

My office represents two UGA students who are suing to have Athens-Clarke County's overly restrictive noise ordinance struck down under the free speech clause of the Georgia Constitution. These are some of the most frequently asked questions about this case, which I hope will give the readers of the Guard Dawg a good understanding of where we're coming from in this case and why it is so important for the students at UGA that we succeed.

Q: This Ordinance does not regulate speech, you can still say whatever you like.

A: The regulation does not have to be content-based in order to be a free speech issue. Even a content-neutral regulation is subject to free speech scrutiny, and will be struck down by the Courts if it is not "narrowly tailored" to avoid suppressing too much speech. And in Georgia, the state Supreme Court has drastically expanded free speech rights, holding that even a content-neutral "time, place, and manner" restriction must be the very least restrictive ordinance possible.

Q: Do you think the noise ordinance is targeted toward students?

A: I believe that evidence in this case will show that one of the county Commissioners ran a group of students out of his neighborhood by threatening to call the police on them "every time a peep is heard." Now, students aren't the only ones affected by the ordinance – a local restaurant has had consistent problems with intolerant neighbors calling the police, even resulting in the Beatles' original drummer getting a noise ticket for his performance. But usually, college town noise ordinances are created for the purpose of suppressing youthful expression. As Justice Thurgood Marshall once wrote in a judicial opinion, "new music always sounds loud to old ears."

Q: Why would the government want to do that?

A: The Mayor and Commissioners, like any other elected officials, want to continue being elected officials. And they know that for the most part it is the grouchy police-calling neighbor who votes, not the students. In order to win election and re-election, they have to continually promise that they will come down hard on "them darn kids." Fortunately, the beauty of our system of government is that we have lines that even the politically powerful cannot cross.

Q: What about the rights of the neighbors?

A: I think even most students agree that there needs to be some peace and quiet. No one wants to be trying to study for an exam when there's a loud party going on. I feel strongly that both sides need to try to understand where the other is coming from and work on a compromise. But calling the police every time you hear a peep is not compromise, it isn't being a good neighbor, and it isn't Constitutional.

Q: What exactly does the noise ordinance prohibit?

A: Until 11 p.m. on weeknights, and 12 on weekends, noise cannot be heard from over 300 feet away. After those times, the restriction goes to 100 feet. And if you live in a dorm or apartment, noise cannot be heard from more than 5 feet outside your dorm room or apartment at any time. This covers pretty much any sound made by any device or human being.

Q: That doesn't sound terrible, 300 feet and 100 feet.

A: Remember, it doesn't take into account the surroundings. For example, the same rule applies to someone living in Farmer's Exchange in downtown Athens, as well as someone living in a quiet family community. Courts are very clear that a noise ordinance has to be tailored to place as well as time. But in Athens, It's a blanket rule, and that's why it's a violation.

Q: Don't people receive a warning before they are given a ticket?

A: As the local government has become more and more hostile toward "them darn kids," they have eliminated the warning. Now, if the police find a noise violation, there is automatically a ticket written, no warning. I think that is one of the most unfair ways of treating people. Even members of fraternities

that I know say they don't want to cause problems for their neighbors. It's only polite for a neighbor to call and ask you to turn the music down, before calling the police.

Q: But they don't have to?

A: There's no requirement that a neighbor give a warning, sign a complaint pressing charges, or that they come to court and testify. So basically there's nothing to prevent a grouchy intolerant neighbor from calling the police every time he hears a peep, like the Commissioner suggested. Now, my father taught me that if you want to have good neighbors, you have to be a good neighbor. When I had a neighbor who played their music too loud, I went over, knocked on their door, and politely explained my situation and asked them if they could please turn their music down. Even loud, rambunctious fraternity men I've talked to have told me that if a neighbor were to be kind enough to do that, instead of just calling the police, they would turn it down. And that's been my experience as well. It's just a matter of being a good neighbor – on *both* sides.

Q: What is the penalty for a noise ticket?

A: The maximum fine is a fine of \$1,000 and up to 6 months in jail. In Municipal Court, the judge usually fines only \$144 for the first offense. For subsequent offenses, a court appearance is required and the judge handles it on a case by case basis, usually doubling the fine.

Q: Is the noise ordinance still in effect at this time?

A: It's very important – and I want to emphasize this to your readers – that everyone must still abide by the noise ordinance until the Judge rules otherwise.

Q: What do you think your chances are of succeeding?

A: I'm extremely confident that we will succeed in this case. Case law overwhelmingly supports our side – in fact I don't know of ONE court that has upheld a similar noise ordinance under the strict Georgia test. I will put copies of our legal arguments online at my firm's site [www.attorneycjones.com](http://www.attorneycjones.com), so that GuardDawg readers can see the case law for themselves.

Q: What happens if you succeed? Will we have to live with earth-shaking parties at all hours?

A: I don't think anyone, including students, wants that. When we succeed in this case, the Mayor and Commission is going to have to go back to the drawing board and write an ordinance that respects the rights of all Athens' citizens, including the student citizens, and stays within the boundaries laid out by the Constitution. It is disappointing that it will take a court order to make that happen, but if that's what it takes, so be it. The Constitution must be respected.

Q: And what happens if you don't succeed? Will you appeal?

A: As I said before I certainly think we are going to succeed at the Superior Court level. However, whatever party loses at the Superior Court has the right of direct appeal to the Georgia Supreme Court. We are prepared for every possibility.

Q: Is this a political issue?

A: I think most of my law school colleagues would agree that there are very few people more politically conservative than I am, and in this case I am taking the position traditionally advocated by groups such as the ACLU, I'm relying heavily on opinions of liberal icons such as Justice Thurgood Marshall, and I firmly believe that our position is right. This is no Democrat-Republican, liberal-conservative issue – I bet just as many College Republicans as College Democrats agree with our position here. Any time you can get me and the ACLU on the same side, you know it's an issue that transcends political labels.

Q: You advertise yourself as a “students’ rights lawyer” – what other kinds of cases do you handle on behalf of students?

A: I practice in many fields, including criminal law, tenants’ rights, corporate, contracts, etc. But I am very passionate about fighting for students’ rights. My students’ rights work runs the gamut from DUI’s to landlord-tenant disputes to academic rights. I went to law school so I could fight for the underdog, and I’m very blessed to be in a position to do just that.

PS - If any readers have had any experiences with the Noise Ordinance being abused against them, I would love to speak with them!

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