

Is Recycling Constitutionally Protected Political Speech? Federal Court Addresses Standing Issue



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Plaintiff Randall S. Krause filed a pro se Complaint in the United States District Court (Nebraska) alleging that recycling is constitutionally protected political speech. See *Krause v. Metropolitan Entertainment & Convention Authority*, 2019 WL 108881 (January 4, 2019).

Defendant Metropolitan Entertainment & Convention Authority (“MECA”) filed a Motion to dismiss the Complaint for lack of jurisdiction and failure to state a claim.

Plaintiff Krause’s Complaint alleged that he placed a recyclable item into a recycling bin at TD Ameritrade Park (“Park”) in Omaha, Nebraska. The Park is stated to be operated by MECA.

Plaintiff Krause contended that it is MECA’s practice to throw “all of the recycling away into two compactors that are emptied at a landfill.”

The Complaint asserted that:

- Recycling is political speech because it is an expression of support for the environmental movement
- MECA’s recycling program abridges his freedom of speech in violation of the First and Fourteenth Amendments by penalizing political speech without due process of law

The Complaint seeks:

. . .an order that MECA must actually recycle if it places recycling bins.

MECA’s Motion to Dismiss argued that jurisdiction was lacking because Plaintiff does not have standing. The organization stated that Plaintiff Krause has not alleged any concrete, particularized, and actual or imminent injury in fact that could be redressed by a favorable decision.

MECA asserted that even if placing a recyclable item in a recycling bin was political speech – Krause was able to engage in that political speech. The organization further states:

. . . that the plaintiff’s expression of support for the environmental movement, as reflected in his use of the recycling bin, was complete once he placed the item in the container and the later handling of the recyclable is of no consequence to the expression.

Krause conceded that MECA did not prevent him from “speaking.” However, he states he was “penalized for what he said and is no longer free to speak in the same manner at TD Ameritrade Park”. . . therefore, constituting an injury.

The Court cites the requirements for standing and concludes that Plaintiff Krause failed to allege any concrete or particularized injury that is likely to be redressed by a favorable judicial decision. It notes that:

. . . Assuming that throwing an article in a recycling bin is conduct that amounts to protected political speech, the plaintiff concedes that MECA did not prevent him from engaging in that activity.

Noted is Plaintiff Krauss's acknowledgement that he was allowed to "speak" and to make a statement of support for the environmental movement.

The Court determined that it could not find where the Plaintiff was penalized nor could it find authority for ordering MECA to recycle. As a result, the Court determined it could not grant the relief sought.

The Motion to Dismiss for Lack of Jurisdiction is granted.

A copy of the opinion can be found [here](#).