

What's the real issue with the tattoo shop?

I have followed the proceedings of the mayor's denial of a permit to a local tattoo shop owner.

I, like you, early on may have read the daily's coverage of the matter and believed most of what they wrote. I should know better. You will come to know better if you don't already. They seldom get it right or their coverage is so incomplete readers cannot draw reasoned conclusions from what they've offered.

I have also reviewed the case file wherein the shop owner was charged with four felonies concerning piercings he had done - most were quite some time ago.

I have a copy of the Findings of Fact, Conclusions of Law poorly crafted by an outside attorney paid over \$6,000 to preside over a Kangaroo Court hearing when the shop owner appealed his permit denial.

And, I spent a couple hours with the owner in his downtown tattoo shop the other day so I now have the lay of the land of his shop's interior.

I have reached a point where my feelings that the guy was not afforded due process and should be defended override my gut reaction of "Yuck!" based on the nature of the services provided.

After spending a couple hours with the guy, I have a better sense as to whom and why piercings are usually done. From his standpoint, it is part of his body art business - and it is perfectly legal. If a governing body wants to change that, they can take the necessary actions to ban body art establishments in the City, just as they banned smoking in public spaces.

But they haven't and body piercings have been and remain legal. Many piercings are done in mall locations - a different process and a more limited selection of anatomy where piercings are performed.

My visit with the guy who had been charged criminally with voyeurism for videotaping the piercings of four customers - some said without their knowledge or consent - put a different perspective on why he did what he did and whether he had done anything improper or illegal.

Let's get the improper out of the way first. Those choosing piercings to intimate parts of their anatomy are seldom modest. In order to accomplish the piercings, they have to reveal themselves to the artist in ways many of us would consider unladylike. But they do so and their expectation of much privacy is waived by the mere act of requesting, authorizing and paying for such a piercing.

This operator designed his shop so the walls in the area he does the piercings do not extend to the ceiling. The reason for that was that, if he had an employee in the outer area when he was in the shielded area doing a piercing/tattoo near a private part of one's anatomy, the conversation in that space could be heard by someone else out front. Usually, the one being pierced or tattooed is accompanied.

A few years ago, he had been told that a gal whom he had performed a piercing on told friends that he had behaved inappropriately with her - an accusation that would have led to valid criminal charges if true. He told me that four different people told him the girl had made that claim. He realized that he was vulnerable to such charges and decided he needed to do something to protect himself against unwarranted accusations. (He later asked her if she had made that assertion and she denied doing so.)

So, when he was alone in the shop, even if the customer was accompanied, he started to videotape piercings of the most intimate kind. The video camera he used was not a James Bond lens in a fern. It is a sizeable digital camera that takes both video and still photos. He has a sign at the front desk that advises customers that they may be videotaped anywhere on the premises but he did not require customers to sign a consent form specifically about the videotaping.

He would later download that video to his office computer and he thought he had buried the security file so no one else could access it. It was intended for his eyes only. He did have a "portfolio" that contained photos or video of piercings and those were taken with knowledge of and permission from the customer. When a customer would ask what a certain piercing was or might look like, he could show them. The bearer was unidentifiable.

Cringe if you want but these customers were of the age of majority and knew what they were doing. They have a legal right to take those actions whether I, you, the mayor or anyone else disapproves.

If he had an employee who could also do piercings, that employee had access to the computer for the consented images. That employee did not have access to the images taken by the owner for his own protection. He would frequently erase that file on the computer - once he felt comfortable no one would make an accusation against him for anything about the piercing.

He said one of the videos used against him in Court (and by the City) showed him doing a piercing and when the doorbell rang indicating someone had entered the outer area, he called out to his employee by name and when that guy acknowledged it was he, the owner turned off the video camera. He didn't feel he needed more protection when there was another in the shop, even if that other could not witness what was being done. He could hear the conversation and should know if the customer thought they were being subjected to anything untoward.

Which brings up the incident the City based the permit denial on. During Frontier Days of 2007, the shop owner went to the Outlaw Saloon on So. Greeley Hwy. about 11:30 or so one night. When he went in, he was approached by some women, including one whom he knew (a friend of his girlfriend at the time) and she beseeched him to do a piercing on her and a visiting female friend that night.

He asked her to come in the next day with her friend and he would do the piercings. But, she told him the second gal had to leave for Arkansas in the morning and she really wanted the piercing before she left.

He told his girlfriend's friend that he would do it that night and he would videotape it because the women had been drinking and he didn't want to have any trouble later about his actions. She said she understood and they parted ways inside the Outlaw Saloon. He went back down to his shop and the two women came later. He did the piercings and he videotaped the activity. (Note: I did not review the video nor would I but it doesn't sound salacious to me. It sounds more medical and not something to satisfy anyone's prurient interests.) One of the woman asked if the camera was on and he told her it was. She said "move it" and he asked her "where?" Her demand was that it just be out of her sight. He did.

I asked him why he didn't just audio tape the piercings activity and he pointed out that an unaccompanied customer could still make claims that he couldn't disprove without the video. Asked why he videotaped when the customer was accompanied by a friend, sometimes male, he said it could still be two against him and he couldn't risk false accusations and the only way he knew to reduce his risk was by videotaping the procedure.

Before trial, two of the four charges were dismissed. It appeared that the State couldn't get the distant "victims" to travel back here to testify. And the vast majority of the search warrants were quashed. The prosecution went on a fishing expedition and tried to accumulate enough accusations that one might stick. But the judge issued a directed verdict of not guilty without the jury hearing the

defense case. That is rare and that is indicative of a State case without foundation. While trying to build a case, this guy's guns were confiscated. His video library and still photography were seized - not just those having to do with the four charges against him. It was a "sweep."

The State tried to build a case from a foundation of one person who had seen the videos on his office computer - a former girlfriend looking for proof he had been unfaithful - by searching and somehow accessed the file he thought he had hidden and no one but he knew how to open it. She said nothing about what she had seen for a very long time. As they say, Hell hath no fury ... No one else had ever been shown those videotapes. Except now - the police department, the courtroom and City governing body. He kept them secret. "They" presented the videos for public viewing. Who should be charged with voyeurism? Not him. They.

So, what is this really about? Why did the mayor deny a permit and then continue the stall after the tattoo shop owner had been found Not Guilty in a court of law? Why? Because it offends the sensibilities of a city attorney. He advised the mayor to deny the permit and stuck to his guns even after the applicant had been exonerated in court. An interim police chief "denied" the permit application but he did not have that authority. He then recommended against issuance of the permit.

The tattoo shop owner has reapplied for the permit. The mayor needs to approve the application and move on. If he mimics his predecessor and subjects taxpayers to hundreds of thousands of dollars in legal expense, he will have no chance for a second term. Cut your losses, Rick. Make the right decision. And expedite it. This isn't the trees.



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