

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

WHITE TAIL PARK, INC.; AMERICAN)
ASSOCIATION FOR NUDE RECREATION)
– EASTERN REGION, INC.; K.H. and D.H.,)
on behalf of themselves and their minor)
children, I.P. and B.P.; S.B. and J.B., on)
behalf of themselves and their minor child)
C.B.; and T.S. and J.S., on behalf of)
themselves and their minor children, T.J.S.)
and M.S.)

Plaintiffs,)

v.)

ROBERT B. STROUBE, in his official)
capacity as Virginia State Health)
Commissioner,)

Defendant.)

Civil No. _____

COMPLAINT

Preliminary Statement and Jurisdiction

1. During its 2004 session, the Virginia General Assembly passed a bill that prohibits licensing of “juvenile nudist camps,” despite the fact that such camps provide safe and healthy recreation for children. The plaintiffs are White Tail Park, Inc., a Virginia nudist camp that holds a summer camp for children, and families who wish to send their children to the camp. In this action under 42 U.S.C. § 1983, the plaintiffs seek a declaration that the new law violates the First and Fourteenth Amendments to the United States Constitution, and a preliminary and permanent injunction requiring the defendant Health Commissioner to license the White Tail Park summer camp.

2. This action arises under the Constitution of the United States and 42 U.S.C. § 1983. This Court has jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

Parties

3. Plaintiff White Tail Park, Inc. is a Virginia corporation. White Tail Park is a licensed nudist campground in Ivor, Virginia.

4. Plaintiff American Association for Nude Recreation, Inc. (AANR-East) is a Florida corporation and an affiliate of the American Association for Nude Recreation (AANR). AANR-East runs a week-long summer camp which was held last year, and will be held this year, at White Tail Park.

5. Plaintiffs K.H. and D.H. are residents of Norfolk, Virginia and members of White Tail Park. They sue on their own behalf and on behalf of their son, I.P., age 15, and their daughter, B.P., age 12.

6. Plaintiffs S.B. and J.B. are residents of Hampton, Virginia and members of White Tail Park. They sue on their own behalf and on behalf of their son, C.B., age 11.

7. Plaintiffs T.S. and J.S. are residents of Hampton, Virginia and members of White Tail Park. They sue on their own behalf and on behalf of their son, T.J.S., age 17 and their daughter, M.S., age 10.

8. Defendant Robert B. Stroube is the State Health Commissioner of Virginia. Pursuant to Va. Code § 35.1-20, he is responsible for the issuance and denial of licenses for campgrounds and summer camps in Virginia. He is sued in his official capacity only. At all times relevant, Defendant Stroube acted and continues to act under color of state law.

Factual Allegations

9. Founded in 1984, White Tail Park occupies 45 acres in Southampton County, Virginia. The park also has 28 manufactured housing sites that house 55 permanent residents. There are 120 permanent RV sites leased by members on a yearly basis and mostly used on weekends, as well as facilities for vacationers, weekend visitors, overnight visitors, and day visitors.

10. Approximately 300 families and individuals, totaling approximately 550 persons, are members of White Tail Park. On a typical summer weekend, there are about 300 families at the park.

11. White Tail Park has been licensed as a campground by the Commissioner of Health since 1986. During that time, the park has never had its license suspended, nor has it ever been found in violation of applicable rules and regulations.

12. White Tail Park offers a range of recreational facilities for children and adults, such as swimming pools, volleyball courts, basketball courts, billiards, ping pong, darts, a playground, and a kid's center. The park also holds special events such as dances, pot luck dinners, movie nights and holiday dinners.

13. Allowing for weather and other practical considerations, adults and children at White Tail Park are nude at all times. Under these circumstances, nudity is not sexual, but simply a natural and relaxing way of being.

14. Consistent with its emphasis on families, White Tail Park's code of conduct requires that "[c]onduct is to be of the highest standards and appropriate for a family setting" and prohibits, *inter alia*, "intimate contact, suggestive behavior, overt sexuality, or sexually

provocative behavior,” “use of illegal substances or being intoxicated” and “causing, attempting to cause, or threatening injury or damage to another or their property.”

15. In the summer of 2003, the American Association for Nude Recreation – Eastern Region (AANR-East) held a week-long summer camp for nudist youth, with the expectation that it would become an annual event. This year’s camp is scheduled for July 24 through July 31, 2004.

16. The camp offers two programs, the “Youth Camp,” for campers aged 11 to 15, and the “Youth Leadership Academy,” for ages 15 to 18.

17. As at other camps, campers at White Tail Park participate in swimming, arts and crafts, sports, and campfire sing-alongs. Additionally, campers engage in discussion and instruction in such topics as social nudism, peer pressure, avoiding alcohol and drugs, and the changes in their bodies. A key goal is to instill respect for oneself and others.

18. Except when required by weather or other practical considerations, campers are nude at all times. Nudity at the camp is non-sexual. The camp’s code of conduct provides that “[n]udity by campers must promote mutual respect, confidence, openness, honesty, trust, and acceptance of differences,” and must not be “uncomfortable, humiliating, degrading, or promote ridicule.”

19. All staff at the AANR-East camp are subject to rigorous background check and must come recommended by a local nudist club.

20. The AANR-East camp is modeled after a Florida camp that has been run since 1992 by the Junior Florida Association for Nude Recreation (JFANR). Many of staffers of the AANR-East camp have prior experience from the JFANR camp.

21. In its 2004 session, the General Assembly enacted the following revision to Va. Code § 35.1-18 (italics indicate additions to the text):

No person shall, own, establish, conduct, maintain, manage, or operate any hotel, restaurant, summer camp, or campground in this Commonwealth unless the hotel, restaurant, summer camp, or campground is licensed as provided in this chapter. The license shall be in the name of the owner or lessee. No license issued hereunder shall be assignable or transferable. *The Board [of Health] shall not issue a license to the owner or lessee of any hotel, summer camp or campground in this Commonwealth that maintains, or conducts as any part of its activities, a nudist camp for juveniles. A “nudist camp for juveniles” is defined to be a hotel, summer camp or campground that is attended by openly nude juveniles whose parent, grandparent, or legal guardian is not also registered for and present with the juvenile at the same camp.*

22. The plaintiff parents wish to send their children to the AANR-East camp at White Tail Park this summer. The plaintiff parents believe that the summer camp would be a safe, healthy and enjoyable experience for their children.

23. The plaintiff children all are eager to attend the summer camp. They are familiar with White Tail Park and look forward to spending time with the friends they have made there.

24. Plaintiffs S.B. and J.B. and plaintiffs T.S. and J.S. are unable to accompany their children to camp, as required by the amended Va. Code § 35.1-18. Absent relief from this Court, their children will be unable to attend.

25. Plaintiffs K.H. and D.H. are able to accompany their children to summer camp, but believe the experience would be more valuable for the children if the parents were not present. Their children heartily agree with this assessment.

CLAIMS FOR RELIEF

Count I Fourteenth Amendment

26. The amended Va. Code § 35.1-18 violates the plaintiffs' right to privacy under the Fourteenth Amendment to the United States Constitution.

27. The amended Va. Code § 35.1-18 violates the plaintiff parents' right to control the upbringing and education of their children under the Fourteenth Amendment to the United States Constitution.

28. There is no legitimate government interest for Va. Code § 35.1-18.

Count II
First Amendment

29. The amended Va. Code § 35.1-18 violates the plaintiffs' right to free association under the First Amendment to the United States Constitution and is unsupported by any legitimate government interest.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request:

A. A declaration that HB 158 violates the First and Fourteenth Amendments to the United States Constitution.

B. A preliminary and permanent injunction prohibiting the defendant from refusing to license, or revoking the license of, White Tail Park or AANR-East by reason of their operation of a "juvenile nudist camp."

C. Reasonable costs and attorneys fees pursuant to 42 U.S.C. § 1988.

D. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

WHITE TAIL PARK, INC., et al.

By counsel:

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Dated: June ___, 2004