

1992

Utah v. Gresham : Brief of Appellant

Utah Court of Appeals

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Gary Heward; Dave Wilson; Michelle Heward; Attorneys for Plaintiff.

Unknown.

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BRIEF

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920629-CA

2ND DISTRICT JUVENILE COURT
STATE OF UTAH
444-26TH STREET
OGDEN, UTAH
(PLAINTIFF, APPELLEE)

BRANDON GRESHAM
2072 WEST 4600 SOUTH
ROY, UTAH
(ACCUSED, ALLEGED APPELLANT)

FILED

The Accused is charged with the offense of Disorderly Conduct, in violation of 11-7-2 Roy City Municipal Code. On July 15, 1991, or of Section 78-3A-16 or 78-3A-16.5 of the Utah State code.

In the Utah Court of Appeals

Corporate Roy City (?)
Corporate State of Utah (?)
(plaintiff, appellee)

vs.

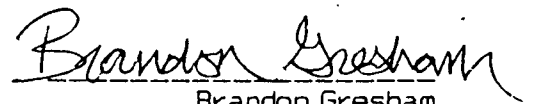
Brandon Gresham
(Accused) -- Sui Juris

Brief of the Accused's Appeal for a
Motion of Summary Disposition

Docket Number 920629-CA

The trial Court was the 2nd district juvenile Court, Weber County, Judge Stephen A. Van Dyke. The prosecuting attorney, council for the plaintiff was: 1. Gary Heward, 2. Dave Wilson, 3. Michelle Heward. The Accused and the Accused's parents were Sui Juris.

Michelle Heward
(State of Utah)



Brandon Gresham
(Sui Juris)

The Accused comes now and petitions the Utah appellate Court for relief of the charge and finding brought against him by the inferior 2nd District juvenile Court, Weber County, and the Accused recognizes Jurisdiction of the Utah appellate Court as the superior Court, in that the appellate Court has the Power and Authority to stop the Injustices of the inferior Court and to correct the wrongs brought against the Accused by the inferior Court.

TABLE OF CONTENTS

1. Outline of Events P. 1, para. 1

2. The Accused demands a Summary Disposition from the appellate Court whereupon the Accused was denied his Due Process of Law when the trial Court entered a plea in behalf of the Accused before Information and Discovery was provided for him P. 1, para. 3

3. The Accused claims a Conspiracy exists against him P. 1, para. 5

4. The Accused claims his right to Due Process was denied him when fees were required from him before final Judgement P. 2, para. 2

5. The Accused claims his right to Due Process was denied when he was not found to be impicunious by the trial Court P. 2, para. 3

6. The Accused also claims he was denied Due Process when the Accused's father was ordered to be silent by the trial Court Judge when the Accused was being tried as a juvenile P. 2, para. 4

7. Certificate of Service and/or Mailing P. 3

TABLE OF AUTHORITIES

1. Utah Rules and Codes -- Rule 16(b) P. 1, para. 5
2. Utah Rules and Codes -- Rule 77-1-6(b) P. 2, para. 2
3. Utah Rules and Codes -- Rule 77-32-2 P. 2, para. 3
4. Juvenile Court Rules -- Rule 18 P. 2, para. 4
5. Doctrine of Due Process whereupon used as a restriction on the government for the state of Utah in the Constitution for the united states of America, and the Constitution for the state of Utah, and the Rules and Codes specified PP. 1-2

ON THE 28TH DAY OF AUGUST, 1992, the Accused (Brandon Gresham) heretofore said to be the Appellant came before the honorable juvenile Judge Stephen A. VanDyke for the charge of disorderly conduct.

The Appellant alleges the following causes for requiring the appellate Court to award the appellant a complete dismissal of charges:

1. The Appellant claims his right to Due Process of Law was violated when he required the Court to provide him with any and all information and discovery as requested in his letter for a Bill of Particulars issued the 15th day of January 1992, by Norm and Dawna Smith, to the Court and to Gary Huert in person. This information was never provided to the appellant and was excused by Judge VanDyke for the reason that the prosecuting attorney was changed 3 times and the document got lost or that it was not given to the prosecutor because of a five-dollar fee was not paid to the Court clerk.

Therefore, the Appellant was not afforded the right to be faced by the witnesses against him and was not given the right to cross-examine ALL the witnesses in this case, a violation of Amendment VI of the Constitution for the united states of America.

The Appellant claims that under Rule 16(b), all information and discovery MUST have been provided to him BEFORE the plea of 'not guilty' was entered on his behalf. Rule 16(b) states: "The prosecutor shall make all disclosures as soon as practicable following the filing of charges and before the defendant is required to plead..."

2. The Appellant claims a conspiracy exists against the Appellant in the the Judge is employed by the State of Utah, the prosecutor is employed by the State of Utah, a witness is employed by the State of Utah, and the plaintiff issueing the charge is the State of Utah. The Appellant asks: "How would anyone under the conditions be afforded a fair trial?"

To make matters worse, in this case, all of these people forementioned were aware that the Appellant and his family were currently suing the State of Utah and the witness for the plaintiff.

3. The Appellant claims his right to Due Process of Law was violated in retrospect to the demand of the forementioned \$5.00 fee requirement by the Court. This demand by the Court is in violation of Article I, Section 12 of the Constitution for the State of Utah, which states: "...in no instance shall any accused person, before final judgement, be compelled to advance money or fees to secure the rights herein guaranteed... ", and Rule 77-1-6(b) of Utah Code for Criminal Procedure, 1987-88, which states: "No accused person shall, before final Judgement, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the Laws of Utah, or to pay the costs of those rights when received;"

4. The Appellant claims his God-given and inalienable rights were violated, and that the restrictions placed upon the Courts and the government in general, by the Constitution for the united states of America and the state of Utah have been ignored by Judge VanDyke when he awarded the Appellant the defense of council, because he petitioned the Court for such due to impecuniosity; and then Judge VanDyke denied the Appellant said council based on the fact that the Court had explained to the Appellant's mother that the denial of council was not based on the Appellant's personal income, but on what the employees in the Appellant's workplace were making as an average. The Appellant alledges this to be a clear violation of Rule 77-32-2, which states: "Counsel shall be assigned to represent each indigent person who is under arrest or charged with a crime... if: (2) The Court on it's own motion or otherwise so orders and the defendant does not affirmatively waive..." The Appellant alledges that Judge VanDyke did appoint council on his own motion, and that council has been appointed to the Appellant,

but later the Appellant was required to fill out a form to determine his indigency, and council was denied based on the average wage of the average employee at his place of work, not based on his earnings. The Appellant further alleges that the attorney petitioned by the prosecutor before the Court, for the purpose of making the forementioned determination, was biased toward the Appellant in that the Appellant's mother and stepfather had fired said attorney, and that the Appellant's uncle and grandparents also fired the said attorney.

5. The Appellant further claims that he was denied Due Process of Law in that the Appellant's father was ordered by Judge VanDyke to be silent in that the Appellant's father was accused of practicing Law when issues were raised, concerning the violation of the rules stated in this brief, by the Appellant's stepfather.

Judge VanDyke ruled that the Appellant is 18 years of age and as an adult is capable of presenting his own defense and yet the Appellant was being tried as a child not being afforded a trial by Jury. The Court clearly expected a child to be capable of matching intellectual knowledge with adults who have been trained in legal procedures and Court proceedings when in effect they knew he could not. Disallowing parental guidance in this matter is clearly a violation of the Juvenile Court Rules, wherein the Rules repetitively refer to the juvenile's actions and rights in conjunction with the parents. Ex.: Rule 18, "If the child/parents deny all or some of the allegations of the petition, or if it appears in the interest of justice..."

Respectfully Submitted,


Brandon Gresham
Sui Juris