

2001

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

Utah Supreme Court

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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.

Case No.

13824

RESPONDENT'S BRIEF

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

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RESPONDENT'S BRIEF

STATEMENT OF FACTS

The Respondent generally agrees with the statement of facts contained in Appellant's Brief, but in addition thereto submits the following additional facts for the Court's information.

1. That following the arrest of the Defendant by the officer, he was taken by the officer to the Cache County Law Enforcement Building in Logan, Utah, where a breathalyzer test was administered to him. That following the test the Appellant was released following his posting bail with the bail commissioner of the Logan City Court at the Law Enforcement

Building. That at no time did the Defendant request to be brought before a magistrate.

2. The Respondent denies the statement in Appellant's Brief at page 6 that there was a willful noncompliance or a total disregard of the law by the arresting officer. This question is now moot, as a long form complaint was filed in the Logan City Court and the Matter was heard on the long form complaint and the question presented to the City Judge was whether or not the Logan City Court had jurisdiction in this matter. R. City Court (2). The City and District Court denied Appellant's motion to dismiss, holding the Logan City Court had jurisdiction.

ARGUMENT

POINT I

THE LOGAN CITY COURT AND THE DISTRICT COURT PROPERLY HELD THAT THE LOGAN CITY COURT HAS JURISDICTION OVER THE APPELLANT WHO WAS CHARGED WITH A TRAFFIC OFFENSE OF DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

Appellant in his argument under Point One cites numerous statutes which he claims vests jurisdiction in the Wellsville Town Justice of the Peace. Section 41-6-166 requires that a person arrested be taken before a magistrate . . . "*who has jurisdiction of such offense and is nearest or most accessible to the place of arrest.*

Article VIII Section 8 of the Utah Constitution states:
 "... The jurisdiction of Justices of the Peace shall be as now provided by law, but the LEGISLATURE MAY RESTRICT THE SAME."

There are generally two types of Justice of Peace.

The one is known as the Precinct Justice and the other is a Town Justice. In Cache County there are no County Precinct Justice of Peace except the Logan City Court. The incorporated towns have their own Town Justice of Peace where they appointed, and in case of Logan City a City Judge is elected.

The legislature has restricted the jurisdiction of Justices of Peace when it amended Section 77-13-17 U.C.A. in 1971 to read as follows:

"When an arrest is made without a warrant by a peace officer or private person, the person arrested must, without unnecessary delay be taken to a *magistrate in the precinct of the County or City in which the offense occurred . . .*"

The 1971 amendment substituted "be taken to the magistrate in the precinct of the county or city in which the arrest is made," for "be taken to the nearest or most accessible magistrate in the county in which the arrest is made". . . .

Section 41-6-166 contains similar type language wherein it states "the arrested person shall be immediately taken before a magistrate. . ." who HAS JURISDICTION OF SUCH OFFENSE and is nearest or most accessible" to the place of arrest.

In 1971 the legislature also amended Section 77-57-2 which now reads as follows:

“Other than as provided by Section 77-13-17, proceedings and actions before a justices’ 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 court or city in which the offense is alleged to have been committed.*”

It is apparent that the legislature intended that jurisdiction of the offense clearly lies with the magistrate of the precinct of the county or the city where the arrest is made or the offense is committed.

Appellant admits that the offense and the arrest took place outside the territorial limits of the Town Justice of Peace of Wellsville, Hyrum and other incorporated towns in Cache County. Thus these Town Justice of Peace do not have jurisdiction over this offense.

Respondent contends that the requirement in section 41-6-166 that requires the arresting officer to take the arrested person immediately before a magistrate that is nearest or most accessible, *was repealed by implication*, with the enactments of the amendments in 1971 by the legislature to similar provisions in Section 77-13-17, and also by the adoption

of the complaint provision as added to Section 77-57-2 as above set forth.

In the case of *McCoy vs. Severson* 118 Ut. 502, 222 P. 2d 1058, the Utah Supreme Court held that two or more statutes construed will be construed to maintain integrity of both where the later is irreconcilable with former, the former will be repealed by implication. This principle applies to the repeal of inconsistent provisions of Section 41-6-166.

Judge Christoffersen in his memorandum decision in referring to the amendment of Section 77-57-2 correctly states the following:

"This addition, this Court held, confines the geographical jurisdiction of the Precinct Justice of the Peace to the boundaries of his precinct and the Town or City Justice of the Peace to the geographical boundary limits of the city or town. Such enactment, it is the opinion of this Court, was enacted by the legislature to eliminate the past practice of arresting a person in one part of the county and taking him to another part of the county and shopping for a Justice of the Peace who is more amenable to their case."

At the time that the legislature was considering the amendments there was great public concern about the practice of certain highway patrolmen and other law enforcement personnel particularly in Salt Lake County in taking arrested drivers before certain Justices of Peace who would almost invariably find in favor of the police officer. This practice was most

offensive to our sense of fairness, and the legislature attempted to correct this abuse by the enactment of the amendments to the two statutes above set forth.

The legislature in 1971 enacted a new Section 78-4-16.5 U.C.A. that gives county wide jurisdiction to the City Court where they have been established. This statute reads as follows:

“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, the 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.”

Judge Christoffersen in his memorandum decision after much consideration correctly reconciled these amendments and enactments when he held:

“The Court, therefore, denies the writ on the following two grounds: First, that the offense occurred outside the boundaries of any city or town justice; that the precinct justice of the peace was in fact the Logan City Judge; and the second ground is that under 78-4-16.5 IN ANY EVENT THE COMPLAINT MAY BE COMMENCED OR THE ARRESTED PERSON TAKEN TO THE NEAREST CITY COURT JUDGE, WHICH IS IN THIS CASE THE LOGAN CITY COURT, for any offense that is a misdemeanor that occurs in Cache County under State Law and need not

be taken to nearest justice of the peace under authority of that newly enacted statute."

The Appellants in their brief as part of the statement of facts admit that the ticket issued by the patrolman was not a valid promise to appear, and when the Appellant was formally charged with a complaint in the Logan City Court, the City Court and District Judge properly ruled that it did have jurisdiction over the offense charged.

POINT II

THE LOWER COURT DID NOT ERR IN HOLDING THAT THE GEOGRAPHICAL JURISDICTION OF THE TOWN JUSTICES IS CONFINED TO THE GEOGRAPHICAL BOUNDARY LIMITS OF THE TOWN, AND THAT THE CITY COURT OF LOGAN CITY IS THE EX-OFFICIO JUSTICE OF THE PEACE FOR THE COUNTY.

The record in this case is replete with references to the word Justice of the Peace and Justices Courts. The Plaintiff has made no distinction between the two types of Justice Courts. The first is the Precinct Justice and the second is the Town Justice. Cache County has only one precinct and that is the entire County and the Precinct Justice Court is the Logan City Court. The various towns have Justice Courts, but they are established by the town itself and have no jurisdiction outside the corporate limits of the town.

Section 78-5-5 sets forth the jurisdiction of the City and Town Justices as it relates to the nature of the offense. However, it does not define the geographical limits of jurisdiction of the Courts. This Court in *Leatham vs. Reger*, 54 Utah 491, 182 Pac. 187, recognized the difference between the Precinct Justice and the town Justice in respect to their geographical jurisdiction.

The compiled laws of 1876 at page 729, Section 13, with regard to the City of Wellsville, states as follows:

"The Justices of the Peace shall be conservators of the peace within the limits of the city and shall give bonds and qualify as other Justices of the Peace and when so qualified shall possess the same powers and jurisdiction, both in civil and criminal cases, arising under the laws of the territory and may be commissioned as Justice of the Peace in and for said city by the Governor."

A similar statement relating to Hyrum City is stated in Section 3 as follows:

"There shall also be elected in a like manner two Justices of the Peace, who shall have the qualifications of voters, be commissioned by the Governor, and have jurisdiction in all cases arising under the ordinances of the city."

Article VIII, Section 8 of the Utah Constitution heretofore cited states that the jurisdiction of the

Justices of the Peace shall be as now provided by law, but the legislature may restrict the same, indicating that the legislature may not confer greater jurisdiction upon the Justices of Peace, but may limit their jurisdiction as it existed in 1876. It is the State's position that a Town Justice of the Peace can have no greater jurisdiction than the corporate limits of the city or town.

See *Dillard vs. District Court of Salt Lake County*, 69 Utah 10, 251 Pac. 1070, where this Court cited what is now known as Section 78-5-4, Utah Code Annotated 1953, and stated as follows:

“After the enactment of the foregoing section, the legislature created City Courts in certain cities of the State, invested them with a larger civil jurisdiction than Justices Courts and in respect of their criminal jurisdiction provided that a City Court shall have exclusive original jurisdiction of all cases arising under or by reason of the violation of any of the ordinances of the city, which such Court is held and shall have the same powers and jurisdiction in all other criminal actions as are or may be prescribed for Justices of the Peace.”

This Section refers to a Precinct Justice of the Peace under Section 78-5-4 and not a City Justice of the Peace under 78-5-5; and therefore, vests in the City Court, County wide jurisdiction. The reason being, that the territorial jurisdiction of Justices Courts in criminal cases was limited to public offenses

committed within their respective precincts or cities. This rational is further reinforced by Section 78-5-1, quoted in the Plaintiff's Brief, which states that 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 and Section 78-4-16.5, relating to the filing of a Complaint in the City Court.

Defendant argues that arrest under Sections 41-6-166 and 41-6-167, occurring under the Motor Vehicle Code are distinctive from other misdemeanor arrests; and, therefore, the Section 78-4-16.5 does not apply. A reading of Section 41-6-166 states that whenever any person is arrested for a violation of the Motor Vehicle Act, the arrested person shall be immediately taken before a magistrate within the County in and which the offense charge is alleged to have been committed and who has jurisdiction of such offense.

From the statutes heretofore cited, it is apparent that a Town Justice does not have jurisdiction of an offense occurring outside of his municipal corporate limits regardless of whether or not he is the nearest or most accessible magistrate.

The Logan City Court receives its County wide jurisdiction by reason of Section 78-4-16 where the Court was granted the same powers of jurisdiction in all other criminal actions as are or may be prescribed for Precinct Justices of the Peace under 78-5-4. This act could not have related to Town Justices (78-5-5) as the City Court already had

the jurisdiction under 78-4-16; and therefore, this grant of jurisdiction had to refer to Precinct Justices to have any meaning and continuity, and, therefore, county wide jurisdiction.

The Counsel for the Plaintiff unnecessarily complicates his arguments when, in fact, the Motor Vehicle Code itself requires that the magistrate be within the county in which the offense is charged and *has jurisdiction over such offense* and is the nearest or most accessible.

The Plaintiff cites the case of State ex rel. Town of Garland vs. Maughan, 35 U. 426, 100 Pac. 934, for the proposition that City Justices of the Peace in criminal cases have jurisdiction over the entire county. A reading of the case will note that the case was commenced in the Justice Court of Box Elder County Precinct, Box Elder County, Utah. The Town of Garland was situated within the precinct of Sunset and not the precinct of Box Elder. The question then was whether or not a Precinct Justice Court had jurisdiction over a city ordinance where the city was located within another precinct. The paragraph cited in Plaintiff's Brief on page 20 is taken out of context in that the Plaintiff's counsel was talking about Precinct Justices and not City Justices. Therefore, the Court's statement that Precinct Justices have county wide jurisdiction was, in fact, at that time a correct statement. A more appropriate citation from that case

is found on page 936 where the Court says:

“We think the legislature intended just what the language imports, namely that all offenses against town ordinances must be tried the Justice of the Peace for the *precinct* in which the town is situated.”

Citing from page 937:

“It needs neither further argument nor authority to prove that a Judge cannot, without express authority of law, hold Court outside of the territory for which he is elected.”

This case stands for the proposition that the Precinct Justices had territorial jurisdiction of the precinct and when trying cases involving violation of city ordinances had the further obligation to hold Court within the town where the offense was alleged to have occurred and this reasoning can be applied to the case before the Court to the effect that a Town Justice of Wellsville cannot, therefore, have territorial jurisdiction outside of the municipal corporate limits of Wellsville. Although, he may have jurisdiction of the subject matter, he does not have territorial jurisdiction and both are essential elements of any Court's jurisdiction.

CONCLUSION

Throughout this entire proceeding, arguments propounded by the Plaintiff have steadfastly refused to accept the concept of geographic or territorial jurisdiction of a Court.

Many cases cited by both the Plaintiff and the Defendant in this Brief have held that jurisdiction is a two-fold requirement; that being jurisdiction over the subject matter to be tried and territorial jurisdiction over the place of the alleged commission of the offense.

Ignoring the requirement of territorial jurisdiction gives rise to the confusion in the Plaintiff's Brief relating to the various sections of the statute and leaves the Plaintiff's Brief fraught with difficulties in reconciling the various statutes. However, excepting as we must, the concept of territorial jurisdiction as it relates to the Justice Courts, reconciliation between the various statutes becomes less confusing and results in an orderly means of administration of the criminal laws.

The Plaintiff has advanced a novel theory in his Brief by claiming the Wellsville Justice Court to have county wide jurisdiction, in that the people of a portion of the County could appoint or elect a Justice of the Peace who would have jurisdiction over geographical areas outside of the municipality which elected or appointed the Justice of the Peace; such, however, is the case of City Courts, but the legislature expressly made this provision in Section 78-4-16. In this case the

Plaintiff was administered a breath test as provided in Section 41-6-44.10, which states that any person operating a motor vehicle in this State shall be deemed to have given his consent to a chemical test of his breath for the purpose of determining alcoholic content. This test was administered as soon after the offense as possible in order to preserve its validity. This section then must be construed as a later pronouncement of the legislature and must serve to modify Section 41-6-166, where it is stated that a person arrested for violation of this act shall be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed. The Logan City Court at all times was, in fact, the only Precinct Justice Court in Cache County; and, therefore, had jurisdiction by virtue of the arguments contained in the points in this Brief.

In view of the facts and the law cited herein, the Defendants pray that the Supreme Court deny the writ of prohibition sought by the Plaintiff in this matter.

Date this 9 day of December, 1974.

Respectfully submitted,

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