

Fortuneteller suing to overturn Montgomery ban on forecasting

By Kathleen Miller
Examiner Staff Writer

A fortuneteller is suing Montgomery County after he learned he would not be allowed to open a shop in Bethesda because the county bans the business of forecasting the future.

Attorneys for Nick Nefedro, previously of Key West, Fla., say county officials violated his First Amendment rights to free speech and discriminated against his "Roma," or Gypsy, culture when they refused to give him a business license. Montgomery code dating back to the early 1950s prohibits collecting cash for predicting the future.

"The underlying purpose is to prevent people from being taken advantage of, because it's a scam," Clifford Royalty, a lawyer in the Montgomery County State's Attorney's Office, said.

In the Washington suburbs, however, Montgomery County is on its own — all other counties contacted by *The Examiner* allow fortunetellers to operate. The District does not even require a business license, but most other counties ask fortune-tellers to follow the same regulatory practices as other service providers.

Nefedro's attorney Ed Amourgis said the county must show there "is a need for protection" rather than simply putting a "blanket ban" over the whole industry.

"This legislation, this policy is focused really on the Gypsies," Amourgis said. "How is what he's doing different than running a horoscope? Who are they to say that is not



PHOTO BY ANGELA BARNES/AMREI

"It's not the culture, it's the profession people have problems with," says "Psychic Jess," who operates part-time in Manassas. "There are a lot of cynics out there — if you believe in it, fine, if you don't, fine, that is why we live in good ol' America."

fraudulent but my client is?"

Montgomery County Council members met behind closed doors last week to discuss the lawsuit.

Council Members Nancy Floreen and Marc Elrich, who both sit on the economic development committee, said there did not seem to be support for repealing the measure.

"There are a lot more important things for us to worry about," Floreen said. Elrich said the county should not encourage businesses "that take advantage of people."

The penalty for fortunetelling in the county is a \$250 fine.

A federal judge upheld a similar ban in Harford County in 2002, deferring to the county's assessment of fortunetelling as "inherently deceptive" and citing a 1978 Supreme Court decision, albeit not in a fortunetelling case, that said "untruthful speech" is not protected.

Arthur Spitzer, legal director for the American Civil Liberties Union of the National Capital Area, said Nefedro had a "good case" and that very recent challenges to similar measures across the country have succeeded in overturning bans.

"Many churches say, if you do this you can reach the hereafter, if you don't you'll go to hell," Spitzer said. "If that's not predicting the future, what is?"

kamiller@dcexaminer.com

Local psychics say industry bias is common

By Kathleen Miller
Examiner Staff Writer

Virginia-based fortunetellers "Psychic Jess" and Virginia Marks don't need a crystal ball to tell them that life is difficult for people in their profession.

Both live in counties where they can easily obtain business licenses, but say other roadblocks persist that make it difficult to expand.

Marks, who lives in Alexandria and has three offices in suburban Virginia, says she depends largely on word-of-mouth advertising to promote her business because many area newspapers won't allow psychics to buy ads in their pages.

"Psychic Jess," who didn't want her last name used out for privacy reasons, says psychics are asked to pay up front for ads in phone books, unlike other businesses that can pay through installments.

Neither Marks nor Psychic Jess, who sees clients on a part-time basis at her Manassas office and also helps her husband run their contracting business, are



gypsies.

"It's not the culture, it's the profession people have problems with," Jess said. "There are a lot of cynics out there — if you believe in it, fine, if you don't, fine, that is

why we live in good ol' America."

Both Jess and Marks have known about Montgomery's ban on their industry for years. Marks once thought of opening a shop there herself, but decided it wasn't worth the legal fight.

"Some people think psychics are scary, that we're all carnival or circus people and they don't want that around them," Marks said. "We help the police, many of us are pretty religious ourselves — a lot of my clients liken it to therapy, we talk about things that lie in their future and the different choices they can make. This is not scary or Halloween-y."

Montgomery County Executive Ike Leggett, in light of the pending lawsuit against the county's nearly 60-year ban on fortunetelling for profit, is taking a fresh look at the statute, per his spokesman Patrick Lacefield, "to see if the old law still makes sense."

Jess said she thought about the lawsuit over the weekend.

"I've got to tell you, I have a good feeling about this," she said.

kamiller@dcexaminer.com