

1984

**Utah County, A Body Corporate And Politic of the State of Utah v. Orem City, A Municipal Corporation of the State of Utah; Payson City, A Municipal Corporation of the State of Utah; And Pleasant Grove City, A Municipal Corporation of the State of Utah :  
Appellant Pleasant Grove City's Brief On Appeal**

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**Recommended Citation**

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IN THE SUPREME COURT OF THE STATE OF UTAH

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UTAH COUNTY, a body corporate and :  
politic of the State of Utah, :

Plaintiff and Respondent, :

vs. :

OREM CITY, a municipal corporation :  
of the State of Utah; PAYSON CITY, :  
a municipal corporation of the :  
State of Utah; and PLEASANT GROVE :  
CITY, a municipal corporation of :  
the State of Utah, :

Defendants and Appellants. :

Case Nos. 19108, 19131,  
and 19138

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APPELLANT PLEASANT GROVE CITY'S BRIEF ON APPEAL

---

APPEAL FROM THE JUDGMENT OF THE DISTRICT COURT  
OF THE FOURTH JUDICIAL DISTRICT COURT IN AND  
FOR UTAH COUNTY, STATE OF UTAH, HONORABLE ALLEN  
B. SORENSEN, JUDGE

---

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FILED

19131

APPELLANT PLEASANT GROVE CITY'S BRIEF ON APPEAL

IN THE SUPREME COURT OF THE STATE OF UTAH

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Plaintiff and Appellate and :  
Defendant of the State of Utah, :  
 :  
 :  
 Plaintiff and Respondent, :  
 :  
 :  
 :  
 OREM CITY, a municipal corporation : Case Nos. 19108, 19131,  
 of the State of Utah; PAYSON CITY, : and 19138  
 a municipal corporation of the :  
 State of Utah; and PLEASANT GROVE :  
 CITY, a municipal corporation of :  
 the State of Utah, :  
 :  
 Defendants and Appellants. :

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APPELLANT PLEASANT GROVE CITY'S BRIEF ON APPEAL

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APPEAL FROM THE JUDGMENT OF THE DISTRICT COURT  
OF THE FOURTH JUDICIAL DISTRICT COURT IN AND  
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IN THE SUPREME COURT OF THE STATE OF UTAH

---

JOHN DAHRE, Governor, State and :  
County of Utah, State of Utah, :  
 :  
Plaintiff and Respondent. :  
 :  
vs :  
 :  
DREM CITY, a municipal corporation :  
of the State of Utah; PAYSON CITY, :  
a municipal corporation of the :  
State of Utah; and PLEASANT GROVE :  
CITY, a municipal corporation of :  
the State of Utah, :  
 :  
Defendants and Appellants. :

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APPELLANT PLEASANT GROVE CITY'S BRIEF ON APPEAL

---

NATURE OF THE CASE

This is an appeal from a decision granting respondent's Motion for Summary Judgment.

DISPOSITION IN LOWER COURT

The Fourth District Court granted respondent Utah County's Motion For Summary Judgment on the issue of whether the appellant cities have a duty under Utah law to reimburse the respondent for the costs incurred in housing violators of municipal ordinances in the county jail. The Court ruled that the appellant cities have a duty to reimburse the county on the basis of Utah Code Ann. § 17-28, Utah Code Annotated (1953, as amended), and County of Grand Forks County v. City of Grand Forks, 123 N.W.2d

## NATURE OF RELIEF SOUGHT ON APPEAL

The appellants seek to have this Court reverse the judgment below and instruct the trial court to enter summary judgment for the appellants.

## STATEMENT OF FACTS

For many years, respondent, Utah County, has housed prisoners in its jail who have been convicted of violating appellants' municipal ordinances. Until the latter part of 1977, appellants had reimbursed respondent for the costs incurred in housing the prisoners. There is no record of a written agreement between the parties concerning the payment of the costs of housing the municipal violators in the county jail. Since 1977, the appellants have not made any payments to the respondent. Respondent Utah County continues to accept prisoners committed to its jail upon conviction of a municipal ordinance violation and bills the appellants for its expenses. (Stipulation, Page 342 of the Record on Appeal)

## ARGUMENT

### POINT I

UTAH LAW REQUIRES COUNTIES TO PAY ALL EXPENSES FOR HOUSING PRISONERS COMMITTED TO THE COUNTY JAIL UPON CONVICTION FOR VIOLATING MUNICIPAL ORDINANCES.

Please, Honorable Court, admit the argument set forth in support of Point I above as contained in the brief of appellants Orem City and Payson City.

POINT II

SECTION 10-8-58, UTAH CODE ANNOTATED (1953, AS AMENDED), HELD THE INCARCERATED CITIES TO BEAR THE COST OF HOUSING MEMBERS OF THE COUNTY JAIL.

The District Court based its decision on Section 10-8-58, Utah Code Annotated (1953, as amended), and the case of Grand Forks County v. City of Grand Forks, 123 N.W.2d 42 (N.D. 1963). Section 10-8-58 states the following:

They may establish, erect and maintain city jails, houses of correction and workhouses for the confinement of persons convicted of violating any city ordinances, make rules and regulations for the government of the same, appoint necessary jailers and keepers, and use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law, and with the consent of the board of county commissioners.

In Grand Forks County, supra, the North Dakota Supreme Court ruled that where a county had admitted city prisoners under a statute similar to Utah's Section 10-8-58, there was an implied contract requiring the city to pay for the reasonable costs of housing those inmates. Section 10-8-58, however, should not be interpreted to require Utah cities to pay counties when municipal ordinance violators are committed to the county jail. Nor does the interpretation of the similar North Dakota statute in Grand Forks County require the same interpretation of the Utah statute. This is because the Utah statute is part of an entire set of statutory provisions which manifest a legislative intent to charge the cities (see Point I above), while the North Dakota statute was considered in a completely

different statutory setting, without any other provisions compelling counties to bear the charges of incarcerating money to counties for the purpose of housing prisoners convicted of violating municipal ordinances.

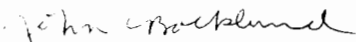
Section 10-8-58, U.C.A. when construed alone, does not compel cities to pay the costs of housing prisoners in the county jail, but rather, is silent on the aspect of payment. When construed in light of the entire statutory scheme it not only lacks any express mandate, but also forecloses any notion of an implied contract to pay. The sheriff does not receive prisoners committed by the Justice Court of Pleasant Grove because of any implied contract between the county and the city; he receives them because he is required to do so under Sections 17-22-8 and 17-22-2(b) of the Utah Code Annotated (1953, as amended). Section 17-22-2(b) states that one of the sheriff's duties is to receive and safely keep all persons duly committed to his custody. The language of both of these sections is mandatory. The sheriff does not have the option to decide whether or not he will accept the prisoners, as long as they are committed by competent authority. Because of the language mandating his acceptance of the prisoners, there is no need for and, in fact, there has never existed an agreement between the county and the appellants concerning the acceptance and housing of the prisoners. The sheriff has accepted the prisoners as committed to his custody by law, and no special benefit is conferred upon the appellants through any implied contract that could be inferred upon them by law.



Section 10-3-18 states that cities may "use" the  
municipal ordinances provided that they do not use the  
city without the authority of the statute.

#### CONCLUSION

The Utah statutory scheme requires counties to pay  
the costs incurred in housing prisoners convicted of violating  
municipal ordinances. The laws expressly state this requirement,  
and nowhere are city prisoners made an exception to the statutory  
rule that the housing of county jail inmates is a county charge.  
The 1983 General Session of the Utah Legislature has manifested  
its recognition of this rule by appropriating money exclusively  
to the counties to be used to help pay the costs of confining  
prisoners convicted of alcohol related offenses arising from  
violations of both state laws and municipal ordinances. The  
judgment below, therefore, should be reversed and the trial  
court should be instructed to enter summary judgment for the  
appellants.

  
\_\_\_\_\_  
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M A I L I N G C E R T I F I C A T E

I hereby certify that I mailed a true and correct copy of the foregoing Appeal for Pleasant Grove City's Brief On Appeal to: Noail P. Weston, Utah County Attorney, Room 107, County Building, Provo, Utah 84601; Bryce D. McEuen, Orem City Attorney, 56 North State Street, Orem, Utah 84057; and Dave McMullin, Payson City Attorney, P.O. Box 176, Payson, Utah 84651.

Mailed this 15th day of June, 1983.

John Ericksen