

## **NEWSMAKER INTERVIEW: JUSTIN PEARSON CASE CREATED TAXICAB MARKET**

(January 2020) Three years ago, a government-imposed monopoly existed in Little Rock, interfering with an entrepreneur and limiting consumer choice to one taxicab company. Today, more competition exists thanks to a successful legal challenge<sup>1</sup> handled by Justin Pearson, an attorney with the Institute for Justice. The Policy Foundation recently interviewed Pearson about the case.

**Policy Foundation: How did the City of Little Rock create a taxicab monopoly for one company?**

**Mr. Pearson:** Little Rock’s Board of Directors passed an ordinance creating a “public convenience and necessity” requirement. This said that no one could compete with Little Rock’s one existing taxi company (Yellow Cab) unless “public convenience and necessity can be met and complied with *only* by the issuance of new permits” and issuing new permits would not have any “effect upon the business of” Yellow Cab. The result was an absolute ban on anyone competing with Yellow Cab without Yellow Cab’s permission.

**Policy Foundation: Who is Ken Leininger and why did he wish to establish a taxi service for Little Rock consumers?**

**Mr. Pearson:** Ken is a taxi driver who wanted to pursue the American Dream of owning his own business. After driving for Yellow Cab for years, he left on good terms and started his taxi business in North Little Rock, which does not have a public convenience and necessity requirement. Ken wanted to expand into Little Rock, so he applied for Little Rock taxi permits. Little Rock’s Fleet Services Department told Ken that he met all the requirements except for one problem— Little Rock has an ordinance saying that no one was allowed to compete with Yellow Cab. As a result, Little Rock’s Board of Directors rejected his application.

**Policy Foundation: What led your non-profit to file suit against the City of Little Rock, and what relief did you seek?**

**Mr. Pearson:** It’s not the government’s job to pick winners and losers in the marketplace. That right belongs to consumers. And when we see the worst examples of big business teaming up with big government to harm competition, we often find “certificates of public convenience and necessity” (also called “certificates of need” or “certificates of necessity”). Quite frankly, certificates of public convenience and necessity should not exist. The relief we sought included declaratory relief that Little Rock’s monopoly rule violated the Arkansas

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<sup>1</sup> <https://ij.org/case/little-rock-taxis/>

Constitution, injunctive relief barring Little Rock's government from enforcing the monopoly rule, and nominal damages of \$1.00 to be awarded to Ken.

**Policy Foundation: Did any Little Rock officials argue against the monopoly prior to your suit?**

**Mr. Pearson:** When Little Rock's Board of Directors considered Ken's application for taxi permits, some of them expressed concern that they had created a monopoly. However, the city attorney informed them that the ordinance required them to deny Ken's application, so that is what they did.

**Policy Foundation: A monopoly results in higher prices for consumers. How did economic liberty play a role in your case?**

**Mr. Pearson:** That's right. Typically, violations of economic liberty not only harm aspiring entrepreneurs but consumers too, and that was certainly true here. However, economic liberty was at the core of the case. Economic liberty is the right to earn an honest living without arbitrary government interference. In other words, if government officials are going to stop you from earning a living in your preferred way, they better have a good reason. And not wanting you to compete with their buddy is not a good reason.

**Policy Foundation: What legal claims did you make?**

**Mr. Pearson:** Our primary claim was that the government's creation of a private monopoly violated the Arkansas Constitution's antimonopoly clause. We also asserted alternative arguments that it violated the Arkansas Constitution's due process and equal protection clauses.

**Policy Foundation: What was the disposition of the case?**

**Mr. Pearson:** The court agreed with us that Little Rock's monopoly rule violated the Arkansas Constitution's antimonopoly clause. On January 25, 2017, the court entered a final order granting our motion for judgment on the pleadings. This meant that the constitutional violation was so clear that we did not even need to conduct discovery. Consequently, the court did not need to address our alternative arguments. Little Rock's government ultimately decided not to appeal the court's ruling. Ken celebrated by hiring more drivers.

**Thank you, Justin Pearson.**