

2000

John Wells v. City Court of Logan City, County of Cache, State of Utah : Amicus Brief

Utah Supreme Court

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BRIGHAM YOUNG UNIVERSITY
J. Reuben Clark Law School

IN THE SUPREME COURT
OF THE STATE OF UTAH

JOHN WELLS,

Plaintiff and Appellant,

vs.

CITY COURT OF LOGAN CITY,
COUNTY OF CACHE, STATE OF UTAH,

Defendant and Respondent.

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Case No. 13824

APPELLANT'S BRIEF IN OPPOSITION
TO AMICUS CURIAE BRIEF

Appeal from a judgment of the First Judicial District Court
of Cache County, Honorable VeNoy Christoffersen, Judge

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IN THE SUPREME COURT
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APPELLANT'S BRIEF IN OPPOSITION
TO AMICUS CURIAE BRIEF

PRELIMINARY STATEMENT

Appellant usually does not comment or feel that it is important to comment upon what "public policy" should be, being content to allow the State Legislature to indulge in such considerations. However, in reading the statement and position of the Amicus Curiae, we feel that we should allude to misconceptions. First, the majority opinion did not hold that prosecutions for "driving under the influence of intoxicating liquor" under the Utah Motor Vehicle Code cannot take place in city courts. Second, the Court's decision certainly will not or does not undermine the city court system. On the contrary, the policy considerations of the city judges would seem to indicate that the city judges would like to have exclusive jurisdiction of all misdemeanor complaints filed within the

counties of the State of Utah, to the detriment of the present justice system. Before presenting the Court with a barrage of policy considerations, we suggest that the Judges' Association apply the statutory law contained within the Utah Code applicable to the matter before the Court, and leave the policy considerations to the proper body, the State Legislature.

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ARGUMENT

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POINT, I

THE AMICUS CURIAE MISCONCEIVES THE HOLDING OF THE COURT IN BELIEVING THAT THE DECISION AS IT NOW STANDS DEPRIVES CITY COURTS OF COUNTY-WIDE JURISDICTION.

The Amicus Curiae states in its brief that policy considerations have been stressed because the effect of the Court's decision herein is to take away the county-wide jurisdiction of city courts in "drunk-driving" and "hit-run" cases. Amicus Curiae argues further that this Court on occasion has stressed the importance of public policy and interpretation of statutes and that where "a literal interpretation of the language of the statute gives an absurd result", then the Court will search further for legislative intent. While we do not intend to indulge here in public policy considerations, we do, however, contend that the Amicus Curiae misunderstands the Court's decision. The policy arguments of the Amicus Curiae can be disposed of if the statutes covering jurisdiction of justice courts and city courts are carefully analyzed. The statutes were previously analyzed in

detail in appellant's original brief herein. However, to dispel any arguments concerning the jurisdiction of the respective courts concerned herein, we feel that they should be again re-emphasized. These statutes are:

78-5-1, U.C.A.: "Every justice of the peace shall reside in and shall hold a justice's court in the precinct, city or town for which he is elected or appointed, provided that where two precincts are embraced within limits of any incorporated city or town, the justices of the peace of such precincts may hold court at any place within such city or town. If after reasonable search, the county commissioners are unable to find a perspective justice of the peace residing within a precinct needing a justice of the peace, they may select the person residing within an adjoining precinct of the county or within the city limits."

77-57-2, U.C.A.: "Other than as provided by Section 77-13-17, proceedings and actions before a justice's court for a misdemeanor offense must be commenced by complaint under oath, setting forth the offense charged with such particulars of time, place, person, and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint. The complaint shall be commenced before a magistrate within the precinct of the county or city in which the offense is alleged to have been committed."

78-4-16.5, U.C.A.: "Whenever a complaint may be commenced before a magistrate under Section 77-57-2, or an arrested person is to be taken before a magistrate under Section 77-13-17, a complaint may be commenced or the arrested person may be taken before the nearest city court judge in counties where city courts have been established."

We note as follows:

(a) In construing Section 77-57-2, U.C.A., by its terms, it is applicable only to matters commenced by a formal complaint, "under oath", and does not cover either the non-warrant arrest under 77-13-17, U.C.A., or a non-warrant arrest followed by a ticket

complaint not "under oath" under 41-6-166 and 41-6-167 of the Utah Code.

(b) Section 78-4-16.5, U.C.A., by its own terms, is limited to Section 77-57-2, U.C.A. (formal complaint) proceedings, and 77-13-17, U.C.A., (non-warrant arrests) under the criminal code proceedings and does not apply to non-warrant arrests and ticket complaints under Section 41-6-166 and 41-6-167 of the Utah Traffic Code.

(c) The Supreme Court Rule on ticket complaint proceedings, as set forth in 78-4-16.5, U.C.A., allows an arresting officer to substitute the nearest city court for the nearest magistrate in designated situations only, and does not include non-warrant arrests under the Utah Traffic Code for driving under the influence of intoxicants or hit-run.

(d) Section 78-5-5, U.C.A., gives town magistrates the same powers and jurisdictions as precinct justices in all other actions, civil and criminal; it seems abundantly clear that the town magistrates under 78-5-5, U.C.A., and 78-5-4, U.C.A., have jurisdiction over misdemeanor offenses committed within the county wherein the magistrate resides. It is also abundantly clear that the city court located in the county has jurisdiction over such matters under 78-4-16.5 of the Utah Code.

Indeed, to argue that the ruling of the majority in the case before the Court deprives the city court of jurisdiction in all state traffic offenses is without foundation. Moreover, the ruling of the Court does not address itself to jurisdiction. Rather, the ruling delineates and defines the procedures which must be followed when a peace officer performs an arrest involving intoxication and hit-run under the Utah Traffic Code.

The Amicus Curiae argues that Section 41-6-166, U.C.A., cannot be considered in isolation or in a vacuum. An examination of the Utah Traffic Code Sections

41-6-166 and 41-6-167 readily points up the speciousness of such an argument.

Section 41-6-167, U.C.A., is a comprehensive direction to peace officers and magistrates when an arrest is made under the traffic code without warrant. To quote from respondent's brief, "The purpose of such a statute is to insure that the arrested person is advised of the charge made against him so that he may prepare his defense, to protect him from being held without communication and to prevent secret and extended interrogation by the arresting officers". Further, 41-6-167, U.C.A., provides that, "Whenever a person is immediately taken before a magistrate, as hereinabove provided, (obviously referring to 41-6-166, U.C.A.), certain procedures must then be followed." To argue, as does the Amicus Curiae, that no further direction is given to the officer or magistrate as to what to do when an arrested person is brought before him under the traffic code, pursuant to 41-6-166, U.C.A., indicates that the Amicus Curiae has purposely failed to consider the remaining statutes contained within the traffic code, particularly 41-6-167, U.C.A. The Amicus Curiae argues further that the Court, in rendering its decision, failed to consider Section 41-6-169, U.C.A. It argues that the provisions of 41-6-169, U.C.A., should have an influence on how the Court should construe 78-4-16.5, U.C.A. Section 78-4-16.5 U.C.A., is limited by its own terms, which are, as we have previously stated and now reiterate, Section 77-57-2, U.C.A. (formal complaint) proceedings, and Section 77-13-17, U.C.A. (non-warrant arrests under the criminal code). In making its decision, it is important to note that the majority of the Court felt that when an officer performs an arrest

under the traffic code, (41-6-166, U.C.A.), he must comply with the conditions of that section. The provisions of 41-6-169, U.C.A., give the arresting officer an option to follow in the event the officer wishes an arrest under local ordinances or some other provision of the law. See the opinion of the Court, wherein it is stated, "It is important to note that the Complaint filed against Wells was laid under Title 41, U.C.A., 1953, - The Motor Vehicle Code, - not, under Title 77, having to do generally with magistrate procedural and jurisdictional matters regards misdemeanors as offenses."

The Amicus Curiae argues that in some way, the pending case of Shelmidine V. Jones, recently decided by the Honorable Stewart M. Hanson, Jr., of the District Court of Salt Lake County, has some connection with the matter before the Court. Evidently, counsel for the Amicus Curiae construes the opinion of Judge Hanson, Jr., to affect the jurisdiction of a justice of the peace to hear a misdemeanor offense within Salt Lake County, when, in fact, the decision of the District Judge affects the power of a justice of the peace to impose a sentence following a trial or hearing. There is no reference in the opinion of Judge Stewart M. Hanson, Jr., to pre-trial procedure. Inasmuch as the case before this Court deals with procedures for arrest by a peace officer under the Utah Traffic Code, Judge Hanson's decision does not relate to this case. Whether or not a judge is legally trained has nothing to do with the duties of a peace officer following the legislative mandate set forth in Title 41-1-166 of the Motor Vehicle Code.

POINT II

THE DECISION OF THE COURT DOES NOT
CREATE CONFUSION, UNCERTAINTY, OR ADD A
BURDEN UPON THE COURT OR PEACE OFFICERS

In rendering its decision, the Court obviously was concerned about procedural due process. The case, of course, arose upon a motion based upon a failure of the arresting officer to comply with 41-6-166, U.C.A., which, as the Court stated, says in clear concise English that if a person is arrested for driving under the influence of intoxicating liquors, he shall be taken before the nearest magistrate to the place where such arrest is made. The Court indicated in its decision that had there been a showing that the local magistrate, the Wellsville Magistrate, was not available, then the defendant could be presented or arraigned before other magistrates, including the Logan City Court. The Court intimates that the existing statutes are designed to prevent magistrate shopping or other injustices. Obviously, the Court was concerned with the rights of the individual defendant and felt that the legislature, by enacting the Traffic Code Statutes 41-1-166 and 41-1-167, intended special procedural considerations for the two offenses therein delineated.

The argument that practical considerations, such as the location of precincts of justices and town justices, might work an imposition on the arresting officer seems to us to be less important than protecting the rights of the individual defendant. Further, it is difficult to see why it is an imposition on the arresting officer to take the party to the nearest justice. The imposition might arise if the officer were required to

drive past several magistrates in order to find a city judge.

The clear articulation by the Court of the mandates of the statutes prescribe the procedural due process which must be afforded persons arrested and charged under the traffic code. Rather than creating confusion, we submit that the decision gives precise direction to the arresting officer.

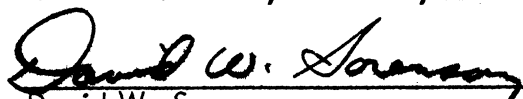
CONCLUSION

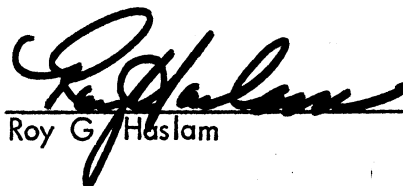
The Amicus Curiae obviously is impressed with the importance of a trained judiciary. Obviously, a trained judiciary is desirable for the citizens of our state. However, this case involves only the procedure of the arrest of the citizen and assures him of equal treatment by preventing the officer from either delaying the initial confrontation or by being arbitrary in the selection of the place of confrontation.

The decision of the Court ascribes to the proposition that the rights of the individual defendant should be protected, that he should be afforded due process as promulgated by the mandatory provisions of the statutes of the State of Utah. The clear language of the Motor Vehicle Code should not be ignored; the appellant respectfully urges that the respondent's Petition for Rehearing is without substance, does not involve public policy and should be denied.

Respectfully submitted,

Charles P. Olson, deceased,


David W. Sorenson


Roy G. Haslam

Attorneys for Appellant

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