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1. What is the likelihood of SC's success in obtaining a temporary restraining order?

Standing

Prior to any party bringing an action in court, they must prove that they have standing. This requires the showing of 1) an injury; 2) by the government; and 3) the court is able to redress the injury.

1) An injury

Here, SC will be able to show that they will be subjected to injury should the fire marshal be allowed to vigorously enforce the ordinance by randomly visiting their church during Sunday services because this will be a disruption.

2) The is performed by the mayor and the Clear City fire marshal and is therefore, a government entity.

3) The court will be able to redress the harm by granting to TRO, Preliminary injunction, or allow declaratory relief in its favor.

Therefore, SC has proper standing.

Temporary Restraining Order (TRO)

A TRO is a temporary interlocutory measure to maintain the status quo. for a period of 10 days. The party must show that they will suffer and any other measure will be inadequate and that the likelihood of success is well founded. Here, SC will wish to maintain their status quo of being allowed to burn candles in their church without Clear City forcing them to extinguish the candles and that this is the only adequate remedy to avoid harm. However, City will counter that the TRO is moot and should not be obtained since likely no further warning would be issued to churches caught violating the ordinance and rendering the TRO as moot and the likelihood of SC's success is remote since the marshal is no longer enforcing the ordinance. Therefore, since there is no need for a TRO, SC will not succeed.

Preliminary Injunction (PI)

A PI is designed to maintain the status quo of and allow the court system to decide the case and whether to enjoin the defendant from an action. The PI is for a period until the case goes to

court in most cases whereby the defendant must adhere to the court's ruling until trial. The plaintiff must show that 1) their hardship is greater than the defendant's hardship should the PI not be obtained; and 2) that the likelihood of success is great. Here, SC wishes to keep the fire marshal from ever re continuing the ordinance which would create a hardship on SC because they cannot be fearful of the City visiting their church unannounced and shutting them down as a result. However, City will counter that the ordinance according to announcement that likely no further warning would be issued and that SC would be not be harmed since their department has no further plans to visit their church. However, SC will rebut that because it was only the fire marshal, and not the major of the City, who is making the statement that they will not likely issue further warning, it is not a certainty that the mayor will honor the fire marshal's statement and as a result SC will be harmed should major overrule the marshal and due to their constitutional rights that should be successful. Therefore, the court should allow SC to obtain a PI over Clear City.

3. What is the likelihood of SC's success in obtaining declaratory relief based on the First Amendment?

First Amendment - Religion

Free Exercise Clause

The free exercise clause protects citizens and organizations from discriminatory statutes and ordinances by the government. The state must not punish any religion and any regulation is subject to strict scrutiny. However, a statute or ordinance is constitutional if the regulation is neutral and the regulation is general principles of applicability and in scope only to protect its citizens and not punish religion. Here, SC will claim that strict scrutiny be applied to City's ordinance because it punishes their religion for lighting candles inside the church. Since religion is a fundamental protected right the City should be subjected to strict scrutiny. However, City will counter that the ordinance does seek to discriminate against SC religious practices of lighting candles, rather the ordinance is designed only to protect its churches and citizens through a general regulation which is not applicable to their specific religion but to prevent danger because burning candles indoors have been linked through investigation, as being suspected to cause fires causing a church to burn down within their community. Since the ordinance is being applied generally only to prevent fires, the ordinance does not meet strict scrutiny and meets the required test. Therefore, SC is unlikely to obtain declaratory relief.

Establishment Clause

An government ordinance must not establish any religion ; neither advance not inhibit religion; the courts or government cannot be entangled with religion or its supervision. Here, City will argue that they are not attempting to favor or establsih a religion, only that they wish to protect church from lighting candles and had nothing to do with avoiding or preventing their candle burning rituals.

City is neither attempting to only to protect the churches from burning down and they are not inhibiting their right to pray only to protect them from fires. Finally, City will not be entangled with religion because this is a fire ordinance issue and not a religious issue and the department will only be enforcing burning candles indoors and perhaps the church could burn the candles outdoors instead in keeping with their rituals.

Therefore, SC will not succeed in obtaing declaratory relief under the Establishment Clause.

Question #2 Final Word Count = 912

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