

SEP 07 2016

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REQUEST FOR HEARING TO CONTEST
ADMINISTRATIVE ACTION OF OKLAHOMA TAX COMMISSION

To: Administrative Law Judge, Oklahoma Tax Commission

From: Zakk Luttrell,

I am hereby filing written notice that I contest an administrative action of the Oklahoma Tax Commission and request a hearing before a duly authorized Administrative Law Judge of the Commission to appeal said action.

Specifically, I am contesting the denial of my selected personalized license plate by the Commission's Motor Vehicle Division. On or about July 21, 2016, I received notice that my selected personalized license plate "COM*MIE" was refused by the Motor Vehicle Division (MVD). After inquiring as to the reason for denial, I received an email on July 25, 2016 from the Special Plates Supervisor of the MVD claiming the selected license plate violates the Commission's Non-offensive content policy, codified in the Oklahoma Administrative Code as 710:60-3-151(c), though the email did not list any specific way in which the selected plate violated the policy. The email is attached as Exhibit 1.

Per the instructions in the Supervisor's email, I requested reconsideration. On August 8, 2015, I received an email sustaining the denial of my requested license plate. This time, the Supervisor gave more specific reasons for the denial, claiming that the license plate violated subparts 2 and 6 of the Non-offensive content policy. The email is attached as Exhibit 2.

I contest this decision based on the following:

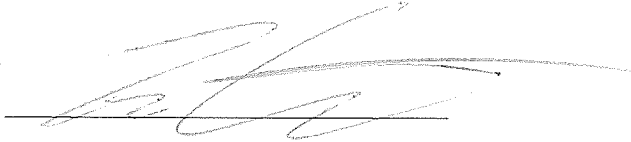
1. My selected plate does not violate the subparts in question, unless the regulations of the Non-offensive content policy are interpreted and/or employed in an arbitrary and capricious manner.
2. The Non-offensive content policy has been created and enforced in violation of the specific statutory mandate found in 47 O.S. 1135.4. This statute requires the Commission to issue my selected plate as a matter of law.
3. By enforcing a vague, overbroad, content and viewpoint based discrimination of speech, the Non-offensive content policy violates the Oklahoma Constitution, Article 2, Section 22, which guarantees freedom of speech for all Oklahomans.
4. By enforcing a vague, overbroad, content and viewpoint based discrimination of speech, the Non-offensive content policy violates the First Amendment to the United States Constitution, which guarantees freedom of speech for all Americans.

In order to present these arguments in detail, along with the evidence necessary for their factual foundation, I hereby request an administrative hearing, made on the record, with sufficient notice of the date and time to enable the subpoena and attendance of witnesses.

A copy of this request has been forwarded to the Oklahoma Tax Commission, Motor Vehicle Division Special Plate Section, 2501 N. Lincoln Blvd, Oklahoma City, OK 73194, and to the General Counsel's Office of the Oklahoma Tax Commission, at the same address.

Any notices or responsive documents to this request may be directed to my counsel at the American Civil Liberties Union of Oklahoma,

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Zakk Luttrell', written over a horizontal line.

Zakk Luttrell

A handwritten signature in dark ink, appearing to read 'Brady Henderson', written over a horizontal line.

Brady Henderson, OBA #21212

Ryan Kiesel, OBA #21254

American Civil Liberties Union of Oklahoma Foundation

From: Clifford McMurray
Date: Jul 25, 2016, 4:29 PM -0500
To: zak
Subject: FW: My first pick

Dear Mr. Luttrell,

Here is the relevant promulgated rule of the Oklahoma Tax Commission with respect to personalized license plates:

710:60-3-151(c) Non-offensive content policy. The Commission shall review personalized license plate applications that are not automatically rejected when compared to a database of prohibited or previously issued personalized plates. The Commission shall deny a request if an objective, reasonable person would find that the proposed combination of letters and/or numbers listed on the application falls into at least one of the following categories:

- (1) carries a sexual connotation;
 - (2) expresses contempt, ridicule or superiority based on race, gender, politics, ethnic heritage, or religion;
 - (3) is vulgar, derogatory, profane or obscene;
 - (4) refers to bodily functions, bodily fluids, or intimate body parts;
 - (5) refers to alcohol, drugs or drug paraphernalia, illegal activities or gangs; or
 - (6) would otherwise be inappropriate for display on a state-issued license plate.
- (d) **Other criteria.** The criteria in this paragraph are not exhaustive. Dictionaries and compilation of offensive words, terms or letter/number combinations, in any language, gathered from the experience of Oklahoma and other states may also be used as a guide.

The Motor Vehicle Division, in applying this rule to your application, rejected COMMIE on the basis on the non-offensive content policy. If you believe our determination made pursuant to the above guidelines to be erroneous and would like to provide explanatory information or documentation which you believe may impact our determination, please reply to this email with that information.

If this office's denial determination remains unchanged following our review of any submitted additional information, or if you prefer to do so at this time without first providing any additional information to this office, you may, within (30) days of the date of this email, file a written request for a hearing before the Administrative Law Judge of the Oklahoma Tax Commission. Such a request should be forwarded, along with a copy of this correspondence, to the attention of the Motor Vehicle Division Special Plate Section, at the following mailing address: **Oklahoma Tax Commission, Motor Vehicle Division Special Plate Section, 2501 N Lincoln Boulevard, Oklahoma City, OK 73194.**

Sincerely,

Cliff McMurray, Special Plates Supervisor
Oklahoma Tax Commission/MVD

From: **Clifford McMurray**
Date: Mon, Aug 8, 2016 at 3:19 PM
Subject: RE: FW: My first pick
To: Zakk
Cc: Sonny Newton

Mr. Flash,

Our denial was based on reasons 2 and 6, and our decision remains unchanged. If you wish to contest our decision you may, within (30) days of the date of this email, file a written request for a hearing before the Administrative Law Judge of the Oklahoma Tax Commission. Such a request should be forwarded, along with a copy of this correspondence, to the attention of the Motor Vehicle Division Special Plate Section, at the following mailing address: **Oklahoma Tax Commission, Motor Vehicle Division Special Plate Section, 2501 N Lincoln Boulevard, Oklahoma City, OK 73194.**

Sincerely,

Cliff McMurray, Special Plates Supervisor
Oklahoma Tax Commission/MVD