

PRESS RELEASE  
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## FEDERAL COURT RULING ON FTAA PROTEST ORDINANCE AND MIAMI'S PERMIT SCHEME IS A CLEAR FIRST AMENDMENT VICTORY

Federal Judge Donald L. Graham ruled Friday that Miami "shall issue" protest permits to any who seek to engage in free speech activity, calling into question decades-old First Amendment law. The ruling also establishes grounds for the dismissal of a majority of FTAA protest cases currently being prosecuted

Miami, FL -- Federal Court Judge Donald L. Graham made a ruling Friday that puts control of Miami's protest permit scheme with the federal courts until the city can correct the Constitutional problems in decades-old language that has restricted the First Amendment activity on its city streets, sidewalks, and parks. The ruling declared that Miami "shall issue" permits to any who seek to engage in protest and requires the city to file any denials of permit applications with the court, detailing the reasons for the denial, so that a hearing can be held.

The ruling came as a result of a federal lawsuit filed in early February by Miami Activist Defense (MAD), the National Lawyers Guild (NLG), and Southern Legal Counsel, which challenges the city's ordinances concerning protests on sidewalks and streets as well as the city's permit scheme for First Amendment activities. These ordinances were used during the Free Trade Area of the Americas (FTAA) protests to unlawfully detain and arrest hundreds of activists. This damage to the "Miami Model," may also have implications in other U.S. cities that have used similar language to craft protest ordinances of their own.

In a hearing held February 5, 2004, Judge Graham agreed that the protest ordinances posed certain problems. Graham noted that, "If any judge looks at the law and looks at the ordinance, it appears as though the statute is not constitutional." In a response issued by the city late Friday, Assistant City Attorney Warren Bittner conveyed the city's intent to repeal the "Parade and Assembly Ordinance" and to amend its decades-old permit laws controlling free speech activity.

"The Graham ruling is a clear victory for those that wish to protest and exercise their First Amendment rights in Miami," said Robert Ross, an attorney working with MAD and the NLG and co-counsel on the federal lawsuit. "It means that literally, for the first time in decades, residents and groups in Miami will enjoy the full spectrum of the First Amendment's protections. Additionally, the February 27 ruling and the City's affirmation of its unconstitutional laws, throws into question dozens of FTAA protest cases currently proceeding through State Criminal Court."

Although only a handful of cases refer explicitly to the "Parade and Assembly Ordinance" most of the FTAA protest cases involve charges of "unlawful assembly," "refusal to disperse," and "refusal to obey a police order." All of these charges, and the resulting cases, rely on the underlying predicate that the police were legally stopping, detaining, and arresting people for merely being on the city's sidewalks and streets. The expected repeal and amendments to the ordinances as a result of the February lawsuit will undoubtedly produce numerous requests for dismissal of FTAA protest cases currently being prosecuted in Miami.

On Friday, February 27, 2004, the Miami Herald reported that City Commissioner Tomás Regalado, who proposed and helped pass the "Parade and Assembly Ordinance" a week before the FTAA protests, is moving to repeal the ordinance at the Commission's next hearing on March 11. In response to the federal lawsuit, the Commission is also planning, at the same hearing, to discuss amending its unconstitutional permit scheme. A first reading for a repeal of the anti-FTAA protest provision of the "Parade and Assembly Ordinance" occurred on Thursday, February 26. This provision deals with the size and construction of signs and other protest materials as well as restrictions on the possession of objects like water pistols, balloons, bottles, and other household items.

"It is no coincidence that the City is now calling into question its protest regulations and how it used them during the FTAA demonstrations," stated Andrea Costello, co-counsel on the lawsuit and an attorney with Southern Legal Counsel. "The FTAA arrest forms clearly show that Miami and Miami-Dade police used the "Parade and Assembly" ordinance to unlawfully stop, search, and arrest people who were merely expressing their political views about a controversial trade agreement. The fact that the city passed the ordinance only days before the protests began further shows that it was really about targeting certain speech."

For an on-line version of Judge Graham's ruling as well as the complaint filed in federal court see: [www.stopftaa.org/legal](http://www.stopftaa.org/legal)