

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Andrew Bryant Sheets v. Brandon Angelini, in Personal Capacity,
and City of Punta Gorda

Sheets · No. 2:25-cv-644-KCD-DNF · Decided February 20, 2026

SUMMARY

The United States District Court for the Middle District of Florida ruled on defendants’ motion to dismiss Andrew Bryant Sheets’s claims under 42 U.S.C. § 1983 arising from enforcement of Punta Gorda’s noise ordinance against his amplified protest speech. The court held that Officer Brandon Angelini was entitled to qualified immunity on the First Amendment viewpoint-discrimination and retaliation claims, and dismissed the ordinance’s vagueness challenge. The facial challenges based on unbridled discretion and overbreadth survived, so the motion to dismiss was granted in part and denied in part.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	Kyle C. Dudek
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	February 20, 2026
DOCKET	2:25-cv-644-KCD-DNF
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss the operative complaint under Federal Rule of Civil Procedure 12(b)(6). The court granted the motion in part and denied it in part.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and draws reasonable inferences in the plaintiff's favor, but need not accept conclusory allegations or legal conclusions. At the pleading stage, qualified immunity may support dismissal based solely on the allegations in the pleadings.
PRECEDENTIAL VALUE	unknown

PARTIES

Andrew Bryant Sheets v. Brandon Angelini, in Personal Capacity, City of Punta Gorda

TOPICS

motions to dismiss

first amendment

qualified immunity

civil rights

municipal law

PRACTICE AREAS

civil procedure

constitutional law

civil rights

municipal law

QUESTIONS PRESENTED

1. Whether qualified immunity required dismissal of Sheets's First Amendment viewpoint-discrimination and retaliation claims against Officer Angelini.
2. Whether the City's noise ordinance facially violates the First Amendment by vesting unbridled discretion in officials through its special-event approval exception.
3. Whether the ordinance is unconstitutionally vague because it uses the phrase plainly audible and a 100-foot standard.
4. Whether the ordinance is facially overbroad because it allegedly prohibits or chills a substantial amount of protected speech in traditional public forums.

HOLDINGS

1. Officer Angelini is entitled to qualified immunity because Sheets did not identify Supreme Court, Eleventh Circuit, or Florida Supreme Court precedent clearly establishing that citing a protester who used an electronically amplified bullhorn audible beyond 100 feet under the City's distance-based noise ordinance violated the First Amendment.
2. The facial challenge survives dismissal insofar as it alleges that the ordinance operates as a prior restraint and gives the City unbridled discretion over approval of special events without precise and objective standards.
3. The vagueness challenge fails because the ordinance gives adequate notice by prohibiting electronically amplified sound that is plainly audible 100 feet away and provides an objective distance-based standard that limits arbitrary enforcement.
4. The overbreadth claim survives dismissal because Defendants did not present a specific argument challenging the sufficiency of that claim.

KEY QUOTATIONS

“When an officer enforces a local noise ordinance against a protester using a bullhorn, as here, to strip him of qualified immunity requires more than simply invoking the First Amendment in the abstract.”

“Without those necessary guardrails, there is a very real danger that a municipal official could deny an amplifier to a controversial protester while handing one to a popular local band.”

FACTUAL BACKGROUND

Sheets protested on a public sidewalk using a handheld bullhorn to broadcast profanity, satire, music, and criticism of the City and its police officers. Officer Angelini measured the sound as plainly audible more than 100 feet away and cited Sheets under Punta Gorda Code of Ordinances § 16-4(b), which restricts electronically amplified sound that is plainly audible at that distance except as part of a City-approved special event. Sheets alleged viewpoint discrimination, retaliation, and facial unconstitutionality based on unbridled discretion, vagueness, and overbreadth.

PROCEDURAL HISTORY

Sheets sued Officer Brandon Angelini and the City of Punta Gorda under 42 U.S.C. § 1983, challenging the City's noise ordinance and alleging First and Fourteenth Amendment violations arising from a citation issued for amplified speech. Defendants moved to dismiss, asserting qualified immunity and failure to state a plausible facial challenge. The court dismissed the individual First Amendment claims and the vagueness theory, but allowed the unbridled-discretion and overbreadth theories of the facial challenge to proceed.

DISPOSITION

other

CASES CITED

- *Andre v. Clayton Cnty., Georgia*, 148 F.4th 1282, 1291 (11th Cir. 2025)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *MSP Recovery Claims, Series LLC v. Metro. Gen. Ins. Co.*, 40 F.4th 1295, 1302 (11th Cir. 2022)
- *Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 6 F.4th 1247, 1251 (11th Cir. 2021)
- *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1263 n.6, 1268 (11th Cir. 2004)
- *Moms for Liberty-Brevard Cnty., FL v. Brevard Pub. Schs.*, 118 F.4th 1324, 1328-29, 1331-33 (11th Cir. 2024)
- *Bell v. Sheriff of Broward Cnty.*, 6 F.4th 1374, 1376 (11th Cir. 2021)
- *King v. Marceno*, No. 2:24-CV-375-KCD-DNF, 2025 WL 3080544, at *4 (M.D. Fla. Nov. 4, 2025)
- *Crocker v. Beatty*, 995 F.3d 1232, 1239-41 (11th Cir. 2021)
- *Huggins v. Sch. Dist. of Manatee Cnty.*, 151 F.4th 1268, 1276, 1278 (11th Cir. 2025)
- *Settle v. Collier*, 160 F.4th 1282, 1288 (11th Cir. 2025)
- *Watkins v. Davis*, 156 F.4th 1084, 1097 (11th Cir. 2025)
- *Lewis v. City of W. Palm Beach, Fla.*, 561 F.3d 1288, 1291 (11th Cir. 2009)
- *Corbitt v. Vickers*, 929 F.3d 1304, 1312 (11th Cir. 2019)
- *Jackson v. Sauls*, 206 F.3d 1156, 1165 (11th Cir. 2000)
- *Gaines v. Wardynski*, 871 F.3d 1203, 1211, 1213 (11th Cir. 2017)
- *Youmans v. Gagnon*, 626 F.3d 557, 563 (11th Cir. 2010)
- *Berry v. Smith*, No. 2:25-CV-299-JES-NPM, 2025 WL 3906027 (M.D. Fla. Dec. 3, 2025)

- Coffin v. Brandau, 642 F.3d 999, 1013 (11th Cir. 2011)
- Vielma v. Gruler, 808 F. App'x 872, 879 (11th Cir. 2020)
- Jackson v. McCurry, 762 F. App'x 919, 928 (11th Cir. 2019)
- Michigan v. DeFillippo, 443 U.S. 31, 38 (1979)
- United States v. Frandsen, 212 F.3d 1231, 1235-37 (11th Cir. 2000)
- Barrett v. Walker Cnty. Sch. Dist., 872 F.3d 1209, 1223 (11th Cir. 2017)
- The Lamar Co. v. City of Marietta, Ga., 538 F. Supp. 2d 1366, 1373 (N.D. Ga. 2008)
- Fla. Beach Advert., LLC v. City of Treasure Island, Fla., 511 F. Supp. 3d 1255, 1271 (M.D. Fla. 2021)
- Naples Pride v. City of Naples, No. 2:25-CV-291-JES-DNF, 2026 WL 91486, at *12 (M.D. Fla. Jan. 13, 2026)
- Cotriss v. City of Roswell, No. 19-12747, 2022 WL 2345729, at *6 (11th Cir. June 29, 2022)
- Mason v. Fla. Bar, 208 F.3d 952, 958 (11th Cir. 2000)
- Pine v. City of W. Palm Beach, FL, 762 F.3d 1262, 1275 (11th Cir. 2014)
- State v. Catalano, 104 So. 3d 1069, 1076 (Fla. 2012)
- Grayned v. City of Rockford, 408 U.S. 104, 110 (1972)
- DA Mortg., Inc. v. City of Miami Beach, 486 F.3d 1254, 1272 (11th Cir. 2007)
- Henderson v. McMurray, 987 F.3d 997, 1004 (11th Cir. 2021)
- Ashcroft v. Free Speech Coal., 535 U.S. 234, 255 (2002)
- Monroe Cnty. Employees' Ret. Sys. v. S. Co., 333 F. Supp. 3d 1315, 1322 (N.D. Ga. 2018)
- Perry v. Caleb's Club, LLC, No. 609CV853ORL35DAB, 2010 WL 11507330, at *3 (M.D. Fla. Feb. 1, 2010)
- Fontainebleau Fla. Hotel, LLC v. Botach, No. 1:25-CV-20251-KMM, 2025 WL 3282568, at *4 (S.D. Fla. Sept. 16, 2025)
- Baker v. Warner/Chappell Music, Inc., No. 14-22403-CIV, 2017 WL 4310750, at *14 n.13 (S.D. Fla. Sept. 28, 2017)