

1981

The Board of Education of The Granite School District, A Body Politic of The State of Utah v. Salt Lake County, A Body Corporate And Politic And Arthur Monson, Salt Lake County Treasurer : Reply Brief of Plaintiff - Appellant

Utah Supreme Court

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IN THE SUPREME COURT OF THE
STATE OF UTAH

THE BOARD OF EDUCATION OF)
THE GRANITE SCHOOL DISTRICT,)
a body politic of the State)
of Utah,)

Plaintiff and Appellant,)

v.)

CASE NO. 17175

SALT LAKE COUNTY, a body corp-)
orate and politic and ARTHUR)
MONSON, Salt Lake County)
Treasurer,)

Defendants, Respondents,)
and Cross Appellants.)

REPLY BRIEF OF PLAINTIFF - APPELLANT

APPEAL FROM THE TRIAL AND JUDGMENT
OF THE THIRD JUDICIAL DISTRICT COURT IN AND FOR THE
STATE OF UTAH

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Plaintiff - Appellant, The Board of Education of the Granite School District (Granite School District herein), replies to Brief on Appeal of Defendants - Respondants, Salt Lake County and Arthur Monson, Salt Lake County Treasurer (Salt Lake County herein), and specifically replies as to Salt Lake County's claims as Cross Appellants pursuant to Counterclaim which claim was denied in judgment rendered June 6, 1980.

STATEMENT OF FACTS

Salt Lake County claims that it should be reimbursed by Granite School District for all expenses incurred in the collection, apportioning and distribution of property tax monies by Salt Lake County. The property tax mill levy is set

each year by the Granite School District. Salt Lake County assesses real property within the County and within the School District based on that mill levy and acts as collection agent for the tax monies received. Utah state statutes allow Salt Lake County to collect certain specific costs of collection from Granite School District and the other taxing entities.

Salt Lake County admits that the School District paid the expenses of collection authorized by state statute, but cross-appeals from the District Court's judgment that the County was not entitled to recover additional expenses of collection which Salt Lake County claimed.

ARGUMENT

THE UTAH STATE LEGISLATURE HAS SPECIFICALLY LIMITED THE EXPENSES ASSESSABLE FOR PROPERTY TAX COLLECTION

The Legislature has carefully limited the authority of county treasurers to pass on expenses of collecting taxes to school districts and other taxing entities to only those specific expenses set forth as follows:

U.C.A. § 17-19-15 (1953). Statement of salaries and costs of state assistance paid in assessing and collecting taxes. On the first Monday in June and December of each year, the county auditor shall prepare a full and complete itemized statement, verified under oath, of all warrants drawn by him since the date of the last statement for the salaries of the county assessor and his deputies and assistants for the costs of technical assistance and appraisal aid computed by the State Tax Commission as provided by sections 59-5-108 and 59-5-110 and for the salaries of the County Treasurer and his deputies and assistants. Such statement shall set forth in detail the number of each warrant so drawn, the date of same, the name of the person or persons in whose favor drawn, and the nature of the service rendered. (Emphasis added).

U.C.A. § 17-19-16 (1953). Costs of collecting taxes - Apportionment. The County Auditor shall thereupon apportion the total amount so ascertained among the several taxing funds or districts appearing on the tax rolls of the

county, in the proportion that the total tax assessed to such taxing fund or district bears to the total taxes assessed on the entire roll of the county; provided that the sum so apportioned to the state school funds shall be borne and paid by the state board of education out of the uniform school fund, the remaining sum apportioned to the state shall be paid by the commission of finance; the amounts so apportioned to the county shall be borne and paid by the county; and the amounts so apportioned to the city and county school districts shall be borne and paid by the respective school districts; the amounts so apportioned to cities of the first and second class shall be borne and paid by the cities of the first and second class, and the amounts so apportioned to cities of the third class and incorporated towns shall be borne and paid by the cities of the third class and incorporated towns and the sums so apportioned to each and every other district or taxing unit shall be borne and paid by the board of administration of such district or taxing unit. (Emphasis added).

U.C.A. § 17-19-17 (1953). Statement of total tax - Reimbursement. Said statement shall also show the total tax assessed to each taxing fund or district, and the sum apportioned to each such taxing fund or district as herein provided. A copy of said statement shall be filed by the county auditor with the state auditor, and with the auditor, recorder or clerk of each city or town, or other taxing unit within the county, and with the clerk of each school board within said county, who shall thereupon draw his warrant in favor of the treasurer of the county filing said statement in the sum due the county from the state, city, town school district or other taxing unit.

These statutes, which have survived with only minor amendment since 1903, allow counties to recover only for the "salaries of the county assessor and his deputies and assistants", the costs of state technical assistance, "and for the salaries of the county treasurer and his deputies and assistants." U.C.A. § 17-19-15 (1953). The legislature has by its actions declared that other expenses, whatever they may be, incurred in the process of collecting taxes are to be borne by the county which represents all of the taxpayers, not just those in a given taxing district. No matter which governmental entity pays the expenses of tax collection, the source of its

revenue is the same: the county taxpayer. If the taxpayers of one taxing entity pay by reimbursement for designated collection costs, the taxpayers of the county as a whole pay the additional expenses.

Salt Lake County has recognized the limitation of its statutory authorization to assess costs of tax collection to the specific taxing entity. In June, 1981 the Salt Lake County Assessor proposed to the Salt Lake County Commission that the County designate a great number of county employees as "assistant county assessors" on a temporary basis so that their salaries could be passed through to the taxing units of the county under the statutory authorization. That effort was a sham and a ruse to circumvent the statutory limitations. The County Commission has not acted on that proposition, but the implication is clear that the County Assessor recognizes the limitations imposed by the statute.

Defendants argue that if Section 17-19-15 does not provide for reimbursement to Salt Lake County of all direct costs of collecting tax monies for the School District, this would amount to a legislative imposition of taxes on Salt Lake County residents for School District purposes. This, defendants have claimed, would violate Article XIII, § 5 of the Utah Constitution which provides:

The Legislature shall not impose taxes for the purpose of any county, city, town or other municipal corporation, but may, by law, vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

In Best Foods, Inc. v. Christensen, 75 Utah 392, 285 P. 1001 (1930), the Court upheld the constitutionality of a statute that required payment to cities and counties of a five dollar license fee for permits to sell oleomargarine. It expressly rejected claims that the statute violated Article XIII, § 5. The court held:

It has always been the policy of this state to entrust, for the most part, the assessment and collection of taxes for state and municipal purposes to county officers. That the State Legislature may cast the burden of collecting state and municipal taxes upon officers of cities, towns or counties without offending against any of the provisions of our state constitution is not open to serious doubt. No contention is made, or can well be made, to the contrary. The Legislature may grant or withhold compensation to a municipality to reimburse it for the costs of assessing and collecting taxes for purposes other than its own. This court has recognized the right of the Legislature to impose a duty upon county officers to assess, levy, and collect taxes for the purposes other than county purposes with or without compensation to the county for the expenses incurred. Board of Education of Cache County School Dist. et al. v. Daines, 50 Utah 97, 166 P. 977 (1917).

It is particularly significant that the Best Foods court cited Board of Education v. Daines, *supra*, to support its decision. Daines held that counties have no lawful right to withhold school district funds to pay for the costs of collection of school district taxes, unless reimbursement is required by statute. Both Daines and Best Foods were quoted approvingly in State Tax Comm'n v. City of Logan, 88 Utah 406, 54 P.2d 1197 (1936). In Logan, the court stated:

That the law making power of the state may, without offending against the State Constitution, impose upon municipalities and its [sic] officers the duty of collecting and remitting taxes, is well established in this jurisdiction.

54 P.2d at 1202.

CONCLUSION

The Legislature specifically limited the tax collection expenses that a county may pass through to a taxing entity. Granite School District has paid all amounts due under that statutory authorization to its collection agent, Salt Lake County. Defendants' Counterclaim and Cross Appeal should, therefore, be dismissed.

Respectfully submitted this 20 day of October, 1981.

FABIAN & CLENDENIN

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Certificate of Service

I hereby certify that I mailed two true and correct copies of the foregoing REPLY BRIEF OF PLAINTIFF-APPELLANT to:

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Salt Lake County Attorney
and
Bill Thomas Peters
Special Deputy County Attorney
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220 South 200 East
Salt Lake City, Utah 84111

by U.S. Mail, postage prepaid, this 20 day of October, 1981.

15/

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PAUL M. TINKER
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April 13, 1981

FILED

APR 20 1981

Clerk, Supreme Court, Utah

Honorable Richard J. Maughan
Chief Justice
Utah Supreme Court
State Capitol
Salt Lake City, Utah 84114

Re: William Sampley v. Larry
Morris, Case No. 17177

Dear Chief Justice Maughan:

The appellant's attorney in the above entitled case, in harmony with Anders v. California, 386 U.S. 738, 87 S.Ct. 1296, 18 L.Ed.2d 493 (1967), stated that it is his opinion that the issues raised on appeal are not sound and has requested that he be allowed to withdraw.

This office feels that it would be futile to respond to a brief of this nature when likely the only assistance we could lend the Court would be to repeat the statements of the appellant's attorney and perhaps give some light as to the broad area of law surrounding the issue raised in the case.

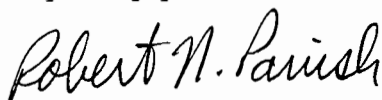
We feel that this would lend no beneficial impact to the Court, but we are willing to respond to any particular issues or do additional research at the Court's direction if requested.

We would appreciate it if you would accept this letter as a formal response in lieu of filing a brief and either proceed to dismiss the appeal on its merits or in

Honorable Richard J. Maughan
April 13, 1981
Page 2

harmony with Anders v. California. If the Court is desirous of having additional input from our office in any particular, we would be happy to comply upon direction.

Very truly yours,

A handwritten signature in cursive script that reads "Robert N. Parrish". The signature is written in dark ink and is positioned below the typed name.

ROBERT N. PARRISH
Assistant Attorney General

RNP/sh

cc: Mr. Douglas E. Wahlquist
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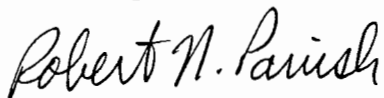
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