

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
FOURTH MUNICIPAL DISTRICT
MISDEMEANOR SECTION

STATE OF ILLINOIS,

Plaintiff,

v.

AGUSTIN GARCIA,

Defendant.

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No. 25400399901

2026 MAR 31 PM 3:27
ARIYANA T. SPYROPOULOS
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY

MOTION TO DISMISS FOR VIOLATIONS
OF THE FIRST AMENDMENT
AND DUE PROCESS

Now comes the Defendant, Agustin Garcia, by his attorneys, Brad Thomson and Amy Chiang, and moves this Honorable Court pursuant to 725 ILCS 5/114-1(a)(8) to dismiss this action on the following grounds: the charge fails to state an offense as the alleged conduct is protected by the First Amendment of the United States Constitution; the charge further fails to state an offense as the Broadview Executive Orders failed to provide adequate notice of what conduct was prohibited in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution. In support thereof, Defendant states

INTRODUCTION

This case is about the Constitutional right to speak freely and petition the government about one of the most significant political issues in this historical moment. In cities, villages, and townships across the country and at every level of government, there is vociferous debate regarding this administration's aggressive

efforts to detain, deport, and terrorize immigrants. Chicago has been no exception to this discourse and has been one of the flashpoints for this polemical issue. Beginning in September 2025, the federal government significantly escalated its immigration enforcement operations in the Chicagoland area, prompting widespread public demonstration at and near the Broadview Detention Facility at 1930 Beach Street, Broadview, Illinois. In response, a coalition of state and local law enforcement agencies established a Unified Command to police those demonstrations, resulting in numerous arrests of individuals engaged in constitutionally protected activity. The legality of those arrests, and the executive orders and law enforcement directives that authorized them, is the subject of this motion.

On November 8, 2025, Agustin Garcia attended a protest opposing the administration's immigration policy and its impact on migrants in the Chicagoland area. Through his participation in this protest, Mr. Garcia was engaged in the type of activity that the United States Supreme Court has held to be a "pristine and classic" form of protected speech." *Edwards v. South Carolina*, 372 U.S. 229, 235-36 (1973).

I. The instant case should be dismissed pursuant to 725 ILCS 5/114-1(8) for failure to state an offense where the alleged conduct was constitutionally protected.

A. Standard

1. A defendant's motion to dismiss is proper where "[t]he charge does not state an offense." 725 ILCS 5/114-1(8).

2. A charge that sets forth elements that do not amount to an offense may be dismissed under section 114-1(a)(8) of the Code of Criminal Procedure. *People v.*

Redwood, 335 Ill. App. 3d 189 (4th Dist. 2002). A charge does not amount to an offense where the alleged conduct is constitutionally protected. *Id.* at 193-195.

3. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech." *Citizens United v. FEC*, 558 U.S. 310, 336-37 (2010).

4. "[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564, 573, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002) (internal quotation marks omitted). *United States v. Alvarez*, 567 U.S. 709, 716, 132 S. Ct. 2537, 2543 (2012).

5. The Due Process Clause of the Fourteenth Amendment prohibits the enforcement of laws and orders that are unconstitutionally vague. A law or order is void for vagueness if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits, or if it authorizes arbitrary and discriminatory enforcement. *Bartlow v. Costigan*, 2014 IL 115152. This standard is heightened when the law implicates First Amendment rights, as vague laws in this context chill constitutionally protected speech and assembly. *Wilson v. County of Cook*, 2012 IL 112026; *O'Donnell v. City of Chicago*, 363 Ill. App. 3d 98 (2005).

6. Before an individual may be arrested for failing to comply with a protest restriction order, law enforcement must notify both the group collectively and each individual personally that they are subject to arrest. *City of Chicago v. Alexander*, 2017 IL 120350, ¶ 10; *People v. Witzkowski*, 44 Ill. App. 3d 152, 155 (4th Dist. 1976).

II. Charges

7. The defendant is charged with disorderly conduct in violation of 720 ILCS 5/26-1(a)(1).

8. This charge is based on an allegation that Agustin Garcia failed to comply with an order given by a Broadview police officer.

9. This alleged order was based on Broadview Executive Orders 2025-01 and 2025-02.

III. Factual Background

10. The following facts establish the constitutional context in which Agustin Garcia was arrested. This case arises from a series of escalating federal immigration enforcement operations in the Chicagoland area beginning in September 2025, the public demonstrations those operations prompted, and the subsequent efforts by federal, state, and local authorities to regulate and restrict those demonstrations through executive orders, physical barriers, and law enforcement action. The arrest of Mr. Garcia occurred within this context and is the direct result of enforcement actions that violated the First Amendment of the United States Constitution.

11. On September 6, 2025, President Trump posted a social media meme with the title “Chipocalypse Now,” featuring a computer-generated image of himself in military attire while the Chicago skyline burns behind him.¹ The post included Trump’s commentary, “I love the smell of deportations in the morning” and “Chicago about to find out why it’s called the Department of WAR.”

¹ <https://truthsocial.com/@realDonaldTrump/posts/115158096026629509>

12. Two days later - on September 8, 2025, the Trump administration announced “Operation Midway Blitz,” an aggressive escalation of the administration’s targeting of immigrants in the Chicagoland area. *Illinois v. Trump*, 155 F.4th 929, 933 (7th Cir. 2025).

13. As part of Operation Midway Blitz, a surge of federal agents descended on Chicago and neighboring suburbs. This swarm of federal agents came from agencies under the control of the Department of Homeland Security (DHS), including Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP).

14. In response to this attack on immigrant communities, people organized demonstrations in Chicago and neighboring communities to vocalize their dissent against Operation Midway Blitz and Trump’s immigration policies.

15. Many of these demonstrations occurred outside a facility located at 1930 Beach Street, in Broadview, Illinois (the “Broadview Facility”). The Broadview Facility is operated by DHS and used to detain individuals arrested by ICE or CBP.

16. While DHS refers to the Broadview Facility as a “processing center,” it is clearly utilized to detain people arrested by federal authorities. Judge Gabriel Fuentes, Magistrate Judge for the Northern District Court took judicial notice of this fact and appropriately referred to the site as a “detention facility.” *United States v. Briggs*, No. 25 CR 610, 2025 LX 526631, at *3 (N.D. Ill. Nov. 20, 2025).

17. The Broadview Facility has been in operation for more than 40 years and sits near the dead-end of a cul-de-sac. People have gathered at the site to participate in

protests and prayer vigils to support detained migrants for nearly twenty years. *Illinois v. Trump*, 155 F.4th 929, 933 (7th Cir. 2025).

18. These demonstrations became more frequent in September 2025, and the demonstrations grew in attendance.

19. Throughout September 2025, these protests were policed and suppressed by an alphabet soup of federal agencies including HSI, BOP, FBI, ATF, DEA, and CBP. *Chi. Headline Club v. Noem*, No. 25 C 12173, 2025 LX 581718, at *71 (N.D. Ill. Nov. 20, 2025)

20. The federal government responded to these protests with intense violence. Agents demonstrated a pattern of “excessive force in response to protesters’ and journalists’ exercise of their First Amendment rights, without justification, and without warning, and even at those who had begun to comply with agents’ orders.” *Chi. Headline Club v. Noem*, No. 25 C 12173, 2025 LX 581718, at *297-98 (N.D. Ill. Nov. 20, 2025).

21. The federal government utilized additional tactics beyond violence in an attempt to suppress the protests and silence dissent. Overnight between September 22 and September 23, 2025, DHS erected a metal fence outside the Broadview Facility, restricting the ability of individuals to protest outside the site. *Chi. Headline Club v. Noem*, No. 25 C 12173, 2025 LX 581718, at *72 (N.D. Ill. Nov. 20, 2025)

22. In late September 2025, the Trump administration requested that state and local law enforcement agencies assist in its efforts to repress and suppress the anti-ICE demonstrations outside of the Broadview Facility.²

² <https://www.ice.gov/sites/default/files/2025-09/Broadview%20Letter%20from%20ICE.png>

23. Following that request, an amalgamation of local and state policing agencies established a Unified Command (UC), which took over the role of policing the demonstrations at the Broadview Facility. While publicly stating that UC's purpose was to ensure the safety of demonstrators and facilitate the lawful exercise of First Amendment rights, the UC's actions had the effect of restricting and chilling constitutionally protected activity, and repressing the protests.³

24. On October 6, 2025, Katrina Thompson, the Village President for the Village of Broadview issued Village of Broadview Executive Order 2025-01. This order restricted the hours in which individuals could "protest or gather" near the Broadview facility, only allowing protests to occur between 9:00 a.m. and 6:00 p.m. (Exhibit A).

25. On October 12, 2025, Broadview Village President enacted Village of Broadview Executive Order 2025-02. This order reinforced the time restrictions established in Executive Order 2025-01 and added a severely limiting restriction to the geographic area in which individuals could protest. Specifically, this order established Beach Street as "the designated area for protesting" against the Broadview Facility. It further established that "the sidewalks [sic] along both sides of 25th Avenue, between Lexington Street and Fillmore Street in Broadview, Illinois, will be closed for public use and access." (Exhibit B).

26. On October December 3, 2025, Broadview Village President enacted Village of Broadview Executive Order 2025-05. This order reiterated that Beach Street was the "designated area" for protesting the Broadview Facility. This order also altered the

³ <https://isp.illinois.gov/Media/CompletePressRelease/2269>

“hours that people can protest” against the Broadview Facility, establishing that “[i]f there are fewer than 25 people, the permitted protest hours shall be from 9:00 a.m. to 9:00 p.m. local time; or [i]f there are 25 or more people, the permitted protest hours shall be from 11:00 a.m. to 7:00 p.m. local time.” (Exhibit C).

27. Unified Command enforced Executive Order 2025-01’s “First Amendment Curfew” by prohibiting any individual from protesting outside the Broadview facility before 9:00 a.m. or after 6:00 p.m.

28. Unified Command enforced Executive Order 2025-02 by erecting concrete traffic barriers, establishing what was termed the “First Amendment Zone.” These concrete barriers were positioned parallel along the street, preventing pedestrian access to the roadway and sidewalks – all of which are public property.

29. Unified Command enforced the “First Amendment Zone” and “First Amendment Curfew” with officers donning riot gear, helmets, wooden truncheons, and crowd control weapons.

30. On November 8, 2025, Agustin Garcia was engaged in constitutionally protected activity. On that date, he gathered with others near the Broadview Facility to protest against ICE and Trump’s assault on immigrant communities.

31. At approximately 9:45 a.m., Agustin Garcia was arrested by Detective Jonathan Ridgner, an officer with the Broadview Police Department. According to the Complaint, they allegedly failed to comply with an order regarding where they could stand in relation to a barrier demarcating the “First Amendment Zone.”

IV. The Complaint Against Agustin Garcia Violates the First Amendment

A. Village of Broadview Executive Order 2025-01 Violates the First Amendment by Placing Unconstitutional Time Restrictions on Free Speech

i. Executive Order 2025-01 is Content Based Viewpoint Discrimination and Fails Strict Scrutiny

32. Village of Broadview Executive Order 2025-01 impermissibly restricts speech in a public forum by placing unconstitutional time restrictions on individuals protesting ICE.

33. The streets and sidewalks near the Broadview Facility are traditional public forums, which are entitled to the strongest First Amendment protections. *Nicodemus v. City of S. Bend*, 137 F.4th 654, 663 (7th Cir. 2025) (“Nowhere are the First Amendment's protections stronger than in public streets, sidewalks, parks, and similar locations, as these places ‘have immemorially been held in trust for the use of the public, and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.’) (quoting *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 45 (1983)).

34. Executive Order 2025-01 explicitly states that the time restrictions apply to “protests at the [Broadview Facility],” making it clear that it applies only to demonstrations in relation to ICE and Trump’s immigration policy. As such, this is a content-based restriction applying solely to demonstrations in relation to ICE.

35. Content-based restrictions on political speech in a public forum must be narrowly tailored to serve a compelling state interest. *Boos v. Barry*, 485 U.S. 312, 334, 108 S. Ct. 1157, 1170 (1988) (finding law prohibiting signs within 500 feet of embassies

to be unconstitutional under the First Amendment).

36. Moreover, the order establishes that the protests are a result of ICE's "unprecedented and chaotic nationwide campaign," "the surge of raids and arrests targeting immigrants" as part of "Operation Midway Blitz," and the poor treatment of individuals held at the Broadview Facility. Therefore, this restriction is not only content based, it amounts to unconstitutional viewpoint discrimination.

37. The curfew is content based as it "applies to particular speech because of the topic discussed or the idea of the message expressed" and "cannot be justified without reference to the content of the regulated speech." *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163-64 (2015) (quotations omitted). Laws based on the content of the speech are subject to strict scrutiny *Id.* at 163-64.

38. "Viewpoint discrimination is censorship in its purest form and government regulation that discriminates among viewpoints threatens the continued vitality of 'free speech.'" *Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 62 (1983). Viewpoint discrimination is "an egregious form of content discrimination" which is "presumptively unconstitutional." *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829-830 (1995).

39. Executive Order 2025-01 is therefore subject to strict scrutiny. To survive strict scrutiny, the State is required to demonstrate a "compelling governmental interest" and that the law is the "least restrictive means" to achieve that interest. *Sable Commc'ns of Cal. v. FCC*, 492 U.S. 115, 126 (1989).

40. Here, the language of Executive Order 2025-01 states that it was enacted "in order to protect the Village's well-being" from the "recent escalation of violence by

ICE,” including “needlessly deploying tear gas, pepper spray, mace, and rubber bullets at individuals and reporters.”

41. The order is not the least restrictive means to address the ostensible governmental interest identified by the Village. Here, the harm the Village sought to prevent was the violence perpetuated by federal agents. Rather than taking any action to address the perpetrators of the violence (who were armed, masked, unidentified federal agents), the order explicitly targets and silences the victims of that violence.

42. To place any speech restrictions on the speaker fails the “least restrictive means” test because the restricted speech is not the source of the harm.

ii. Executive Order 2025-01 Fails Intermediate Scrutiny

43. Alternatively, even if this Court were to find that Executive Order 2025-01 is content neutral, it would be subject to intermediate scrutiny and it would still be unconstitutional on its face.

44. Unlike a content-based restriction of speech, a content-neutral regulation “need not be the least restrictive or least intrusive means of” serving the government’s interests, but must be “narrowly tailored to serve a governmental interest” *McCullen v. Coakley*, 573 U.S. 464, 486, (2014) (Quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 798-99, (1989)). The tailoring requirement “demand[s] a close fit between means and ends.” *Id.* A law is “narrowly tailored if it targets and eliminates no more than the exact source of the ‘evil’ it seeks to remedy.” *Frisby v. Shultz*, 487, 485 (1988).

45. Here, the “evil” is the tear gas, rubber bullets, pepper spray, mace, and other weapons deployed by ICE and CBP. Executive Order 2025-01 does not target or eliminate that evil in any way. Instead, it targets and eliminates speech and assembly

that is protected by the First Amendment. The means of repressing free speech are far too divorced from the ends of preventing violence by federal agents.

46. As such, the order impermissibly “burden(s) substantially more speech than necessary to further the government’s legitimate interests.” *Ward*, at 789 (1989).

47. To survive intermediate scrutiny, a speech restriction must “leave open ample alternative channels for communication of the information.” *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984). Here, Executive Order 2025-01 shuts down any public demonstration at the Broadview Facility for 15 hours of the day. This particularly prevents anyone who works 9-5 or attends school during the day to attend an anti-ICE demonstration at the Broadview Facility.

48. This precise issue was recently adjudicated in federal court with the court holding that the time restrictions under Broadview Executive Order 2025-01 are unconstitutional. *Held v. Village of Broadview*, N.D.Ill. 25-cv-13066, Dkt. 51 at 25. (Exhibit D)

49. In *Held*, the Honorable Edmond E. Chang of the Northern District of Illinois granted the Plaintiff’s motion for preliminary injunction, prohibiting enforcement of the curfew. The court held that “the Village’s time restrictions are not narrowly tailored to address government interests” and that the “restrictions cannot stand under the First Amendment.” *Id.* at 25, 29.

B. Broadview Executive Order 2025-02 Violates the First Amendment by Placing Unconstitutional Time and Place Restrictions on Free Speech

50. Broadview Executive Order 2025-02 is unconstitutional in that it impermissibly restricts speech in a public forum by placing unconstitutional spatial

restrictions on individuals protesting ICE.

51. The United States Supreme Court has “repeatedly referred to public streets as the archetype of a traditional public forum.” *Snyder v. Phelps*, 562 U.S. 443, 456, (2011). “‘Time out of mind’ public streets and sidewalks have been used for public assembly and debate.” *Frisby v. Schultz*, 487 U. S. 474, 480 (1988).

52. “Sidewalks, of course, are among those areas of public property that traditionally have been held open to the public for expressive activities and are clearly within those areas of public property that may be considered, generally without further inquiry, to be public forum property.” *United States v. Grace*, 461 U.S. 171, 179, 103 S. Ct. 1702, 1708 (1983).

53. Executive Order 2025-02 independently restricts the hours during which individuals may demonstrate near the Broadview Facility to between 9:00 a.m. and 6:00 p.m. CST. As argued with respect to Executive Order 2025-01, this time restriction entirely excludes individuals who work or attend school during daytime hours from participating in demonstrations at the Broadview Facility. A speech restriction that precludes an entire segment of the public from participating in demonstration for fifteen hours of the day does not leave open ample alternative channels for communication and fails intermediate scrutiny. *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984). For the same reasons set forth in Section [IV] above, this time restriction is unconstitutional both as content-based viewpoint discrimination subject to strict scrutiny and as a restriction that fails to satisfy intermediate scrutiny.

54. Village of Broadview Executive Order 2025-02 is unconstitutional in that it completely prohibits individuals from demonstrating on the public sidewalks near the

Broadview Facility. Additionally, it substantially restricts the ability to protest on the public streets near the Broadview Facility.

55. This geographic restriction burdens the speech of protesters in several ways. First, the limitation creates physical and logistical barriers that limit the ability of crowds to gather. Second, it places demonstrators at a distance farther from the Broadview Facility, making it difficult – if not impossible – for their message to be heard by any individuals inside the facility. This prevents their ability to send messages of solidarity to individuals being detained in the Broadview Facility. It also restricts their ability for their messages of dissent to be heard by federal employees inside the building. Third, by barring the ability of individuals to use the sidewalks on 25th Street, it entirely prevents their ability to convey their anti-ICE message to any pedestrian and vehicular traffic. Therefore, this restriction impedes the ability for the protesters to have their message heard by the individuals they are seeking to support, passersby who may be persuaded by their message, or the very state actors who are the target of their dissent.

56. Like Executive Order 2025-01, Executive Order 2025-02 explicitly states that the time and place restrictions apply to “protests at the [Broadview Facility]” which are in response to ICE’s “unprecedented and chaotic nationwide campaign,” Operation Midway Blitz’s “surge of raids and arrests targeting immigrants,” and the poor treatment of individuals held at the Broadview Facility.

57. As such, Executive Order 2025-02 is a speech restriction based on the content and viewpoint of the speech and is similarly subject to strict scrutiny.

58. Like Executive Order 2025-01, the purported justification for the restrictions established by Executive Order 2025-02 was the violence meted out by

federal agents. Similar to the reasons argued above, establishing a “First Amendment Zone” restricting where people can protest is not the “least restrictive means” to stop unconstitutional excessive force perpetrated against demonstrators. Nor is the spatial restriction establishing a “First Amendment Zone” narrowly tailored to address the government’s violence.

59. The time, place, and manner restrictions established by Executive Order 2025-02 were not at all tailored to address the harm. Instead, the effect of Executive Order 2025-02 (and its predecessor Executive Order 2025-01) was to restrict speech in an ill-fitted attempt to prevent violence by the listener – in this case federal law enforcement.

60. Courts have consistently held that restricting speech because of possible unlawful conduct by those opposed to the speaker is unconstitutional. *Skokie v. Nat'l Socialist Party*, 69 Ill. 2d 605, 616-17, 14 Ill. Dec. 890, 894, 373 N.E.2d 21, 25 (1978) (“A hostile audience is not a basis for restraining otherwise legal First Amendment activity.”); *Forsyth Cty. v. Nationalist Movement*, 505 U.S. 123, 135, 112 S. Ct. 2395 (“Speech cannot be burdened ‘simply because it might offend a hostile mob.’”); *Chicago v. Weiss*, 51 Ill. 2d 113, 122, 281 N.E.2d 310, 315 (1972). (“The police may not stop a peaceful demonstration merely because a hostile crowd which does not agree with the views of demonstrators threatens violence.”).

61. Here, the “hostile mob” who may have been offended and threatened violence was a gang of armed, masked, unidentified federal agents who had demonstrated their willingness to fire tear gas, pepper balls, rubber bullets, and other projectiles at people speaking out against ICE.

62. By limiting the area in which individuals can protest to a small portion of Beach Street, restricting demonstration to a nine-hour window, and completely prohibiting demonstrations from taking place on any other street or sidewalk near the Broadview Facility, Executive Order 2025-02 does nothing to address the harm it claims to prevent and restricts far more speech than necessary

63. Therefore, Executive Order 2025-02 (like Executive Order 2025-01 that came before it) is not narrowly tailored or the least restrictive means to address the purported harm and therefore is unconstitutional on its face.

V. **720 ILCS 5/26-1(a)(1) is Unconstitutional as Applied to Agustin Garcia as His Conduct was Protected by the First Amendment and the Purported Order was Based on an Unconstitutional Executive Order**

64. On November 8, 2025, Agustin Garcia was engaged in First Amendment protected activity.

65. At approximately 9:45 a.m., Agustin Garcia, was gathered with others on public property outside the Broadview Facility to express his opposition to Operation Midway Blitz and the Trump administration's immigration policies.

66. According to the Complaint, Mr. Garcia allegedly failed to comply with an order regarding where to stand in relation to a barricade demarcating the "First Amendment Zone."

67. As such, the Complaint against Agustin Garcia, alleging a violation of 720 ILCS 5/26-1(a)(1) was based on the enforcement of Executive Order 2025-01 and/or 2025-02, in violation of the First Amendment.

VI. The Complaint Against Agustin Garcia Should Be Dismissed Due to a Lack of Notice in Violation of the Due Process Clause of the 14th Amendment

68. The charges against Agustin Garcia should be dismissed due to a lack of notice.

69. The actions and statements by the Unified Command combined with Broadview Executive Order 2025-01 and Executive Order 2025-02 failed to provide adequate information regarding the precise geographic area where people were prohibited from gathering and precise time limits to gathering.

70. The enforcement of Executive Orders 2025-01 and 2025-02 was inconsistent, arbitrary, and not uniformly implemented, failing to provide Mr. Garcia and other demonstrators with sufficient information as to what forms of speech and assembly was permissible and what speech and assembly would subject them to criminal prosecution.

71. On October 2, 2025, the Unified Command issued a press release stating that it established “designated areas” in which people could “safely exercise their rights.”⁴ This press release included a map delineating these “designated protest zones” which were on either side of Beach Street.

72. On October 14, 2025, the Unified Command issued a press release reiterating the closure of pedestrian access to 25th Avenue, and indicating it was

⁴ <https://isp.illinois.gov/Media/CompletePressRelease/2269>

“maintaining designated [protest] areas.”⁵

73. On October 17, 2025, Unified Command issued a press release purporting to “remind[] the public to utilize the protest zones[,]” announcing the arrest of 11 individuals who had allegedly not conformed to the protest zone, claiming that the protest zones “were established to allow people to exercise their First Amendment rights while protecting public safety.”⁶

74. By referring to “the designated areas” as “remain[ing] accessible,” the Unified Command gave a confusing and misleading representation as to where individuals were allowed to lawfully gather.

75. None of the communications from the Village or the Unified Command provided adequate notice that the designated protest area had been cut in half.

76. Moreover, protesters and witnesses who attended multiple demonstrations at the Broadview Facility reported that the “designated areas” were not clearly marked in a way that allowed individuals to know where they were permitted to engage in First Amendment activity. Protesters and witnesses also reported that the enforcement of the “First Amendment Zone” was inconsistent and led to confusion⁷.

⁵ isp.illinois.gov/Media/CompletePressRelease/2279

⁶ isp.illinois.gov/Media/CompletePressRelease/2282

⁷ The inadequacy of the zone markings is confirmed by the Unified Command's own setup: on the first night of the designated protest areas, workers ran out of barricades before completing the physical demarcation of the zones, and local officers were deployed specifically to verbally direct protesters to the designated areas — indicating that the physical markings alone were insufficient to provide notice of where protest was permitted. See Manny Ramos, *New Barricades Erected Near Broadview ICE Facility to Limit Protesters Blocking Street*, Chicago Sun-Times (Oct. 3, 2025), <https://chicago.suntimes.com/immigration/2025/10/02/local-authorities-to-place-barricades-outside-broadview-ice-facility-to-protect-first-amendment-rights>. The confusion was further compounded by officers who, at the time of arrest, were themselves uncertain what conduct warranted arrest or what charges to bring. See Elyssa Cherney, *Why Is The Cook County State's Attorney Prosecuting Nonviolent*

77. Without adequate notice by the Village and Unified Command as to the limits of the protest zone, the protesters' presence outside of those fluctuating limits cannot be deemed unlawful absent clear evidence that law enforcement notified them collectively and individually that they were in violation of any time, place, and manner restrictions that had been enacted. See, e.g. *City of Chicago v. Alexander*, 2017 IL 120350, ¶ 10 (describing officers informing both the group and each individual protestor that they were subject to arrest); *People v. Witzkowski*, 44 Ill. App. 3d 152, 155 (4th Dist. 1976) (same).

VII. Conclusion

In conclusion, Defendant moves this Court to dismiss the charge against him pursuant to 725 ILCS 5/114-1(a)(8). First, Broadview Executive Orders 2025-01 and 2025-02 are unconstitutional on their face and as applied, as the alleged conduct was protected by the First Amendment of the United States Constitution. Second, Broadview Executive Orders 2025-01 and 2025-02 are void for vagueness on their face and as applied, as they failed to provide persons of ordinary intelligence adequate notice of what conduct was prohibited, in violation of the Due Process Clause of the Fourteenth Amendment. For all of the foregoing reasons, Defendant respectfully requests that this Honorable Court dismiss the charge against him.

WHEREFORE, Defendant respectfully moves this Honorable Court to GRANT this motion to dismiss.

Dated: March 31, 2026

ICE Protesters?, Block Club Chicago (Feb. 26, 2026), <https://blockclubchicago.org/2026/02/26/why-is-the-cook-county-states-attorney-prosecuting-nonviolent-ice-protesters/>.

Respectfully submitted,

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****Tanner Haynes**

Ill. S. Ct. R. 711 Licensed Law Student
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Law contributed substantially to this
motion

VILLAGE OF BROADVIEW EXECUTIVE ORDER NO. 2025-01

WHEREAS, for several months, the U.S. Department of Homeland Security (“DHS”), through its subsidiary agency, the U.S. Immigration and Customs Enforcement (“ICE”), has engaged in an unprecedented and chaotic nationwide campaign to target, round up, detain, and deport any person suspected of unlawfully residing in the United States; and

WHEREAS, as a result of this surge in raids and arrests targeting immigrants, the Village of Broadview (the “Village”) is now under siege because the ICE Processing Facility (“BPF”) for those arrested in “Operation Midway Blitz” is located in the Village at 1930 Beach Street, Broadview, Illinois; and

WHEREAS, DHS and ICE’s reportedly poor treatment of those processed at the BPF has, predictably, sparked protests; and

WHEREAS, due to the recent escalation of violence by ICE at the BPF, including, but not limited to, needlessly deploying tear gas, pepper spray, mace, and rubber bullets at individuals and reporters, thereby injuring Village residents, Village police officers, and Village firefighters (as well as damaging Village property in the process), I find that it is in the best interests of the Village and its residents to temporarily place time restrictions on protests at the BPF in order to protect the Village’s well-being;

NOW, THEREFORE, by the powers vested in me as the President of the Village of Broadview, and pursuant to Title 1, Chapter 5 of the Village of Broadview Code of Ordinances (“the “Village Code”) and any other approved ordinances or laws of the Village of Broadview and the State of Illinois, I hereby order the following:

SECTION 1: Effective immediately this 6th day of October, 2025, the Village is setting the hours that people can protest or gather at the ICE Processing Facility located at 1930 Beach Street, Broadview, Illinois and the designated protest area of 2000 South 25th Avenue, Broadview Illinois as 9:00 am to 6:00 pm CST; however, said order may be rescinded should I deem the restriction no longer necessary in order to protect the health, welfare, and safety of the residents of the Village.

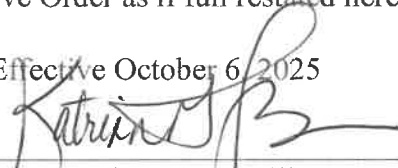
SECTION 2: This Executive Order shall be in full force and effect unless otherwise superseded by further executive orders or through legislative action.

SECTION 3: This Executive Order shall be distributed in accordance with the Village Code.

SECTION 4: This Executive Order is not intended to, and does not, except as specifically set forth herein, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Village, its departments, agencies, or entities, its officers, employees, or agents, or any other person. This Executive Order shall be deposited and kept immediately available on file for inspection in the office of the Village Clerk. Copies of this Executive Order shall be distributed to the members of the Village’s Board of Trustees. All recitals


set forth above shall be incorporated into this Executive Order as if full restated herein.

Effective October 6, 2025



Katrina Thompson, Village President
for the Village of Broadview

Received and Filed OCTOBER 6, 2025


Kevin McGrier, Village Clerk
for the Village of Broadview



VILLAGE OF BROADVIEW EXECUTIVE ORDER NO. 2025-02

WHEREAS, for several months, the U.S. Department of Homeland Security (“DHS”), through its subsidiary agency, the U.S. Immigration and Customs Enforcement (“ICE”), has engaged in an unprecedented and chaotic nationwide campaign to target, round up, detain, and deport any person suspected of unlawfully residing in the United States; and

WHEREAS, as a result of this surge in raids and arrests targeting immigrants, the Village of Broadview (the “Village”) is now under siege because the ICE Processing Facility (“BPF”) for those arrested in “Operation Midway Blitz” is located in the Village at 1930 Beach Street, Broadview, Illinois; and

WHEREAS, DHS and ICE’s reportedly poor treatment of those processed at the BPF has, predictably, sparked protests; and

WHEREAS, due to the recent escalation of violence by ICE at the BPF, including, but not limited to, needlessly deploying tear gas, pepper spray, mace, and rubber bullets at individuals and reporters, thereby injuring Village residents, Village police officers, and Village firefighters (as well as damaging Village property in the process), I find that it is in the best interests of the Village and its residents to temporarily place time and place restrictions on protests at the BPF in order to protect the Village’s well-being;

NOW, THEREFORE, by the powers vested in me as the President of the Village of Broadview, and pursuant to Title 1, Chapter 5 of the Village of Broadview Code of Ordinances (“the “Village Code”) and any other approved ordinances or laws of the Village of Broadview and the State of Illinois, I hereby order the following:

SECTION 1: Effective immediately this 12th day of October, 2025, the Village is establishing Beach Street as the designated area for protesting at the ICE Processing Facility located at 1930 Beach Street, Broadview, Illinois.

SECTION 2: Effectively immediately this 12th day of October, 2025, the sidewalks along both sides of 25th Avenue, between Lexington Street and Fillmore Street in Broadview, Illinois, will be closed for public use and access.

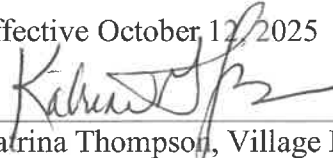
SECTION 3: Effective immediately this 12th day of October, 2025, the Village is setting the hours that people can protest or gather on Beach Street at the ICE Processing Facility located at 1930 Beach Street, Broadview, Illinois as 9:00 am to 6:00 pm CST; however, said order may be rescinded should I deem the restriction no longer necessary in order to protect the health, welfare, and safety of the residents of the Village.

SECTION 4: This Executive Order shall be in full force and effect unless otherwise superseded by further executive orders or through legislative action.

SECTION 5: This Executive Order shall be distributed in accordance with the Village Code.


SECTION 6: This Executive Order is not intended to, and does not, except as specifically set forth herein, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Village, its departments, agencies, or entities, its officers, employees, or agents, or any other person. This Executive Order shall be deposited and kept immediately available on file for inspection in the office of the Village Clerk. Copies of this Executive Order shall be distributed to the members of the Village's Board of Trustees. All recitals set forth above shall be incorporated into this Executive Order as if full restated herein.

Effective October 12, 2025



Katrina Thompson, Village President
for the Village of Broadview

Received and Filed OCTOBER 12, 2025


Kevin McGrier, Village Clerk
for the Village of Broadview



VILLAGE OF BROADVIEW EXECUTIVE ORDER NO. 2025-05

WHEREAS, for several months, the U.S. Department of Homeland Security (“DHS”), through its subsidiary agency, the U.S. Immigration and Customs Enforcement (“ICE”), has engaged in an unprecedented and chaotic nationwide campaign to target, round up, detain, and deport any person suspected of unlawfully residing in the United States; and

WHEREAS, as a result of this surge in raids and arrests targeting immigrants, the Village of Broadview (the “Village”) is now under siege because the ICE Processing Facility (“BPF”) for those arrested in “Operation Midway Blitz” is located in the Village at 1930 Beach Street, Broadview, Illinois; and

WHEREAS, DHS and ICE’s reportedly poor treatment of those processed at the BPF has, predictably, sparked protests; and

WHEREAS, due to the continued acts of violence by ICE at the BPF, including, but not limited to, needlessly deploying tear gas, pepper spray, mace, and rubber bullets at individuals and reporters, thereby injuring Village residents, Village police officers, and Village firefighters (as well as damaging Village property in the process), I find that it is in the best interests of the Village and its residents to continue to place certain time and place restrictions on protests at the BPF in order to protect the Village’s well-being subject to the provisions of this Executive Order;

NOW, THEREFORE, by the powers vested in me as the President of the Village of Broadview, and pursuant to Title 1, Chapter 5 of the Village of Broadview Code of Ordinances (the “Village Code”) and any other approved ordinances or laws of the Village of Broadview and the State of Illinois, I hereby order the following:

SECTION 1: Effective immediately this 3rd day of December, 2025, the Village is establishing Beach Street as the designated area for protesting at the ICE Processing Facility located at 1930 Beach Street, Broadview, Illinois.

SECTION 2: Effective immediately this 3rd day of December, 2025, the Village is setting the hours that people can protest or gather on Beach Street near the ICE Processing Facility located at 1930 Beach Street, Broadview, Illinois shall be as follows:

- If there are fewer than 25 people, the permitted protest hours shall be from 9:00 a.m. to 9:00 p.m. local time; or
- If there are 25 or more people, the permitted protest hours shall be from 11:00 a.m. to 7:00 p.m. local time.

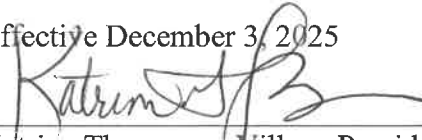
This order may be rescinded or revised at any time should I deem the restriction no longer necessary in order to protect the health, welfare, and safety of the residents of the Village. Furthermore, this Executive Order shall reviewed by the Broadview Police Department and, if appropriate, the Unified Command every fourteen (14) days to determine if the executive order should continue, be amended or be repealed based on public safety considerations and the health, safety and welfare of the Village and its residents.

SECTION 3: This Executive Order shall be in full force and effect unless otherwise superseded by further executive orders or through legislative action.

SECTION 4: This Executive Order shall be distributed in accordance with the Village Code.

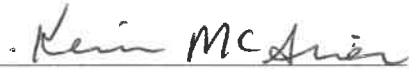
SECTION 5: This Executive Order is not intended to, and does not, except as specifically set forth herein, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Village, its departments, agencies, or entities, its officers, employees, or agents, or any other person. This Executive Order shall be deposited and kept immediately available on file for inspection in the office of the Village Clerk. Copies of this Executive Order shall be distributed to the members of the Village's Board of Trustees. All recitals set forth above shall be incorporated into this Executive Order as if fully restated herein.

Effective December 3, 2025



Katrina Thompson, Village President
for the Village of Broadview

Received and Filed December 3, 2025



Kevin McGrier, Village Clerk
for the Village of Broadview

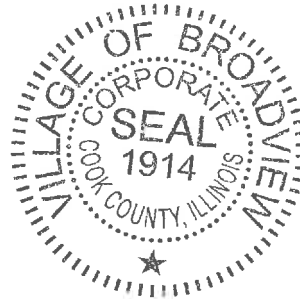


EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Robert Held,

Plaintiff,

v.

Village of Broadview; Katrina Thompson, in
her official capacity as Mayor of the Village
of the Broadview; and Thomas Mills, in his
official capacity as Chief of Police of the Vil-
lage of Broadview,

Defendants.

No. 1:25-CV-13066

Judge Edmond E. Chang

MEMORANDUM OPINION AND ORDER

Robert Held brings a First Amendment challenge, 42 U.S.C. § 1983, to the Village of Broadview's curfew on protests or gatherings outside an Immigration and Customs Enforcement (commonly known as ICE) processing facility in the Village. R. 1, Compl. ¶ 1; Pl.'s Exh. 4, Exec. Order 2025-05 § 2.¹ Held moves for a preliminary injunction prohibiting enforcement of the curfew. R. 8, Pl.'s Mot. Because the government has not shown that the protest curfew is narrowly tailored to serve a significant governmental interest, Held is likely to succeed on the merits of his First Amendment claim. The motion for preliminary injunction is granted.

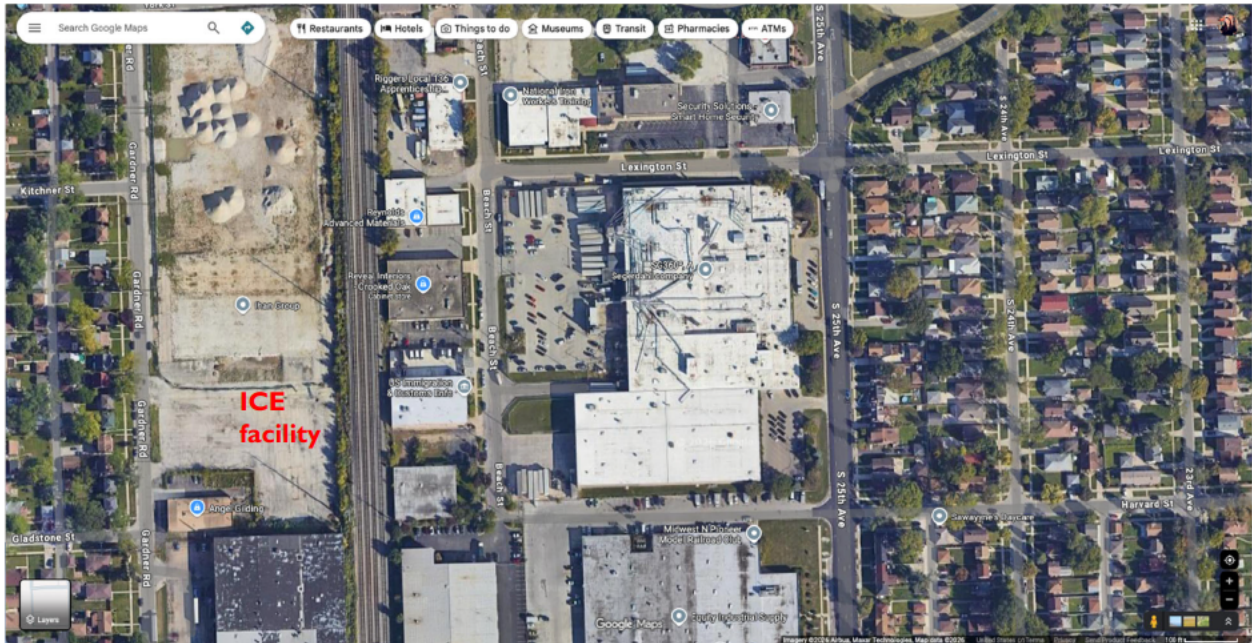
¹Citations to the record are "R." followed by the docket entry number and, if needed, a page or paragraph number. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331, 1343(a)(3).

I. Background

In August 2025, after the federal government increased immigration enforcement in the Chicago area, there was a corresponding increase in protests outside of the ICE processing facility in the Village of Broadview. Exec. Order 2025-05 at 1; R. 41, 01/30/2026 Tr. at 40. Altercations between protestors and ICE agents outside the facility led to injuries and property damage. 01/30/2026 Tr. at 12–14; Pl.’s Exh. 2, Exec. Order 2025-01 at 1. In response, on October 2, 2025, the Broadview Police Department, Cook County Sheriff’s Office, and Illinois State Police established a “Unified Command” to coordinate public-safety measures around the ICE facility. Pl.’s Exh. 5, Unified Command Press Release. The Village also implemented restrictions on protests outside the ICE facility. 01/30/2026 Tr. at 12–13.

First, the Village established a designated protest area near the facility. 01/30/2026 Tr. at 9–10. Initially, the protest area was located on the sidewalks on the block of Beach Street north of the ICE facility. *Id.* at 10. (The map below sets the scene.) The Village later banned vehicles from that specific block of Beach Street, and instead designated the roadway itself as the protest area. *Id.* at 10–11. So, as of now, vehicles cannot drive down Beach Street directly north of the ICE facility, but they can enter Beach Street from Harvard Street on the south. *Id.* at 11; *see generally* Pl.’s Exh. 1, Aerial Map.

Beach Street



Second, the Village enacted time restrictions on protests. On October 6, 2025, the Mayor of Broadview issued an executive order limiting protests and gatherings in the designated protest area to the hours of 9 a.m. to 6 p.m. Exec. Order 2025-01 § 1. A couple of months later, on December 3, 2025, the Mayor modified the time limits so that they would depend on the number of gathered protesters. Exec. Order 2025-05 § 2. Under Executive Order 2025-05, if there are fewer than 25 protesters, then they may gather in the protest area from 9 a.m. to 9 p.m. *Id.* But if there are 25 or more protesters, then protests may be held only from 11 a.m. to 7 p.m. *Id.* By its own terms, the Executive Order will remain in operative effect until rescinded by the Mayor or otherwise superseded by executive or legislative action. *Id.* § 3. The Broadview Police Department currently reviews the situation every 14 days to determine whether the Order is still necessary. *Id.* § 2.

On the morning of October 9, 2025, Held stood in the designated protest area on Beach Street at around 7:49 am. 01/30/2026 Tr. at 122, 125. He was the only protestor there. *Id.* at 122. Two Broadview police officers approached Held and informed him that he was protesting outside the hours permitted by Executive Order 2025-01 (the then-effective order at the time). *Id.* at 123–24. Held replied that he would not leave because he has a constitutional right to protest. Pl.’s Exh. 7, 10/09/2025 Held Video. One of the officers warned that he would issue Held a dispersal order and, if Held refused to comply, then he would receive a citation for disorderly conduct. *Id.*; Defs.’ Exh. 6, Held Citation at 1. Held told the officers that he would not disperse and they could issue the citation. 10/09/2025 Held Video. The officers then issued Held a citation, *id.*; Held Citation, ending the cordial encounter.

At an administrative-citation hearing on November 24, 2025, Held pled liable to disorderly conduct and received a \$750 fine. Held Citation; 01/30/2026 Tr. at 125; R. 20-1, ALJ Order. In the meantime, Held filed this suit and moved for a preliminary injunction to prohibit enforcement of the protest limits. Compl.; Pl.’s Mot. The Village opposes the motion and also argues, as a threshold issue, that *Heck v. Humphrey*, 512 U.S. 477 (1994), bars Held from challenging the Executive Order. R. 43, Defs.’ Br at 3–21.

II. Legal Standard

A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 22 (2008). “To prevail on a motion for a

preliminary injunction, the moving party must demonstrate (1) a likelihood of success on the merits; (2) a lack of an adequate remedy at law; and (3) an irreparable harm will result if the injunction is not granted.” *Lambert v. Buss*, 498 F.3d 446, 451 (7th Cir. 2007). If the moving party meets these requirements, then the Court balances the nature and degree of the potential harm to each party, the likelihood of each party to prevail at trial, and the public interest. *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of U.S.A., Inc.*, 549 F.3d 1079, 1086 (7th Cir. 2008), *abrogated on other grounds by Nken v. Holder*, 556 U.S. 418 (2009).

“[I]n First Amendment cases, the likelihood of success on the merits will often be the determinative factor.” *Higher Soc. of Ind. v. Tippecanoe County*, 858 F.3d 1113, 1116 (7th Cir. 2017) (cleaned up).² “That is because even short deprivations of First Amendment rights constitute irreparable harm, and the balance of harms normally favors granting preliminary injunctive relief because the public interest is not harmed by preliminarily enjoining the enforcement of a statute that is probably unconstitutional.” *Id.* (cleaned up). “So the analysis begins and ends with the likelihood of success on the merits of the First Amendment claim.” *Id.* (cleaned up).

²This Opinion uses (cleaned up) to indicate that internal quotation marks, alterations, and citations have been omitted from quotations. See Jack Metzler, *Cleaning Up Quotations*, 18 *Journal of Appellate Practice and Process* 143 (2017).

III. Analysis

A. *Heck v. Humphrey*

In *Heck v. Humphrey*, the Supreme Court held that individuals convicted under a state law cannot bring a Section 1983 suit for damages that would imply the invalidity of their conviction or sentence. 512 U.S. at 487. *Heck* bars these suits “unless the conviction ... is invalidated on appeal, through a collateral attack, or by executive pardon or clemency.” *Bell v. Raoul*, 88 F.4th 1231, 1233 (7th Cir. 2023) (citing *Heck*, 512 U.S. at 486–87). This “favorable-termination requirement is rooted in pragmatic concerns with avoiding parallel criminal and civil litigation over the same subject matter and the related possibility of conflicting civil and criminal judgments.” *McDonough v. Smith*, 588 U.S. 109, 117–18 (2019). Here, Broadview argues that the Section 1983 claim is *Heck*-barred because a holding that the Executive Order is unconstitutional would necessarily imply the invalidity of Held’s citation for disorderly conduct. Defs.’ Br. at 3–6.

As an initial matter, it is worth explaining why—despite the party-presentation principle, see *United States v. Sineneng-Smith*, 590 U.S. 371, 375–76 (2020)—the Court on its own initially flagged the potential *Heck* issue. R. 37, Heck Minute Order. First, the applicability (or not) of the bar in *Heck* presents a pure question of law. And this case presented a novel application of *Heck* because Held seeks purely prospective, future-looking relief against the Executive Order itself, see Compl. at 17, as opposed to damages or injunctive relief related to his now-past citation or fine.

It is true that the Seventh Circuit has sometimes described *Heck* as a waivable affirmative defense. See *Courtney v. Butler*, 66 F.4th 1043, 1049 n.1 (7th Cir. 2023); see also *Global Tech. & Trading, Inc. v. Tech Mahindra Ltd.*, 789 F.3d 730, 731 (7th Cir. 2015) (describing how a defendant ordinarily waives affirmative defenses by failing to include them in the answer). But although Broadview did not raise *Heck* in their answer, see generally R. 32, Answer, this case is in its early stages, and Broadview could always move to file an amended answer, see *Courtney*, 66 F.4th at 1048–49. What’s more, the circuit cases characterizing *Heck* as an affirmative defense do so in dicta, see *id.* at 1049 n.1; *Bell*, 88 F.4th at 1234, or are nonprecedential unpublished opinions, see *Johnston v. Devries*, 2022 WL 476088, at *2 (7th Cir. 2022). And the cases on which they rely do not actually describe *Heck* as an affirmative defense. See *Polzin v. Gage*, 636 F.3d 834, 837–38 (7th Cir. 2011) (holding that *Heck* may be waived, but not expressly describing it as an affirmative defense); *Carr v. O’Leary*, 167 F.3d 1124, 1126–27 (7th Cir. 1999) (same). It is therefore not obvious that Broadview had to raise *Heck* in their answer to avoid waiving the issue. Even if *Heck* is a waivable affirmative defense, the Court may still address it because there was no delay that prejudiced Held here. See *Johnston*, 2022 WL 476088, at *2. The Court thus exercised its discretion and asked the litigants to address *Heck* in their preliminary-injunction briefs. See *Courtney*, 66 F.4th at 1049 n.1 (“[D]istrict courts may find it prudent as a matter of case management to determine earlier rather than later whether a defendant will raise the [*Heck*] issue.”).

That said, *Heck* does not bar Held’s suit. The Supreme Court recently decided this precise issue in *Olivier v. City of Brandon*. 607 U.S. ----, 2026 WL 783725, at *4 (Mar. 20, 2026). There, Olivier was convicted of violating a local ordinance restricting expressive activity near a public amphitheater. *Id.* at *3. After his conviction, he brought a First Amendment challenge to the ordinance. *Id.* Because Olivier sought only prospective relief—a declaration that the ordinance violates the First Amendment and an injunction preventing future enforcement of the ordinance—the Supreme Court held that *Heck* did not apply. *Id.* at *3–4. So, too, here. Because Held seeks only prospective relief, his suit does not “collaterally attack” his citation. *Id.* at *7 (cleaned up). Thus, Held’s suit “cannot give rise, as *Heck* feared, to parallel litigation respecting his prior conduct,” nor does it “risk conflicting judgments over how that conduct was prosecuted or punished.” *Id.* “So the *Heck* bar does not come into play.” *Id.*

Broadview argues that Held sought to “void the citation he was issued by the Village” in his complaint and cannot now disclaim that relief. Defs.’ Br. at 4–5. But since filing the complaint, Held pled liable to the citation. *See* ALJ Order (liable plea entered November 24, 2025). The time to appeal passed, *see* 735 ILCS 5/3-113(a) (setting a 35-day deadline to appeal a final administrative agency decision), and Held did not file an appeal, 01/30/2026 Tr. at 140–41. At this point, Held’s motion for preliminary injunction seeks only injunctive relief prohibiting enforcement of the current Executive Order. Pl.’s Mot.; 01/30/2026 Tr. at 126. Thus, Held’s Section 1983 claim is

not barred by *Heck* because he seeks purely prospective injunctive relief. *See Olivier*, 2026 WL 783725, at *3 n.1.

B. Preliminary-Injunction Motion

Because Held's claim is not *Heck*-barred, the Court turns to the merits of the preliminary-injunction motion. As described previously, in First Amendment cases, the propriety of a preliminary injunction turns largely on the plaintiff's likelihood of success on the merits. *Higher Soc. of Ind.*, 858 F.3d at 1116. The Court addresses that factor first before briefly analyzing the other preliminary-injunction factors.

1. Likelihood of Success

The Village's Executive Order imposes restrictions "on the time, place, or manner of protected speech" outside the ICE facility. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989); *see* Exec. Order 2025-05 §§ 1–2. But Held challenges only the *time* restrictions on protests, and does not target the Village's designation of a protest area. Pl.'s Resp. Br. at 2. To survive constitutional scrutiny, the time restrictions must be (1) "justified without reference to the content of the regulated speech," (2) "narrowly tailored," (3) "to serve a significant governmental interest," and (4) "leave open ample alternative channels for communication of the information." *Ward*, 491 U.S. at 791 (cleaned up). Held concedes that the Executive Order is content neutral because it limits protests to certain times regardless of the message communicated. Pl.'s Resp. Br. at 10 n.6. But the parties dispute whether the Order meets the other three elements.

a. Significant Government Interest

The Village contends that the time restrictions are necessary to protect five significant government interests: (1) limiting altercations between protestors and ICE agents; (2) ensuring vehicle access to local businesses; (3) reducing disturbances to local residents, businesses, and their property; (4) preserving public safety amidst protests; and (5) minimizing the impact of protests on staffing shortages in the Broadview Police Department. Defs.’ Br. at 6–8, 9, 11–13. Held does not contest that these interests are—in the abstract—legitimate government concerns. *See* Pl.’s Resp. Br. at 12–13; *see Knowlton v. City of Wauwatosa*, 119 F.4th 507, 515–16 (7th Cir. 2024) (recognizing the “safety of persons and property” as a significant government interest); *Ward*, 491 U.S. at 796 (describing how the “government has a substantial interest in protecting its citizens from unwelcome noise” (cleaned up)). But he argues that “these asserted interests rest largely on past events, undocumented complaints, and speculation about what might happen in the future—not on proof of a current, ongoing problem requiring” the time restrictions. Pl.’s Resp. Br. at 12–13.

In “the context of a First Amendment challenge under the narrowly tailored test, the government has the burden of showing that there is evidence supporting its proffered justification.” *Weinberg v. City of Chicago*, 310 F.3d 1029, 1038 (7th Cir. 2002). The “government must demonstrate that harms are real, not merely conjectural.” *City of Wauwatosa*, 119 F.4th at 516 (cleaned up). But “a government need not wait to act until violence or harm materializes. Indeed, the government has an interest in preventing emergencies and threats to public safety, not merely responding to

them after they transpire.” *Id.* So the Court must examine whether the evidence establishes a current, non-speculative risk of the harms proffered by Broadview.

i. Altercations Between Protestors and ICE

First, Broadview argues that the Executive Order’s time restrictions are needed to limit interactions between ICE personnel and members of the public for safety reasons. Defs.’ Br. at 10–12. Before the Village enacted the first Executive Order, members of the public could protest directly outside the ICE facility. 01/30/2026 Tr. at 61–62. Protestors approached ICE agents, followed agents to their cars, and stood in the road to block vehicles from entering or exiting the ICE facility. *Id.* at 114–15. In response, ICE agents used physical force to disperse protestors. *Id.* at 61–62 (“[Protestors] were being physically thrown ... Pepper balls were ... being dispersed, just chemical mutinants [sic] were all in the air, and ... they were becoming injured.”); *id.* at 115 (“[ICE agents] would fire their weapons and they would become physical with people. They would throw people to the ground.”). Because ICE agents are usually outside the facility in the early morning (when they arrive for their shifts and leave for their missions), 01/30/2026 Tr. at 99, the Village contends that the ban on protests before 9 a.m. limits interaction between ICE agents and protestors for their safety, Defs.’ Br. at 10–11.

But the Village’s own evidence shows that these altercations diminished dramatically—no matter the *time* of day—when the Village implemented the designated protest *area*. As Broadview Deputy Police Chief Brandy Johnson testified, barriers at the southern end of the protest area on Beach Street prevent protestors from getting

close to the ICE facility. 01/30/2026 Tr. at 63–64, 75. Thus, according to Johnson, the protest area has “alleviated the contact between the ICE agents and the protestors” and “ensure[s] that the protestors are safe.” *Id.* at 64; *see id.* at 31–32 (describing how the Village has not documented confrontations between ICE officials and protestors since November 14, 2025). For his part, Held too confirmed that the protest area eliminated confrontations between protestors and ICE agents. *Id.* at 116 (describing how there is now “zero interaction” between protestors and ICE agents because protestors can only see the agents “from a block away when they’re going in and out” of the ICE facility).

The Village responds that the protest area only works in conjunction with the time restrictions. R. 45, Defs.’ Reply Br. at 13–14. But because the protest area physically keeps protestors away from the ICE facility’s entryway, their interactions with ICE agents are limited regardless of the time of day they protest. Because the evidence shows that there is now little risk of direct, physical confrontations between protestors and ICE agents outside the facility, the Village’s fears of this harm are too speculative to justify the time restrictions.

ii. Vehicle Access to Local Businesses

The Village’s next proffered governmental interest—preserving vehicle access to local businesses on Beach Street—likewise no longer supports a *time* restriction given the limitation on the protest *area*. *See* Defs.’ Br. at 12. Before the Village enacted the first Executive Order, protestors blocked delivery vehicles from accessing Beach Street because they believed that the vehicles were associated with ICE.

01/30/2026 Tr. at 53–54. Broadview police officers would instruct protestors to move out of the way, but the protestors would not always comply. *Id.* at 88. As a result, sometimes businesses did not receive deliveries. *Id.* at 89. Because these deliveries are usually made before 9 a.m., the Village asserts that the time restrictions ensure that protestors cannot block businesses from receiving their deliveries. Defs.’ Br. at 12; 01/30/2026 Tr. at 28, 55.

But again, Deputy Chief Johnson forthrightly acknowledged, at the preliminary-injunction hearing, that the protest area has resolved this blockage issue. 01/30/2026 Tr. at 75. Currently, Beach Street is closed to vehicle traffic coming from the north—because the roadway north of the ICE facility is blocked off for the designated protest area—but vehicles can access Beach Street from the south. *Id.* at 11. At the same time, protestors cannot access the southern end of the street (because it is outside the protest area), *id.* at 11, 75, so protestors cannot block delivery vehicles. Thus, the Village no longer faces any real risk of this access-obstacle harm, *id.* at 89, and it cannot justify the time restrictions on protests.

iii. Disturbances to Residents, Businesses, and Property

Next, the Village argues that the time restrictions are necessary to prevent disturbances to nearby residents, businesses, and their property. Defs.’ Br. at 11–12. During the spike in protests in the fall of 2025, Deputy Chief Johnson saw protestors sitting on residents’ properties and in the private alleyway. 01/30/2026 Tr. at 56. Residents also complained to Johnson that their garbage cans were moved around. *Id.* Some residents complained about police lights shining throughout the night, which

particularly impacts families with children who have autism. *Id.* at 15. Similarly, Johnson described reports of protestors urinating, defecating, and loitering on businesses' properties. *Id.* at 54.

But the Village has not presented any evidence that these harms are still significant and ongoing. Because none of these incidents are documented in written reports, 01/30/2026 Tr. at 14–16, their frequency—and what time of day they happened—is unclear. And Johnson did not testify that she still regularly receives complaints about protestors from nearby residents and businesses. *See id.* at 54, 56. Instead, she confirmed that the Village has not documented any property destruction from protestors between November 2025 and January 2026. *Id.* at 30–31.

The number of protestors has also significantly decreased during the cold-weather months. 01/30/2026 Tr. at 26–27; *see also id.* at 128 (Held testifying how there are usually fewer than five protestors in the protest area in January 2026); Pl.'s Exh. 8, 12/27/2025 Ihara Video (showing only one protestor in the area on December 27, 2025). As the number of protestors has decreased, incidents of loitering, trespassing, and other disruptions have presumably decreased—and there is no affirmative evidence to the contrary. Because the Village does not raise more than a speculative risk of disturbances to nearby residents, businesses, and their properties at this time, this interest cannot justify the time restrictions on protests.

iv. Public Safety

Broadview also cites public-safety concerns arising from protests outside the ICE facility.³ Defs.' Br. at 7–8. As noted earlier, in the fall of 2025, protestors engaged in physical and verbal altercations outside the ICE facility. *See generally* Defs.' Exh. 5, Incident Reports. Protestors also blocked roadways, requiring Broadview police to conduct crowd and traffic control. *See id.* No doubt that this behavior poses a threat to public safety and thus poses a legitimate government concern. *See City of Wauwatosha*, 119 F.4th at 515–16.

But as detailed just above, the frequency and size of protests have dramatically decreased in recent months. 01/30/2026 Tr. at 26–27. Most days, there are only a handful of protestors outside the facility. *Id.* at 128. As a result, the number of public-safety incidents has also significantly decreased. *See id.* at 31–32. The latest incident reports that the Village produced documenting altercations between protestors are from November 14, 2025. *Id.* at 76.

Only two large protests have occurred since then. 01/30/2026 Tr. at 28–29. First, on January 10, 2026, there was a protest of around 80 people in the protest area near the ICE facility. *Id.* at 28. But Deputy Chief Johnson testified that no

³The Village also refers to serious threats that are not directly related to protests outside the ICE facility (for example, a bomb threat made against Village Hall and a death threat made against the Mayor of the Village). Defs.' Br. at 16. But Broadview does not explain why the *time* restrictions on protests address those threats. *See id.*; *see also* 01/30/2026 Tr. at 15 (Johnson acknowledging that she does not know whether the threatening individuals ever protested near the ICE facility). And the evidence presented at the preliminary-injunction hearing shows that those threats are not ongoing. *See* 01/30/2026 Tr. at 60–61 (describing how investigations into the threats are closed). So these harms do not justify the Executive Order's time restrictions.

public-safety issues arose during that protest. *Id.* at 28–32. Second, on January 17, 2026, a No Kings Day Protest with around 300 people took place outside the facility. *Id.* at 67. This protest did create safety issues: a few hours into the protest, the group left the designated protest area on Beach Street, walked east on Lexington Street, and then took over 25th Avenue. *Id.* Broadview police had to close the road to traffic. *Id.* And some fights broke out between protestors. *Id.* at 72; Defs.’ Exh. 8, 911 Getting Battered Call.

The evidence thus demonstrates that there are still some public-safety risks posed by large protests outside the ICE facility. But the risk has significantly decreased in the last few months: since November 14, 2025, only one protest has resulted in the public-safety risks relied on by the Village to justify the time limits. The Village has failed to show that the risk is frequent enough or significant enough to erect an *ongoing, daily* limit on the time for the exercise of free speech. It is worth adding that nothing about this holding handcuffs the Village from instituting an as-needed time limit on protests. It is one thing for the Village to issue a time limit in response to a particularly large gathering, whether when it happens or in anticipation of it if the Village receives or gathers sufficient advance information of a particular danger. It is quite another for the Village to place an ongoing, daily limit without evidence that there is a corresponding ongoing, daily risk.

v. Staffing Shortages

Finally, the Village contends that the time restrictions are necessary given the Broadview Police Department’s staffing shortages. Defs.’ Br. at 13. In fall 2025, the

department was understaffed; although it has the budget for 31 patrol officers, it had only between 16 and 18 officers on staff. 01/30/2026 Tr. at 18, 40. And several officers were injured responding to incidents outside the ICE facility, worsening the staffing shortage. *Id.* at 43; Defs.’ Exh. 4, Officer Injuries on Duty. Even worse, during this time period, the Village needed more police officers to cover the ICE facility. Indeed, the police department created a special detail to patrol the area around the facility. 01/30/2026 Tr. at 42–43. The department asked its off-duty officers to volunteer to cover the detail, but when no one volunteered—which was often—the department had to force officers to work on their days off. *Id.*

But the police department’s staffing has significantly improved in recent months, while the protest activity has diminished. Although the department is still not fully staffed, it now has 24 patrol officers. 01/30/2026 Tr. at 18. Given the reduced frequency and size of protests outside the ICE facility, the number of ICE-detail overtime hours that officers are working has decreased since the fall. *Id.* at 27. And the department no longer requires a separate ICE detail; patrolling around the ICE facility is incorporated into officers’ existing shifts. *Id.* at 46–47. Deputy Chief Johnson testified that on days where there are few protestors outside the ICE facility, ordinary law enforcement tools are adequate to address any issues that arise. *Id.* at 22–23. So the department’s staffing crunch has significantly lessened.

What’s more, other law enforcement resources support the police department. The Unified Command—composed of the Broadview Police Department, Cook County Sheriff’s Office, and Illinois State Police—has stationed six to eight law enforcement

officers on Beach Street *24 hours a day* since October 2, 2025. 01/30/2026 Tr. at 19. The Cook County Sheriff continues to make personnel available to assist as needed. *Id.* Additionally, a cooperative agreement between police departments in the Chicago suburbs—called the Northern Illinois Police Alarm System, or NIPAS for short—offers personnel from other departments to help with crowd control. *Id.* And the Illinois Law Enforcement Alarm System (called ILEAS by the parties) is a statewide agency that also offers traffic-control staff when needed. *Id.* at 19–20.

The Village argues, however, that there are limitations to these resources. For instance, Broadview police can only call NIPAS when crowd-control support is needed, rather than securing their support in advance. 01/30/2026 Tr. at 52. And although Broadview police can request traffic-control support from ILEAS in advance, ILEAS cannot confirm the number of staff that it can send until the day of. *Id.* at 52. Thus, the Village contends that those resources cannot provide consistent, predictable support. Defs.’ Br. at 13–14. Deputy Chief Johnson also noted that the Unified Command might eventually stop providing support outside the ICE facility; she did acknowledge, however, that the Command would give advanced notice so that the Village could plan around its withdrawal. 01/30/2026 Tr. at 85–86.

Thus, even with these resources, Deputy Chief Johnson fears that the Broadview Police Department is inadequately equipped to address large protests outside the ICE facility. For instance, with support from the Unified Command and ILEAS, about 73 officers covered the January 17 No Kings Day Protest. 01/30/2026 Tr. at 70, 81. Even with that support, Johnson says that they had inadequate staffing to control

the crowd. *Id.* at 70. She had to instruct the police department dispatch to hold calls for issues elsewhere in the Village because she could not allow any of her officers to leave the protest to respond. *Id.* at 69.

Those are valid concerns. But, as detailed earlier in this Opinion, the January 17 No Kings Day Protest was the only instance since December 2025 in which Broadview had too few resources to cover a protest. And that event was planned in ahead, which might have permitted the Village to impose a single-day time limit, rather than the ongoing daily limit currently in place. On balance, the Broadview Police Department has mostly addressed its staffing shortages. And it has support from other agencies. With the reduced frequency and reduced size of protests outside the ICE facility, Broadview generally possesses adequate staffing to cover protests.

In sum, most of the Village's proffered government interests for an *ongoing, daily* time limit are based on risks that are simply too speculative to survive First Amendment scrutiny. The Village provides evidence to support only two non-speculative government interests: (1) preserving public safety amidst protests; and (2) minimizing the impact of protests on staffing shortages in the Broadview Police Department. But the risk of these harms has significantly diminished in recent months. The Court takes that into account when it considers whether the time restrictions are narrowly tailored to achieve Broadview's interests.

b. Narrowly Tailored

“To ensure a regulation is narrowly tailored, the government does not need to use the least restrictive or least intrusive means to achieve its interest.” *City of*

Wauwatosa, 119 F.4th at 517 (cleaned up). “Rather, the requirement of narrow tailoring is satisfied so long as the regulation promotes a substantial government interest that would be achieved less effectively absent the regulation.” *Id.* (cleaned up). “Still, the government may not regulate expression in such a manner that a substantial portion of the burden on speech does not serve to advance its goals.” *Id.* (cleaned up).

i. Fewer than 25 Protestors

The current Executive Order permits protests from 9 a.m. to 9 p.m. when there are fewer than 25 people in the designated protest area. Exec. Order 2025-05 § 2. But the Village presents no recent evidence that protests with fewer than 25 people have created public-safety risks or posed difficulties for the Broadview police’s staffing. Indeed, Deputy Chief Johnson testified that there have been *no* incidents—either before or after the Executive Orders were enacted—during which Broadview police had to respond to emergency calls that arose out of a protest of fewer than 25 people. 01/30/2026 Tr. at 84. Since the current Executive Order was enacted in early December 2025, the only protest that posed issues for public safety or the police department’s staffing was the January 17 No Kings Day Protest, which involved 300 protestors—far more than 25. 01/30/2026 Tr. at 67, 70. Johnson also acknowledged that when there are few protestors present, the Village has adequate resources to monitor the area and has no staffing concerns. *Id.* at 24–25. Thus, there is no risk of public-safety issues or staffing shortages when fewer than 25 people protest outside the ICE

facility.⁴ Because the under-25-persons time restriction substantially burdens speech, but does not serve any of the Village’s goals, it is not narrowly tailored. *See Ward*, 491 U.S. at 799.

ii. 25-plus Protestors

The Executive Order permits protests of 25 or more people during a smaller window of time (11 a.m. to 7 p.m.). Exec. Order 2025-05 § 2. The permissibility of this time restriction is a closer call because Broadview proffers some legitimate concerns arising out of large protests. But given the rarity of this problem in recent months, this restriction is also not narrowly tailored to the government’s interests.

The current Executive Order prohibits protests of at least 25 people for two-thirds of the day on an indefinite basis. *See id.* §§ 2–3. Yet Broadview offers only one example of a protest since December 2025—the No Kings Day Protest—that created public-safety concerns and caused staffing shortages. *See* 01/30/2026 Tr. at 67, 70. The only other large protest in this time period—the protest of around 80 people on January 10, 2025—actually created no public-safety issues. *Id.* at 30–31. And the only other time that there are regularly more than a handful of protestors outside the ICE facility are on Friday mornings, when “prayer groups occasionally bring the count of demonstrators at the site up to around 25 people.” *Id.* at 30. Deputy Chief Johnson said that the prayer groups have not created any issues. *Id.* The evidence thus

⁴Johnson testified that the under-25 restriction is needed to protect vehicle access to businesses, 01/30/2026 Tr. at 87, but as described previously, there is no real risk to vehicle access since the time when the Village enacted the designated protest area, *id.* at 89.

suggests that the Village continues to enforce burdensome speech restrictions on groups of at least 25 people to address issues that rarely happen. *See McCullen v. Coakley*, 573 U.S. 464, 495–96 (2014) (holding that a buffer zone around abortion clinics was not narrowly tailored, in part because incidents with protestors were relatively limited).

The Village asserts that the time restriction is necessary to help mitigate risks of harm when large protests unexpectedly occur. Defs.’ Br. at 13–14. But risks must be more than speculative to justify speech restrictions. *See City of Wauwatosa*, 119 F.4th at 516. And, as Held notes, the large January 17 No Kings Protest was not unexpected. Pl.’s Resp. Br. at 14. Broadview police knew about the January 17 No Kings Day Protest in advance and were able to secure additional personnel and resources to cover the protest. 01/30/2026 Tr. at 29, 80–81. So it seems unlikely that a large, unsafe protest will unexpectedly arise without any notice to the Village. Further, the police have other tools at their disposal—like local and state laws that prohibit obstructing public ways and other unsafe behavior—to address individual public-safety incidents. 01/30/2026 Tr. at 21–22. And, as explained earlier in this Opinion, the Village might well be able to institute a single-day time restriction on a large protest if the facts justify it. But a vague, general risk of surprise protests cannot justify the indefinite, burdensome time restrictions in the Executive Order. *See McCullen*, 573 U.S. at 495 (“To meet the requirement of narrow tailoring, the government must demonstrate that alternative measures that burden substantially less

speech would fail to achieve the government's interests, not simply that the chosen route is easier.”).

What’s more, the time restrictions are not even well-suited to achieve Broadview’s interests. The reports produced by Broadview show that incidents with protesters have happened at different times throughout the day. *See generally* Incident Reports. And large protests can still occur during the permitted protest hours. For instance, the January 17 No Kings Day Protest started between 8 a.m. and 10 a.m. 01/30/2026 Tr. at 73. It was not until several hours later—past 11 a.m.—that the group left the designated protest area and walked down nearby streets, creating traffic and safety issues. *Id.* at 67, 73, 83–84. The protestors dispersed by 4 p.m. or 5 p.m. *Id.* at 73. So the traffic and safety concerns that arose from the protest actually happened *during* the time that protests of 25 or more people are permitted under the Executive Order. *Id.* at 78; *see also* Exec. Order. 2025-05 § 2. Thus, it does not appear that the time restrictions mitigate the Village’s concerns with large protests.

To justify the chosen time periods, Deputy Chief Johnson testified that the timing of the restrictions was formulated to alleviate staffing concerns based on when the police department is busiest. 01/30/2026 Tr. at 27–28. Specifically, Johnson says that the department’s peak time—in terms of the number of calls it receives—is from 11 a.m. to 7 p.m. on Mondays through Thursdays, and from 2 p.m. to 10 p.m. on Fridays through Sundays. *Id.* at 81–82. But those time periods do not match the restrictions imposed by the Executive Order. For example, the Executive Order does not impose different time restrictions during the weekdays versus the weekends. *See*

Exec. Order 2025-05 § 2. Perhaps more importantly, 25 or more people are permitted to protest from 11 a.m. to 7 p.m.—which is the exact time when Broadview police are *busiest* on the weekdays. *See id.*; 01/30/2026 Tr. at 82. So if anything, the time restrictions allow large protests when it is most burdensome on the police department, rather than the other way around.

The police department's shift schedules also do not support the timing of the protest restrictions. Broadview police officers work on two shifts—one from 7 a.m. to 7 p.m., and the other from 7 p.m. to 7 a.m. 01/30/2026 Tr. at 42. Each shift has three to four officers. *Id.* And the shifts use identical zones to designate patrol assignments. *Id.* The Unified Command, too, provides six to eight officers on Beach Street 24 hours a day. *Id.* at 19. There is thus no evidence that the Village has fewer staff or resources at night or in the early morning that would require a prohibition on protests at those times.

To be sure, it is not hard to conceive of ways that the Village could have offered evidence (if it existed) to justify the timing restrictions. For instance, the Village could have offered evidence to show that crowds are harder to control at night, or that large protests often happened in the times outside the permitted protest hours before the Village enacted the Executive Order. Or the Village could have presented evidence that it is shorter staffed outside the permitted protest hours, or that the restrictions are timed based on shift changes when officers have more difficulty responding to incidents. But Broadview presents no evidence like that. Of course, the government is not required to formulate speech restrictions that are a perfect fit with its interests.

See *City of Wauwatosa*, 119 F.4th at 517. But where, as here, it is unclear that the speech restrictions “serve to advance its goals” at all, the government has not shown narrow tailoring. See *id.* (cleaned up).

Lastly, the Village argues that the time restrictions are nonetheless narrowly tailored because they are temporary and the Village regularly reassesses their necessity. Defs.’ Br. at 15. But time restrictions (or some variation of them) have been in place for almost *six months*, see Exec. Order 2025-01 at 2 (enacting the first Executive Order in October 2025), and the Village adjusted them only slightly in December 2025, see Exec. Order 2025-05 § 2. This case thus presents a far different scenario than *City of Wauwatosa*, on which Broadview relies, where the government permissibly enacted a curfew on city streets for only *five nights* to address simmering civil unrest. 119 F.4th at 513. And the Village’s regular reassessment of the time restrictions means little when the restrictions remain in place despite the dramatic changes in the frequency and size of protests outside the ICE facility during the past few months.

The Court thus concludes that the Village’s time restrictions are not narrowly tailored to address government interests in public safety and staffing shortages. Because the speech restrictions are not narrowly tailored, Held is likely to succeed on the merits of his First Amendment claim.

c. Alternative Channels

Because the time restrictions are not narrowly tailored, it is not strictly necessary to opine on whether the restrictions leave open ample alternative channels for

communication. *See McCullen*, 573 U.S. at 496 n.9. But for the sake of completeness, and to provide guidance if the Village were to re-impose more limited time restrictions, it is worth doing so. “[A] restriction on expressive activity may be invalid if the remaining modes of communication are inadequate.” *City of Wauwatosa*, 119 F.4th at 518 (cleaned up). “An alternative does not have to be the speaker’s first or best choice, or one that provides the same audience or impact for the speech.” *Id.* (cleaned up). “But it must be realistic, and cannot totally foreclose a speaker’s ability to reach one audience even if it allows the speaker to reach other groups.” *Id.* (cleaned up).

Here, individuals may protest within the designated area during the permitted daytime hours. *See Exec. Order 2025-05 § 2*. People who work from 9 a.m. to 5 p.m. can protest after work until 7 p.m. (if there are 25 or more people) or 9 p.m. (if there are fewer than 25 people). *See id.* They can also protest on the weekends during the day. *See id.* These hours offer ample alternative opportunities to protest depending on each person’s schedule. *See City of Wauwatosa*, 119 F.4th at 518. And people can protest elsewhere in the Village—including further north on Beach Street away from the ICE facility—at any time of day. 01/30/2026 Tr. at 159–60.

Held presents some evidence that it is especially important to gather in the protest area during the early-morning hours. ICE agents primarily arrive for their shifts and leave for their missions before 9 a.m. 01/30/2026 Tr. at 99. And any location outside the designated protest area is too far away to document (most frequently, to video record) or to speak with the ICE agents. *Id.* So individuals who want ICE agents

or detainees to hear their protests, or who want to be able to document how the ICE agents are doing their jobs, have greater difficulty doing so under the current time restrictions. *See id.*; *id.* at 121.

Still, these concerns boil down to whether protestors can reach the exact audience or have the precise impact that they desire. *See City of Wauwatosa*, 119 F.4th at 518. Although the time restrictions are limiting, they do not totally preclude protestors from speaking to ICE agents and detainees. *See* 01/30/2026 Tr. at 99 (describing how agents sometimes enter and exit the ICE facility in the afternoon, when protests are permitted in the protest area). Held's other quarrels with the timing of the restrictions relate to his personal schedule and when it is convenient for him to protest. *See id.* at 121. Those concerns do not by themselves establish that the time restrictions fail to leave open ample alternative channels of communication—again, “[a]n alternative does not have to be the speaker’s first or best choice.” *City of Wauwatosa*, 119 F.4th at 518. This particular element would have survived First Amendment scrutiny even though those other elements have not.

2. Other Factors

Although Held's likelihood of success on the merits of his First Amendment claim is determinative, *see Higher Soc. of Ind.*, 858 F.3d at 1116, the Court briefly addresses the other preliminary-injunction factors. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). “[M]oney damages are therefore inadequate.” *Joelner v. Village of Washington Park*, 378 F.3d 613, 620 (7th Cir. 2004)

(cleaned up). “Concomitantly, there can be no irreparable harm to a municipality when it is prevented from enforcing an unconstitutional statute because it is always in the public interest to protect First Amendment liberties.” *Id.* (cleaned up); *see also Christian Legal Soc’y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006) (“[I]njunctive protecting First Amendment freedoms are always in the public interest.”). Thus, Held has shown that he will experience irreparable harm without an injunction, that he lacks an adequate remedy at law, and that the balance of harms and public interest favors a preliminary injunction.

Broadview argues that the balance of harms tips in their favor because a preliminary injunction will “foreclose the Village’s ability to manage an unpredictable and ever-changing threat to public safety.” Defs.’ Br. at 20 (citing *Ill. Republican Party v. Pritzker*, 470 F. Supp. 3d 813, 828 (N.D. Ill. 2020) (declining to preliminarily enjoin an Executive Order that prohibited large gatherings during the height of the COVID-19 pandemic because it would pose risks to public health), *aff’d*, 973 F.3d 760 (7th Cir. 2020)). But as explained above, the Village has failed to show that there are significant, ongoing public-safety risks, or that the time restrictions adequately address any safety risks that do exist. Weighed against the time restrictions’ intrusion on First Amendment rights, the balance of harms favors Held.

The Village also contends that Held has an adequate remedy at law because he could have asserted his constitutional claim in the administrative proceedings for his citation. Defs.’ Br. at 21. But as discussed earlier, Held seeks only *prospective* injunctive relief against the Executive Order (indeed, against a version of the

Executive Order that was not yet promulgated when he received his citation). *See supra* Section III.A. So even if he sought to challenge his citation on constitutional grounds—which he does not—those proceedings would provide an inadequate remedy.

IV. Conclusion

Because Held is likely to succeed on the merits of his First Amendment claim (and the other factors also favor a preliminary injunction), the motion for preliminary injunction, R. 8, is granted. The Village is enjoined from enforcing Executive Order 2025-05's time restrictions on protests. The injunction is operative as of March 25, 2026. As explained in the Opinion, although the ongoing, daily limits fail to survive First Amendment scrutiny, the Village is not foreclosed from enacting more specific limits for specific protests on specific days. Indeed, the record evidence shows that the Village has operated in good faith in trying to maintain the peace amongst its residents, local businesses, protestors, and ICE officers, all in an environment not of the Village's making. But the current restrictions cannot stand under the First Amendment.

Civil Rule 65(d)

Starting on March 25, 2026, through final judgment in this case, the Village of Broadview is enjoined from enforcing Executive Order 2025-05's time restrictions on protests. This injunction applies to the following who receive actual notice of the injunction by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) any other persons who are in active concert or participation with anyone described above.

ENTERED:

s/Edmond E. Chang
Honorable Edmond E. Chang
United States District Judge

DATE: March 22, 2026