Arkansas statutory law and Arkansas Pollution Control and Ecology Commission rules and orders."

The city chose to work with the Carroll County Solid Waste District, an established solid waste district that services different areas in the county. The Arkansas Democrat-Gazette left two voicemails with the district and did not hear back. The district is not a party in the lawsuit.

The city in its legal filing also claims the district does in fact provide roll-off container services similar to Hedrick's.

The city has asked the Arkansas Supreme Court to affirm the lower courts dismissal of the suit.

"The circuit court properly held that the Ordinance is authorized by state law to assist local governments in protecting the health and safety of their citizens by providing a mechanism for removal of all solid waste," the city's brief states. "Because the Ordinance was designed to accomplish a legitimate governmental purpose of regulating solid waste to protect public health and safety, the Ordinance does not deprive Appellants (Hedrick and X-Dumpsters) of due process."

Due process violations are a secondary claim made by Hedrick's attorneys, who argue that through multiple provisions of the Arkansas Constitution there are established "due process protections for the right to earn an honest living," per their court filings.

The Goldwater Institute and other ideologically aligned groups have promoted the "right to earn a living" or "right to earn an honest living" in both the courts and via proposed legislation.

In 2024, the city of Holiday Island repealed and replaced the original ordinance with a new ordinance "revising" the regulation of solid waste and recycling collection, according to city documents. However, it still gives the city the ability to award an exclusive franchise for collection services and prohibits anyone aside from those selected by the city from collecting solid waste, which is the heart of the issue in the lawsuit. The Arkansas Democrat-Gazette asked both parties if or how that affects the lawsuit.

"In our view, the new ordinance has the same substantive problems as the previous version and makes no changes to the claims brought by Steven, as he is still prohibited from providing any solid waste removal services in Holiday Island," Shelton said in a written statement.

Arkansas Municipal League attorney Gabrielle Gibson, who is representing the city, did not respond to the Democrat-Gazette's inquiry.

Both sides are scheduled to argue the case in front of the Arkansas Supreme Court on Oct. 2, per court documents.

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Ella McCarthy covers state politics and the state Supreme Court. Before joining the Arkansas Democrat-Gazette, she covered Austin City Hall for the Austin American-Statesman, and before that, held a fellowship with ABC News in Washington, D.C., where she covered national politics. A graduate of the Missouri School of Journalism, her work has been recognized by the Hearst Foundation, the Missouri Press Association and LION Publishers in the LION local journalism awards. She contributed to the Statesman's coverage of a two-city shooting rampage that won a national Edward R. Murrow Award for breaking news coverage.

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