

2002

State of Utah v. Lauren Scott Chancellor : Brief of Appellant

Utah Supreme Court

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Lorin Scott Chancellor; Pro Se Appellant.

David L. Wilkinson; Attorney General; Lorin D. Martin; Davis County Attorney; Attorneys for Plaintiff.

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TO THE SUPREME COURT OF UTAH

20550

STATE OF UTAH

Plaintiff/Respondent

v.

LAUREN SCOTT CHANCELLOR

Defendant/ Appellant

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Case No. 20550

BRIEF OF APPELLANT

Appeal from an order of the
Davis County Second District
Court.

Lorin D. Martin
Davis County Attorney
Farmington Utah
Attorney for Plaintiff

Lauren Scott Chancellor
2875 North 400 West #45
Layton, Utah 84021
In Person

*DAVID L. WILKINSON
ATTORNEY GENERAL.*

FILED
JUN 3 1985

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STATEMENT OF ISSUES ON APPEAL

1. Whether any charge made by officer Hilderbrand can stand, if no probable cause existed for initial stop.
2. Whether a fine and penalty can be increased and be more severe due to past performance of Defendant.

CONSTITUTIONAL PROVISIONS

Article 1 § 2, Utah state Constitution

All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

Article 6 § 26, Utah State Constitution 3rd Paragraph

In all cases where a general law can be applicable, no special law can be enacted.

STATUTORY PROVISIONS

UTAH CODE ANN. 41-2-2

No person except those expressly exempted.....shall drive any motor vehicle upon a highway in this state unless such person upon application has been licensed as an operator or chauffeur by the provisions of this act.

UTAH CODE ANN. 41-2-16- see addendum

UTAH CODE ANN. 41-2-28 (83 Supp)

A person whose operator's license has been suspended or revoked, as provided in this act. and who drives any motor vehicle upon the highways of this state while that license is suspended or revoked, is guilty of a crime, and upon conviction shall be punished as provided for in section 41-2-30.

*used
on
Citation*

*Citation
failure to yield*

UTAH CODE ANN. 41-2-30. Subsection 2.

(2) A person whose conviction under § 41-2-28 is based on drinking.....shall be punished by a fine at least \$299 but no more than \$1.000 or by imprisonment for not more than one year.

UTAH CODE ANN. 41-6-12

It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

Amended "citation" for failure to yield

UTAH CODE ANN. 41-6-13

No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer, invested by law with authority to direct, control, or regulate traffic.

UTAH CODE ANN. 41-6-14

The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator.....

cited on citation

UTAH CODE ANN. 76-3-104 (2)

An offense designated a misdemeanor, either in this code or in another law, without specification as to punishment or category, is a class B misdemeanor.

UTAH CODE ANN. 76-3-105 (2)

Any offense which is an infraction within this code is expressly designated and any offense defined outside this code which is not designated as a felony or misdemeanor and for which no penalty is specified in an infraction.

UTAH CODE ANN. 76-3-205 (1)

A person convicted of an infraction may not be imprisoned, but may be subject to a fine, forfeiture, and disqualification, or any combination.

TO THE SUPREME COURT OF THE STATE OF UTAH

STATE OF UTAH

Plaintiff/Respondent

v.

LAUREN SCOTT CHANCELLOR

Defendant/Appellant

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Case No 20550

BRIEF OF APPELLANT

STATEMENT OF THE NATURE OF THE CASE

Defendant appeals from a Judgement of the Circuit and District Courts of Davis County.

1. Denying Defendants Motion to reduce charges from 41-2-28 UCA to 41-2-2 UCA, based on equal protection under the law, Art. 1, §2 of the Utah State Constitution, and that no rational basis exists for a distinction in said charges.
2. Defendants Motion to dismiss 41-6-13 UCA based on an incorrect citation made by citing officer which was amended without Defendants knowledge.

The case was tried before the court. Defendant was found guilty of both charges and sentenced to 75 days in jail, 67 days suspended and 437 Federal Reserve Notes in fines.

RELIEF SOUGHT ON APPEAL

Defendant seeks to have 41-2-28 UCA reduced to 41-2-2, and 41-6-13 USC dismissed with prejudice.

STATEMENT OF FACT

The citation was issued by officer Hilderbrand on 3/16/84, Defendant appeared in court, Clearfield Department and pled not guilty on both counts. Defendant appeared for trial, Clearfield Department on 5/22/84. Defendant appeared for sentencing in Layton on 6/15/84. Defendant delivered notice of appeal to Layton Department on 6/15/85. On or about February 15/85, the District Court of Davis County upheld and affirmed the Circuit Courts decision, and remanded the case for disposition. On March 11, 1985 Defendant commenced an 8 day jail sentence in the Farmington County jail, and was released upon payment of fine.

SUMMARY OF ARGUMENT.

Point 1. Utah Drivers Handbook Page 58, allows a driver to proceed across a R.R. track after coming to a complete stop and preceeding with caution. Defendant in so doing, left the citing officer with no probable cause for initial stop.

Point 2. The information contained incorrect information which caused the court to place the fines and penalties in a higher than legal bracket. 41-6-13 as a class B-but is an in-

fraction under 76-3-105. (2) 41-2-28 as a class A which is a class B under 76-3-104. (2)

Point 3. Defendant is a victim of class legislation which is prohibited. *Christy v. Elliot*, 216 Ill., 46.

ARGUMENT 1.

On 3/16/84 at approximately 11:30 P.M. Officer Hilderbrand pulled Defendant over without probable cause.

Defendant stopped at a R.R. Crossing with flashing lights but no baricades, came to a complete stop, looked both ways and seeing no train approaching, proceeded across the track. Utah Drivers Handbook makes on page 58, makes this allowable.

Officer Hilderbrand did not dispute that fact in testimony on page 10 of trial transcript. Officer Hilderbrand testified that he followed Defendant for 10 to 12 minutes (page 12 of trial transcript). Defendant alleges that from the R.R. track the the trailer court is less than 2 minutes at 35MPH.

On page 13 of the transcript, hilderbrand states that the Defendant "jumped" out of his vehicle. Defendant has a physical disability and cannot "jump" out of a car, but must proceed slowly and carefully.

Defendant alleges that officer Hilderbrand purposely exaggerated the facts to prejudice the case. Defendant could not challenge the witness at the time of trial as no one was prepared for the clear untruths of the officer.

ARGUMENT 2.

DISCREPANCIES IN THE COURT PROCEEDINGS

Officer Hilderbrand originally charged Defendant with 41-6-14 " Failure to yield to police vehicle" (please see citation) Defendant put in motion to dismiss the charge as it did not apply to him. Motion was denied. The charge was amended to 41-6-13 In Defendants absence and without his knowledge. The information listed the charge (41-6-13 as a class B misdemeanor, which according to 76- UCA it is an infraction (please see 76-3-105.)

Code § 41-6-12 which lists "all" acts under this chapter a misdemeanor, cannot stand under the dictates of the penal code. Therefore the jail term imposed with this charge is not legal as 76-3-205⁶¹³ makes it very clear that infractions are not jailable offenses. As these two sections are diabolical opposites, the " criminal code" shall take precedence, as the charge was tried as a criminal case.

The second charge 41-2-28 is listed in the information as a "Class A misdemeanor". 41-2-28 states that it shall be a misdemeanor to drive on a revoked licence. 41-2-28* (1983 supp) states that it is a "crime". Blacks Law Dictionary 5th Edition on page 334 states " crime" and " misdemeanor"

properly speaking, are synonomous terms so therefore the 83 Supplement did not substantially change section 41-2-28 (82 printing).

U.C.A. 76-3-104 (2) states, "an offense designated as a misdemeanor, either in this code or in another law without specification as to punishment or category, is a class B misdemeanor". Defendant alleges that the " discrepancy" may not be an Good faith error but rather a means of shamefully enriching the crown.

ARGUMENT 3.

Article 1 § 2 of the Utah Constitution guarantees all citizens equal protection under the law. The UCA contains no less that 5 different sections which deal with driving without a license.

1. 41-2-2 is an infraction and is listed on the Bail schedule given to the Defendant at the outset of his trial lists it as 33 dollars.
2. 41-2-16 expired license is an infraction with a fine of 33 dollars
3. 41-2-16 having never applied for a license is an infraction and carries a fine of 59 dollars.

4. 41-2-28 revoked license is a class B misdemeanor with a fine of up to 299 dollars

5. 41-2-~~30~~ subsection (2) (1983 supp) allows a fine of up to 1000 dollrs.

All of the penalties are according as to **why** the person was driving without a license, and not simply because the **were** driving without a license.

To say that the Defendant is a dangerous driver because he drinks, is equal to saying, all people who eat a lot are fat or, all women who wear red dresses are whores.

Defendant alleges that to place people in catagories because of personal habits is not providing equal protection under the law.

To allege that because one person who drinks cannot drive properly, all persons who drink cannot drive properly is an ill concieved idea and Defendant alleges that the Legislature concieved this idea, not for the public safety, nor the rehabilitation of the alleged " criminal", but merely for the purpose of revenue and to increase the police growth industry.

Defendant demands that his personal driving record be scrutinized so that he may be judged on his own merits.
" Class legislation, discriminating against some and favoring others is prohibited. *Christy v. Elliot*, 216 Ill, 46.

IN CONCLUSION

There is no rational basis for the distinction in the 5 categories heretofore mentioned. The concept seems to be that a person who drinks is more likely to have an accident than someone who does not. Yet national insurance agencies show that young men between the ages of 16 and 25 have more accidents than any other group of drivers.

Anyone who gets behind the wheel of an automobile has a 100% percent chance of having an accident. Fat people have heart attacks, old people suffer from dizzy spells or do not see well, or do not hear well. People on medication are a great risk, teenagers who have never had training and have no license, are likely to turn their radios up loud and not hear danger. Women with unruly children are an equally great risk. No one is exempt and not one group of drivers are any greater risk than the next. Shall we simply suspend ALL licenses and eliminate ALL risk. To single out one particular group and punish them different for the same violation is a violation of their Constitutional rights to equal protection. The Utah Constitution states at Article 6, § 26... " in all cases where a general law can be applicable, no special law shall be enacted."

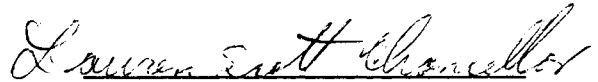
" If government exists for people, then government can have only those powers it receives from people. And people cannot

confer upon or surrender to government any power they do not have. Any attempt by government to use force against a citizen for any purpose other than the defense of another citizen is a usurpation of power to perpetrate the very thing government was established to prevent. It is an invasion of the citizen's inalienable right to be let alone" (Bertell M. Sparks, Professor at Law at Duke University.

For the above reasons the Defendants request to amend the charges should be granted.

Dated this 3 day of June 1985

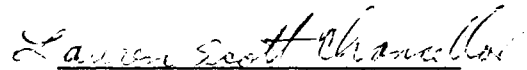
Respectfully



Lauren Scott Chancellor
In Person

I hereby certify that I handdelivered 4 copies of the before going appeal brief to the Davis County Attorneys office in Farmington Utah.

Dated this 3 day June 1985.



Lauren Scott Chancellor
In Person

ADDENDUM

**IN THE JUSTICE OF THE PEACE COURTS
OF
TOOELE COUNTY, STATE OF UTAH
Citation No. _____**

If you have been issued a citation that charges you with the violation of one or more Utah laws, please read the following instructions carefully.

INSTRUCTIONS

1. On your citation, you have been given a date or a specified number of days in which you must make a mandatory appearance before the Justice of the Peace whose name and address appears thereon.
2. Upon appearance in the court, you may see the judge and (1) enter a plea of guilty and explain any mitigating circumstances that may or may not reduce the penalty; or (2) enter a plea of not guilty at which time a date and time for trial will be set and a formal notice of trial will be given you.
3. If the offense listed on the reverse side of this form has an asterisk (*) located next to the bail amount, the court may suspend part of that fine if the violation is corrected before appearing in court.

ALTERNATIVE TO APPEARING IN COURT

1. You may clear this citation by mailing into the court indicated on the citation the amount of bail listed on the reverse side of this form for the offense(s) as shown on your citation. The Utah Legislature has imposed an educational assessment which must be levied upon forfeitures for all offenses except non-moving traffic violations. The applicable assessment is included in the bail schedule.

IF THE OFFENSE(S) DOES NOT APPEAR ON THE OPPOSITE SIDE, YOU MUST APPEAR IN PERSON IN COURT.

When mailing the bail include the citation with your check or money order. Include

| | | |
|-------------|-------------------------------------|--------|
| 41-6-53 | Driving on wrong side of roadway | 28.00 |
| 41-6-54 | Left of center | 28.00 |
| 41-6-55 | preceding in opposite direction | 28.00 |
| 41-6-55 | Improper passing of vehicle | 28.00 |
| 41-6-55 | traveling in same direction; | 28.00 |
| 41-6-55 | (passing prohibited | 28.00 |
| 41-6-57 | Improper passing on left of vehicle | 28.00 |
| 41-6-60 | Wrong way on one-way street | 28.00 |
| 41-6-62 | Following too close | 28.00 |
| 41-6-106 | Improper backing | 33.00 |
| 41-6-109 | Obstructing driver's view | 23.00 |
| 41-6-63, 10 | Divided highway/crossing | 23.00 |
| 41-6-63, 10 | divided portion or driving | 23.00 |
| 41-6-64 | on wrong side | 28.00 |
| 41-6-64 | Limited access roadway | 28.00 |
| 41-6-135 | Failure to dim lights | 23.00 |
| 41-6-135 | Log Book violations | 23.00 |
| | No log book | 100.00 |
| | Not current (+ \$1.00 per hour | 50.00 |
| | over 48 hours) | 50.00 |

Statute Description Amount

Statute Description Amount

SPEEDING VIOLATIONS

| | | |
|---------|--|---------|
| 41-6-46 | Speeding | |
| | 1-5 MPH over limit | \$12.00 |
| | 6 MPH over limit | 14.00 |
| | 7 MPH over limit | 16.00 |
| | 8 MPH over limit | 19.00 |
| | 9 MPH over limit | 21.00 |
| | 10 MPH over limit | 23.00 |
| | 11 MPH over limit | 25.00 |
| | 12 MPH over limit | 27.00 |
| | 13 MPH over limit | 29.00 |
| | 14 MPH over limit | 31.00 |
| | 15 MPH over limit | 33.00 |
| | 16 MPH over limit | 35.00 |
| | 17 MPH over limit | 37.00 |
| | 18 MPH over limit | 39.00 |
| | 19 MPH over limit | 41.00 |
| | 20 MPH over limit | 43.00 |
| | 21 MPH over limit | 45.00 |
| | 22 MPH over limit | 47.00 |
| | 23 MPH over limit | 49.00 |
| | 24 MPH over limit | 51.00 |
| | 25 MPH over limit | 54.00 |
| | 26 MPH over limit | 58.00 |
| | 27 MPH over limit | 62.00 |
| | 28 MPH over limit | 66.00 |
| | 29 MPH over limit | 70.00 |
| | 30 MPH over limit | 74.00 |
| | Over 30 MPH over limit - Mandatory appearance. \$10.00 additional in school zone | |

| | | |
|-------|------------------|-------|
| -6-49 | Driving Too Slow | 28.00 |
|-------|------------------|-------|

RIGHT OF WAY VIOLATIONS

| | | |
|---------|---|-------|
| 6-72 | Failure to yield right of way | 33.00 |
| 6-73 | Failure to yield while making a left turn | 33.00 |
| 6-74 | Failure to yield at intersection | 33.00 |
| 6-74.10 | Failure to yield after stopping at stop sign | 33.00 |
| 6-75 | Failure to yield when entering highway from private roadway | 33.00 |
| 6-76 | Failure to yield to emergency vehicle | 59.00 |
| 6-78 | Failure to yield to pedestrian | 33.00 |
| 3-80.1 | Failure to yield to a blind person | 59.00 |
| 3-95 | Failure to stop at railroad crossing | 33.00 |
| 3-68 | Starting from parked position when unsafe | 33.00 |

TURNING, LANE CHANGE AND SIGNALING VIOLATIONS

| | | |
|------|-------------------------------------|-------|
| i-66 | Improper turn | 28.00 |
| i-66 | Improper turn, cutting corners | 28.00 |
| i-66 | Improper turn, prohibited by a sign | 28.00 |
| i-66 | Improper turn, wrong lane | 28.00 |
| i-67 | Improper U-turn | 28.00 |
| -61 | Improper or unsafe lane change | 33.00 |
| -69 | Failure to give proper signal | 23.00 |

DRIVER LICENSE VIOLATIONS

| | | |
|-------|---|--------|
| -9 | Violating terms or license restrictions (not wearing glasses) | 33.00 |
| -2 | No valid Utah License | 33.00* |
| -11.5 | No motorcycle license | 33.00 |
| -25 | Permitting unlicensed minor | 20.00 |

REGISTRATION, INSPECTION AND OTHER LEGAL REQUIREMENTS OF THE VEHICLE

| | | |
|-----------|--|--------------------------------|
| 41-1-40 | No registration certificate in vehicle | 15.00 |
| 41-1-18.5 | No camper registration | 25.00* |
| 27-12-151 | Failure to obtain overweight permit | 50.00* |
| 41-1-18 | Failure to register or expired registration | 30.00* |
| 41-1-142 | Using plates registered to another vehicle | 40.00 |
| 41-4-48 | Failure to display license plates | 20.00* |
| 27-12-151 | Excess axle weight permit, failure to obtain | 50.00 |
| 41-1-128 | Gross registered weight violation | 54.00 + 1 cent per pound over. |
| 41-1-127 | Failure to display gross weight | 10.00 |
| 27-12-149 | Failure to obtain oversize permit | 35.00 |
| 41-1-18 | Failure to register towed vehicle | 15.00 |
| 41-6-158 | No safety inspection | 15.00* |
| 41-6-158 | Fraudulent inspection | 40.00 |
| 54-6-10 | Violation of special transportation permit | 35.00 |

MECHANICAL CONDITIONS AND RELATED ITEMS

| | | |
|-------------|--|--------|
| 41-6-148.30 | Altered Vehicle | 30.00* |
| 41-6-144 | Brakes | 30.00* |
| 41-6-107.8 | Failure to wear protective head gear or protective eyewear | 23.00 |
| 41-6-118 | Lights | 30.00* |
| 41-6-128 | Loads projecting to the rear | 20.00 |
| 41-6-147 | Muffler | 30.00* |
| 41-6-150.10 | No mud flaps | 25.00 |
| 41-6-148.4 | No safety chain to secure towed vehicle | 33.00 |
| 41-6-149 | Obscured Vision | 20.00 |
| 41-6-117 | Operating an unsafe vehicle | 38.00 |
| 41-6-155 | Operating illegal tractor, etc. on highway | 35.00 |
| 41-6-140(2) | Red light showing to front | 15.00 |
| 27-12-146 | Spilling load on highway | 28.00 |
| 41-6-150 | Studded snow tires | 23.00 |
| 27-17-146 | Spilling food on highway commercial vehicle | 206.00 |

STOPPING VIOLATIONS

| | | |
|-------------|---|-------|
| 41-6-100.10 | Failure to stop for school bus | 43.00 |
| 41-6-24 | Red light violation | 33.00 |
| 41-6-26 | Flashing red light violation | 33.00 |
| 41-6-97 | Failure of buses and trucks to stop at Railroad crossings | 59.00 |
| 41-6-95 | Failure to stop at Railroad Crossing | 33.00 |
| 41-6-99 | Failure to stop at stop sign | 28.00 |

ALCOHOL VIOLATIONS

| | | |
|------------|---|-------|
| 41-6-44.20 | Open Container of Liquor in Vehicle | 25.00 |
| 32-7-15.4 | Illegal possession of alcohol beverage (Under age 21) | 54.00 |
| 76-9-701 | Intoxication | 54.00 |