

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-40750  
Summary Calendar

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SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL UNION NO.  
337; J.C. HART, III

Plaintiffs-Appellants,

versus

TYLER, CITY OF TEXAS,

Defendant-Appellee.

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Appeal from the United States District Court  
for the  
Eastern District of Texas  
(6:96-CV-350)

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April 17, 1997

Before JOHNSON, WIENER, and DENNIS, Circuit Judges.

PER CURIAM:\*

The Sheet Metal Workers' International Association (union) and J.C. Hart, III appeal a judgment entered in favor of the City of Tyler, Texas, after a bench trial. The district court's findings of fact were not clearly erroneous. See Seal v. Knorpp, 957 F.2d 1230, 1234 (5th Cir. 1992). Furthermore, the district court did not err in concluding that the City's no smoking ordinance is not preempted by the National Labor Relations Act. See Metropolitan

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Life Ins. Co. v. Massachusetts, 471 U.S. 724, 753-55 (1985). The district court also did not err in concluding that the ordinance does not violate the Contracts Clause or the Due Process Clause of the United States Constitution. See Keystone Bitumous Coal Ass'n v. DeBenedictis, 480 U.S. 470, 502-03 (1987); Energy Reserves Group, Inc. v. Kansas Power and Light Co., 459 U.S. 400, 411-12 (1983); Allied Structural Steel Co. v. Spannaus, 438 U.S. 234, 241-42 (1978); FM Properties Operating Co. v. City of Austin, 93 F.3d 167, 175 (5th Cir. 1996).

AFFIRMED.