

2002

Tyler Hansen and The Workers Compensation Fund of Utah v. Amanda S. Eyre and The Nature Conservancy : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

TYLER HANSEN AND THE WORKERS)	BRIEF OF APPELLEE
COMPENSATION FUND OF UTAH,)	AMANDA S. EYRE
)	
Plaintiffs and Appellants,)	
)	
v.)	
)	
AMANDA S. EYRE and THE NATURE)	
CONSERVANCY,)	
)	
Defendants and Appellees.)	Case No.: 20020498-CA

APPEAL FROM AN INTERLOCUTORY ORDER
OF THE THIRD JUDICIAL DISTRICT COURT,
SALT LAKE COUNTY, STATE OF UTAH,
THE HONORABLE BRUCE C. LUBECK PRESIDING

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Utah Court of Appeals

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Clerk of the Court

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JURISDICTIONAL STATEMENT

Appellee Amanda S. Eyre adopts the jurisdictional statement contained in Appellee The Nature Conservancy's brief.

STATEMENT OF THE ISSUE

Amanda S. Eyre joins The Nature Conservancy on the statement of issue. In addition, Amanda S. Eyre states that the court has before it an issue of whether the District Court correctly determined that there was an issue of fact as to the reasonable police power that the Salt Lake City ordinance purported to serve.

The District Court's ruling on the issues for summary judgment is reviewed for correctness. Gottling v. P.R. Inc., 2002 UT 95 ¶¶4-5. The issues were preserved for the appeal in the District Court's ruling on the parties' cross-motions for summary judgment. R 162-66.

STATEMENT OF THE CASE

This case involves an apparent conflict of state statute and Salt Lake City's apparently conflicting ordinance. The District Court determined that state statute requires bicyclists to ride with the flow of traffic and that any city ordinance allowing a bicyclist to ride against the traffic is invalid. Additionally, the District Court determined that the police powers requirement of Utah Code Ann. §41-6-17 were probably not met by the Salt Lake City ordinance because the ordinance seemed to "invite the very sort of incident that is the subject of the underlying lawsuit." R. 164.

I. Facts

Plaintiff/Appellant Tyler Hansen ("Hansen") and defendant Amanda Eyre ("Eyre") were involved in an automobile-bicycle accident on the northwest corner of 200 South and 500 East, Salt Lake City on February 17, 2000. Eyre, acting within the scope of her employment with The Nature Conservancy ("Nature Conservancy"), was traveling southbound on 500 East in her car. She stopped at the red light at the intersection of 200 South. Hansen, a bicycle messenger for LMI, was riding his bicycle east on the north side of 200 South. Hansen was riding in a bicycle lane, but against the flow of traffic. Hansen had initially proceeded eastbound in the bicycle lane on the right-hand side of the street (the south side) and with the flow of traffic. However, before colliding with Eyre, Hansen had crossed the street in the middle of the block west of the intersection. R 121. Hansen then continued eastbound against traffic within the north-side bicycle lane until he arrived at the intersection where he and Eyre collided. Eyre, after having stopped at the red light, proceeded to initiate a turn and looked to her left to see if there was any oncoming traffic. At that point, she collided with Hansen who was in the bicycle lane, but traveling against traffic.

II. Procedural Facts.

Eyre adopts by reference the Nature Conservancy's statement of the procedural facts of the case.

SUMMARY OF THE ARGUMENT

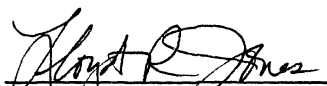
Eyre adopts by reference the language in the Nature Conservancy's brief on the summary of the argument.

ARGUMENT

Eyre adopts by reference the argument section contained in the Nature Conservancy's brief at 5-19.

Dated this 6th day of November, 2002.

PETERSEN & HANSEN



Lloyd R. Jones
*Attorney for Defendant/Appellee
Amanda S. Eyre*

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of November, 2002, two true and correct copies of the foregoing document were served via the indicated method to the following:

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