

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
ENTERED

AUG 27 2003

Michael N. Milby, Clerk of Court

ORIN SNOOK,

Plaintiff,

v.

CITY OF MISSOURI CITY, TEXAS,

Defendant.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-03-243

FINAL JUDGMENT

As the Court has entered its findings of fact and conclusions of law in the above-referenced matter, the Court hereby

DECLARES that Ordinance O-01-42 enacted by Defendant City of Missouri City, Texas (the "City") is preempted by PRB-1, 101 F.C.C.2d 952, 50 Fed. Reg. 38,813 (1985), as the City failed to reasonably accommodate Plaintiff Orin Snook's amateur communication needs. The Court further

ORDERS the City to grant Plaintiff Orin Snook a specific use permit application consistent with the existing structure. The Court further

ORDERS that Snook's 42 U.S.C. § 1983 claims are DISMISSED as claims pursuant to PRB-1 are not cognizable under § 1983 and the Court finds that insufficient evidence exists showing that Snook's procedural or substantive due process rights were violated. The Court further

35

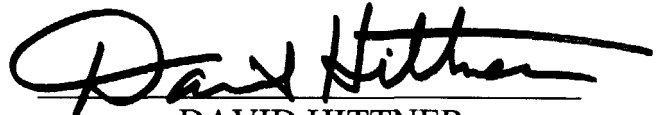
ORDERS that Snook's 42 U.S.C. § 1988 claim is DISMISSED. The Court further

ORDERS that Snook's request to enjoin further prosecution by the City related to his tower support structure and antenna array is DENIED based on principles espoused in *Younger v. Harris*, 401 U.S. 37 (1971). The Court is assured, however, that the City will act in compliance with this Order and the Court's determination of preemption with regards to any criminal proceedings, pending or closed, relating to Snook and the facts of this suit. The Court further

ORDERS that all relief not specifically granted herein is DENIED.

This is a FINAL JUDGMENT.

Signed at Houston, Texas, on this 26 day of August, 2003.


DAVID HITTNER
United States District Judge