

Private Criminal Complaint Narrative

In 1996, the Pennsylvania Supreme Court in *Ortiz v. Commonwealth*, 681 A.2d 152, 156 (Pa. 1996), where the City of Pittsburgh was a party, found that Article 1, Section 21 of the Pennsylvania Constitution and 18 Pa.C.S. § 6120 precluded all municipalities from regulating firearms and ammunition. It must be noted that one of the provisions involved in the *Ortiz* case was an “assault weapon ban” which is almost identical to proposals 2018-1218 and 2018-1219.

On December 14, 2018, Mayor William Peduto, Councilman Corey O’Connor, and Councilwoman Strassburger announced that they were going to formally introduce three proposals regulating firearms, ammunition, and firearm accessories on December 18, 2018. During that announcement, Mayor Peduto and Councilwoman Strassburger acknowledged that such proposals were preempted by state law but that they were going to do it anyway. On December 17, 2018, Firearms Industry Consulting Group, on behalf of Allegheny County Sportsmen’s League and Firearm Owners Against Crime, sent a 5 page letter to Mayor Peduto and City Council explaining the unlawful nature of any such proposals and demanding that they not be formally introduced. See attached. On December 18, 2018, the Pittsburgh City Council formally introduced the proposals as 2018-1218, 2018-1219, and 2018-1220.

On January 2, 2019, in response to a gun rights rally held on January 7, 2019, the City Council erected a sign in front of the City-County building stating that it was unlawful to possess a firearm within the City-County Building. On January 3, 2019, Firearms Industry Consulting Group, on behalf of Allegheny County Sportsmen’s League and Firearm Owners Against Crime, sent a new letter to Mayor Peduto and City Council advising as to the unlawful nature of the sign, as it failed to advise individuals, as required by 18 Pa.C.S. 913(e), that lockers must be made available, free of charge, to secure their firearms and dangerous weapons in the City-County Building. See attached. Later on January 3, 2019, Mayor Peduto himself declared that firearms are “not permitted in the building.” <https://pittsburgh.cbslocal.com/2019/01/03/gun-rights-advocates-pittsburgh-city-county-building-rally-preparations>.

On January 7, 2019, City Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” <https://triblive.com/local/allegheny/14479129-74/armed-protesters-pillory-peduto-during-peaceful-rally-downtown-pittsburgh>. On January 9, 2019, District Attorney Zappala sent a letter to City Council advising that “City Council does not have the authority to pass such legislation.” On January 15, 2019, after City Council acknowledged receipt of District Attorney Zappala’s letter, Councilman Corey O’Connor told reporters that “[DA Zappala] has every right to his own opinion, we are still going to move forward” and “[a]t this point we are going to pass our bills, move forward. Whatever happens after that we will find out.” <https://pittsburgh.cbslocal.com/2019/01/15/allegheny-county-district-attorney-pittsburgh-city-council-gun-legislation-letter>. Later on January 15, 2019, Mayor Peduto, after receiving and reviewing District Attorney Zappala’s letter, told reporters that “[i]f [DA Zappala] wants to be city solicitor, he has to move into the city and apply, and I’d consider his resume. Otherwise, he

should be a district attorney.” <https://www.wtae.com/article/da-zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756>.

Accordingly, in knowing violation of Article 1, Section 21 of the Pennsylvania Constitution and 18 Pa.C.S. §§ 901, 902, 903, 913, 5301, and 6120, Mayor Peduto and the City Councilmembers have attempted, solicited, and conspired to introduce and have introduced proposals 2018-1218, 2018-1219, and 2018-1220, which are preempted by Article 1, Section 21 and 18 Pa.C.S. § 6120, for the sole purpose of denying or otherwise impeding individuals residing in or traveling through Pittsburgh the exercise or enjoyment of their rights and privileges.