1983

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 Cor-Poration of the State of Utah; And Pleasant Grove City, A Municipal Corporation of the State of Utah : Brief of Appellants City Of Orem And Payson City

IN THE SUPREME COURT OF THE STATE OF UTAH

UTAH COUNTY, a body corporate and politic of the State of Utah,	:	
Plaintiff-Respondent,	:	
vs.	:	Case No. 19,138
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-Appellants.	:	

BRIEF OF APPELLANTS CITY OF OREM AND PAYSON CITY

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

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IN THE SUPREME COURT OF THE STATE OF UTAH

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BRIEF OF APPELLANTS CITY OF OREM AND PAYSON CITY

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 cities do have a duty to reimburse the county on the basis

of 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).

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 1

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

Utah State law is very clear in assigning the obligations to pay for the costs of incarceration of county jail inmates. The sections of the Utah Code that deal with the cost of imprisonment in county jails, when construed individually and as a whole, manifest a clear legislative intent that the costs of housing prisoners convicted of violating municipal ordinances be borne by the county when the prisoners are committed to the county jail by competent authority. Section 17-22-8, Utah Code Annotated (1953, as amended), states:

> The sheriff must receive all persons committed to jail by competent authority and see that they are provided with necessary food, clothing and bedding in the manner prescribed by the board of county commissioners. The expense incurred in providing the above services to prisoners shall be paid out of the county treasury except as provided in sections 17-22-8.5 and 17-22-10. (Emphasis added).

Section 17-15-17(3), Utah Code Annotated (1953, as amended), states the law with respect to the provision of services to prisoners with equal clarity. This section, in listing those expenses to be charged to

the county, states the following:

> The following are county charges: . . . . .
> . . . . . .
> (3) The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail . . .

Nowhere does the Utah Code state that cities are to bear the cost of housing prisoners in the county jail. On the contrary, the two sections quoted above expressly indicate that counties are to pay the expenses incurred in the housing of inmates.

The 1983 General Session of the Utah Legislature reinforced the conclusion that counties must bear the cost of incarcerating prisoners when it amended Section 32-1-24, Utah Code Annotated (1953, as amended), in Senate Bill No. 109. This bill appropriated $4,350,000 for the purpose of alcohol abuse prevention. Despite the fact that the great majority of convictions follow municipal prosecutions, twenty-five percent (25%) of this amount is to go <u>exclusively to the counties</u> for the sole purpose of defraying the cost of confinement and rehabilitation of persons arrested for or convicted of alcohol related offenses.

> . . . The Legislature shall provide an appropriation from the general fund from liquor control profits to . . . counties and from the proceeds of the beer excise tax provided for in Section 32-6-1 in an amount not exceeding $4,350,000 which shall be used exclusively for programs or projects related to prevention,

> detection, prosecution, and control of violations of this act and other alcohol related offenses and, with regard to the portion distributed under this section to counties, for confinement or rehabilitation or both, and construction and maintenance of facilities for confinement or rehabilitation or both, of persons arrested for or convicted of alcohol related offenses. . . . . and 25% to the counties for the confinement and rehabilitation and confinement and rehabilitation facilities purposes authorized in this section based upon the percentage of the state population which is located in each county. [Section 32-1-24, U.C.A. (1953, as amended)]. (Emphasis added).

While other portions of the bill appropriate money to cities for the prevention, detection, and prosecution of alcohol related offenses, money is appropriated only to counties for the costs of confinement or incarceration of those arrested and convicted of alcohol related offenses. The Legislature does not distinguish between violators of state law and violators of municipal ordinances. The money is appropriated to handle all alcohol related offenses. It would be an anomaly to appropriate money to the counties for the confinement of prisoners and, then, in addition, require the cities to pay the counties for the confinement of those same prisoners. It is obvious that the Legislature recognizes the responsibility of counties to pay the expenses incurred in housing prisoners in the county jail, regardless of whether the prisoners have violated a state law or a municipal ordinance.

there is no need for such, in fact, there has never existed an agreement between Utah County and the appellants concerning the acceptance and care for the prisoners. The sheriff has accepted the prisoners as part of his statutory duties, and no special benefit is conferred upon the appellants through any implied contract that is not already conferred upon them by law.

Section 10-8-58 states that cities may "use" the county jail. Appellants contend that they do not use the county jail within the meaning of the statute. The City of Orem, for example, has its own holding facilities where arrestees are initially detained. Post-conviction detainees are sent to the county jail upon an order by a judge of the Eighth Circuit Court. These judges are officers of the State, not the City. The municipal departments of the Eighth Circuit Court are established pursuant to the Circuit Court Act, Utah Code Annotated, §§78-4-1 et seq. (1953, as amended). Although a defendant may be prosecuted in the name of the city, at the time of the sentencing the proceedings are entirely in the hands of the judge, who presides as a state officer in a state court. The city has no control over what happens to the prisoner at that point. The committment of prisoners to the county

all is a state committment; and, therefore, the use of the jail is not controlled by the city.

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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