

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CHERI BALLARD, et al.)	ED98320
)	
Appellants,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable David L. Vincent
CITY OF CREVE COEUR, and)	
AMERICAN TRAFFIC)	
SOLUTIONS, INC.,)	
)	
Respondents.)	FILED: October 1, 2013

Appellants Cheri Ballard, Jay Baur, and Stephen and Brenda Arnold (“Appellants”) appeal from the judgment of the trial court granting a joint motion to dismiss filed by Respondents City of Creve Coeur and American Traffic Solutions, Inc. (“Respondents”). Appellants received violation notices from Creve Coeur alleging that they had violated Creve Coeur’s red light camera ordinance (“the Ordinance”) and challenged the Ordinance in a six-count, purported class action petition. Appellants sought declaratory judgment regarding the Ordinance’s constitutionality and conformity with state law, as well as Creve Coeur’s authority to enact the Ordinance. Appellants also claimed the Ordinance violated procedural due process and the privilege against self-incrimination, and they alleged claims of unjust enrichment and civil conspiracy by Creve Coeur and ATS.

Creve Coeur and ATS filed a joint motion to dismiss, which was granted by the trial court. The trial court held that the Arnolds and Baur could not bring a claim for equitable relief when they had an adequate remedy at law in their municipal court proceeding. The trial court also held that Ballard could not raise her constitutional claims due to the doctrines of standing, waiver, and estoppel. The trial court then proceeded to address the substantive issues raised by Appellants’ constitutional claims, finding the Ordinance did not violate the Missouri constitution. The trial court further held that the Ordinance was properly enacted by Creve Coeur and was not in conflict with state law. Finally, the trial court found that Ballard could not state a claim for unjust enrichment or recover under a theory of civil conspiracy. All of Appellants’ claims were dismissed with prejudice. Appellants now appeal the trial court’s dismissal of their claims, but they do not challenge the trial court’s substantive judgment and rulings related to their constitutional claims, conflict with state law claims, or civil conspiracy claim.

AFFIRMED IN PART, REVERSED IN PART.

Division IV holds: We affirm the trial court’s judgment with regard to its dismissal of the Arnolds’ and Baur’s claims in Counts I, III, IV, and V because they have an adequate remedy at law in their municipal court proceeding. Because Ballard has not preserved any constitutional

issues for appeal, we need not determine whether the trial court erred in dismissing her claims on the bases of standing, waiver, and estoppel. Furthermore, because Appellants have not appealed the trial court's judgment as to Counts III, IV, and V, as well as Count I as it relates to the Ordinance's constitutionality and conflict with state law, those portions of the trial court's judgment are affirmed. With regard to Ballard's claim that the Ordinance is an invalid exercise of Creve Coeur's police power for regulating public safety, we reverse the trial court's judgment dismissing Count I of the petition and declaring the Ordinance valid. We remand this issue for further proceedings consistent with this opinion, including discovery related to the issue of whether the Ordinance is a valid exercise of Creve Coeur's police power or an unlawful revenue-generating measure. Finally, we affirm the trial court's judgment dismissing Ballard's claims for unjust enrichment and restitution under Counts II and VI.

Opinion by: Kurt S. Odenwald, J., and Clifford H. Ahrens, J., Concur.
Lawrence E. Mooney, P.J., Dissents.

Attorney for Appellants: John G. Simon and Ryan A. Keane

Attorney for Respondent: Jane E. Dueker, Nicholas G. Frey, W. Dudley McCarter,
Timothy J. Reichardt, and Carl Lumley

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.