

1992

# Utah v. Parker : Brief of Appellant

Utah Court of Appeals

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920732  
IN THE UTAH COURT OF APPEALS

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THE STATE OF UTAH,	:	
Plaintiff/Appellee,	:	
v.	:	
TODD ALLEN PARKER,	:	Case No. 920732-CA
Defendant/Appellant.	:	Priority No. 2

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BRIEF OF APPELLANT

Appeal from a trial court order denying Defendant's motion to return fees paid as a condition of probation entered by the Honorable Homer F. Wilkinson, Judge, Third District Court, Salt Lake County, Utah. Appellant was initially charged with three counts of Burglary, a second degree felony, in violation of Utah Code Ann. § 76-6-202 (1953 as amended).

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IN THE UTAH COURT OF APPEALS

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IN THE UTAH COURT OF APPEALS

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Defendant/Appellant.	:	Priority No. 2

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JURISDICTIONAL STATEMENT

Jurisdiction is conferred on this Court pursuant to Utah Code Ann. § 78-2a-3(2)(f) (Supp. 1992).

STATUTES, RULES AND CONSTITUTIONAL PROVISIONS

Relevant statutes, rules and constitutional provisions are set forth in Addendum A.

ISSUE PRESENTED FOR REVIEW AND STANDARD OF REVIEW

Issue: Did the trial judge commit reversible error in refusing to order the return of fees paid by Defendant to a state run treatment facility after Defendant's conviction was reversed on appeal and the case against him was dismissed in the trial court?

Standard of Review: This issue involves a question of law which this Court reviews for correctness. See generally State v. Ramirez, 817 P.2d 774, 781 n.3, 782 (Utah 1991); Scharf v. BMG Corp., 700 P.2d 1068, 1070 (Utah 1985).



STATEMENT OF THE CASE AND NATURE OF THE PROCEEDINGS

In an Information dated September 10, 1990, the State charged Defendant/Appellant Todd Allen Parker with three counts of Burglary, a second degree felony. R. 6-7.

The trial court denied Appellant's motions to suppress and convicted Appellant as charged on all three counts following a bench trial held on March 7, 1991. R. 25.

On April 5, 1991, the trial judge sentenced Appellant on each of the three counts. R. 26-9. Thereafter, Appellant appealed his convictions to this Court.

In an Opinion dated June 12, 1992, this Court reversed all three of Appellant's convictions and remanded his case to the trial court. A copy of the Opinion in State v. Parker, 834 P.2d 592 (Utah App. 1992), is contained in Addendum B.

On July 31, 1992, after the case was remanded to the trial court, the State moved to dismiss the charges against Appellant. R. 51. The trial court granted that motion. R. 51, 52. Thereafter, Appellant filed a "Motion for Return of Fine, Costs and Fees." R. 53. A copy of Appellant's "Motion for Return" is contained in Addendum C.

The trial judge held hearings on August 28, 1992 and September 15, 1992 on Appellant's motion. R. 71-78. At each hearing, the trial judge continued the matter and ordered the State to make a decision as to the position it was taking on Appellant's motion. R. 73, 76. Thereafter, on September 15, 1992, the trial judge entered a minute entry which indicates that the State "will

stipulate to return the fines, but object to any monies returned for rehabilitation. The court so orders." R. 56. On October 16, 1992, the court entered its written order denying the return of the fees paid to Fremont Center. R. 59. A copy of that order is contained in Addendum D.

#### STATEMENT OF THE FACTS

On April 5, 1991, the trial judge sentenced Appellant to concurrently serve one to fifteen years at the Utah State Prison on each of the counts and to pay a fine of \$10,000 on each count. R. 26-9. The judge stayed the prison sentence and fine and placed Appellant on eighteen months probation under the supervision of the Utah State Department of Adult Probation and Parole. R. 26-9.

The conditions of probation were that Appellant pay a fine of \$800 and a 25 percent surcharge, make full restitution, obtain his G.E.D. degree, and enter and complete a psychological program at Salt Lake County Mental Health. R. 29. In addition, the judge ruled that if the probation department determined it was appropriate, Appellant was to attend and complete the live-in program at the state run Fremont Center. R. 29; T. April 5, 1991 at 7-8.<sup>1</sup>

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1. Fremont Center is a state funded program which is run by the Department of Corrections. During sentencing, defense counsel took issue with the recommendation in the presentence report that Appellant go to the year or longer residential treatment program at the Fremont Center. T. April 5, 1991 at 3-4. Nevertheless, the trial judge indicated that Appellant was to go to that residential program as a term of probation if the probation department thought the program appropriate.

Appellant paid the required fine and attended the Fremont program. R. 73. While attending that program, Appellant paid \$180 per month for nine months to that program. R. 73.

The State stipulated to the return of the fines paid by Appellant but apparently refused to stipulate to the return of the money paid for the treatment program. R. 56.<sup>2</sup>

#### SUMMARY OF THE ARGUMENT

The trial court committed reversible error in refusing to return fees paid by Appellant to a state run treatment facility as a condition of probation. After this Court reversed Appellant's convictions and the trial court dismissed the charges, the previously ordered sentence was no longer legal, and the trial court was required to order the return of any fees or fines paid by Appellant as a condition of probation, to the State.

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2. The basis for the State's position in the trial court is not clear from the record. Although the trial judge put the matter over until the afternoon of September 15, 1992, no hearing occurred that afternoon and defense counsel was not informed of and did not participate in any further proceedings on this issue. Nevertheless, the trial judge issued a minute entry on September 15, 1992, indicating that the State stipulated to the return of the fines but objected to returning fees paid to Fremont. R. 56.

## ARGUMENT

POINT. THE TRIAL JUDGE ERRED IN REFUSING TO RETURN FEES PAID BY APPELLANT AS A CONDITION OF PROBATION TO A STATE RUN TREATMENT PROGRAM.

Although no Utah rule, statute or constitutional provision explicitly controls the issue raised in this case, a number of provisions provide guidance in assessing whether fees paid by Appellant to the state run Fremont program as a condition of probation should be returned when the conviction and sentence were vacated.<sup>3</sup>

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3. Although neither the parties nor trial judge stated that Fremont Center is a state run program, such information is common knowledge to trial judges, prosecutors and defense lawyers who often deal with persons who are sentenced to Fremont Center as a condition of probation. Indeed, the phone number for the Fremont Community Center is listed in the Utah State Government section of the telephone book under the heading "Corrections Department." See Addendum E.

Utah Rule of Evidence 201(b) provides:

A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

A judge can take judicial notice without being requested by either party to do so. Utah R. Evid. 201(c) (1993). Judicial notice is mandatory "if requested by a party and supplied with the necessary information." Utah R. Evid. 201(d) (1993). For a judge to take judicial notice, the matter must be (1) information of common or general knowledge; (b) well settled and "not doubtful or uncertain"; (c) "known to be within the limits of the jurisdiction of the court." DeFusion Co. v. Utah Liquor Control Comm'n, 613 P.2d 1120, 1124 (Utah 1980). In sentencing a person to Fremont Center, the trial judge most certainly was aware of this common and certain knowledge that Fremont Center is run by the Department of Corrections.

(continued)

A. UTAH RULES AND THE FIFTH AMENDMENT REQUIRE  
THE RETURN OF THE FEES.

Rule 22(e), Utah Rules of Criminal Procedure (1993) provides that "[t]he court may correct an illegal sentence, or a sentence imposed in an illegal manner, at any time." Because Appellant's conviction has been overturned and the charges dismissed, the sentence is illegal and must be corrected. See generally United States v. Lewis, 478 F.2d 835, 836 (5th Cir. 1973); ("Since the district court was empowered to set aside the conviction, it could also correct the unlawful result of the conviction and require the repayment of money collected as fines."); State v. Danielson, 809 P.2d 937 (Alaska App. 1991); People v. Reggel, 28 P. 955 (Utah 1892).

Rule 28, Utah Rules of Criminal Procedure (1993) discusses "Disposition after appeal." It states:

Rule 28. Disposition after appeal.  
(a) If a judgment of conviction is reversed, a new trial shall be held unless otherwise specified by the appellate court. Pending a new trial or other proceeding, the

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(footnote 3 continued)

Furthermore, this Court has discretion to take judicial notice on appeal. Utah R. Evid. 201(c) (1993); Mel Trimble Real Estate v. Monte Vista Ranch, Inc., 758 P.2d 451 (Utah App. 1988). Because the proceedings below implicitly establish that the trial judge and parties were aware that Fremont Center is part of the Department of Corrections, judicial notice of that fact does not present a situation where the concept of judicial notice is used to circumvent the requirement that issues not be raised for the first time on appeal. See Id. at 455-6.

Because the fact that Fremont Center is a state run program within the Department of Corrections is a matter of common knowledge to trial judges, prosecutors and defense lawyers, is not doubtful and is within the limits of the jurisdiction of the court, judicial notice of that fact is appropriate.

defendant shall be detained, or released upon bail, or otherwise restricted as the trial court on remand determines proper. If no further trial or proceeding is to be had a defendant in custody shall be discharged, and a defendant restricted by bail or otherwise shall be released from restriction and bail exonerated and any deposit of funds or property refunded to the proper person.

The Fifth Amendment to the United States constitution provides that no person shall be "deprived of . . . property without due process of law." In United States v. Lewis, 342 F.Supp. 833, 836 (E.D. La. 1972), affirmed 478 F.2d 835 (5th Cir. 1973), the Court held that the Fifth Amendment required the restitution of fines paid by a defendant where the defendant's conviction was subsequently vacated.

The Fifth Amendment prohibition against the taking of one's property without due process of law demands no less than the full restitution of a fine that was levied pursuant to a conviction based on an unconstitutional law. Fairness and equity compel this result, and a citizen has the right to expect as much from his government, notwithstanding the fact that the government and the court were proceeding in good faith at the time of the prosecution.

Lewis, 342 F.Supp. at 836; see also State v. Stein, 806 P.2d 346, 347 (Alaska App. 1991), quoting United States v. Lewis, 342 F.Supp. at 836 (principles of equity and the Fifth Amendment require the return of fines paid by the defendant in excess of the amount allowed by law); accord State v. Danielson, 809 P.2d 937; Ex parte McCurley, 412 So.2d 1236, 1237-8 (Ala. 1982).

Various other courts have held that fines and fees paid to the state as a condition of probation must be returned to the

defendant when a conviction is subsequently vacated.<sup>4</sup> In State v. Sup. Ct., 410 P.2d 502, 503-4 (Ariz. 1966), the court held a fine paid by a defendant in lieu of bond must be returned when the conviction is overturned on appeal.

On a successful appeal the person charged is entitled to all the benefits of his success.

The fine paid in lieu of bond and possibly in lieu of confinement until he could post bond and until the appeal could be perfected, is to be restored to him.

Id.

In People v. Meyerowitz, 335 N.E.2d 1, 7 (Ill. 1975), the court held that the defendants were "entitled to a refund of the fines and costs they [] paid as a result of their void convictions." In reaching its decision, the court determined that the payment of a fine as a condition of probation is not voluntary since "willful refusal to pay the fine could have resulted in revocation of the probation and the incarceration of the defendant." Id. The court stated:

We are of the opinion that the money, having been received in payment of fines imposed as an incident to judgments of conviction, should be ordered refunded as an incident to the vacation of the judgments under which it was ordered.

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4. Appellant has been unable to find much case law directly discussing the return of fines or fees after a reversal on appeal. Instead, much of the case law arises in the context where a defendant has entered a guilty plea pursuant to a statute which is later found unconstitutional. See, e.g., People v. Meyerowitz, 335 N.E.2d 1 (Ill. 1975); Ex parte McCurley, 412 So.2d 1236. The issue in such cases focuses on whether the defendant has a right to the return of fines or fees where he voluntarily pled guilty. Perhaps because of the obvious requirement that fines and fees must be returned where a conviction is reversed on appeal and the case dismissed on remand, little case law exists in that area.

335 N.E.2d at 8.

In United States v. Lewis, 478 F.2d at 836, the court stated:

Just as the imposition of a fine is an incident of a criminal conviction, so is the direction for repayment an incident to the vacating and setting aside of the conviction.

Accord State v. Piekkola, 241 N.W.2d 563, 564 (S.C. 1976), reversed on other grounds, In re Estate of Erdmann, 447 N.W.2d 356, 359 (S.C. 1989); see also Mossew v. United States, 266 F. 18 (2d Cir. 1920).

The court's ability to correct an illegal sentence coupled with the Fifth Amendment protection require that fees paid to the state by a defendant in order to fulfill a condition of probation that the defendant attend a state run treatment program be refunded where the conviction is subsequently vacated. In the present case, where Appellant attended the state run Fremont program as a condition of probation, the trial court committed reversible error in refusing to refund the fees paid by Appellant to the State.

B. ARTICLE I, SECTION 7 OF THE UTAH CONSTITUTION  
REQUIRES THE RETURN OF THE FEES.

Article I, Section 7 of the Utah constitution provides that "[n]o person shall be deprived of life, liberty or property without due process of law." That provision was adopted as part of the original Utah constitution in 1897 and has remained in effect throughout Utah's statehood.

Although the language of Article I, Section 7 is identical to that of the due process clause of the Fourteenth Amendment to the United States constitution, the Utah Supreme Court has recognized



that Article I, Section 7 provides greater due process protection in some contexts than does its federal counterpart. See State v. Ramirez, 817 P.2d 774 (greater scrutiny given to eyewitness identification testimony under state due process than under federal due process); Foote v. Board of Pardons, 808 P.2d 734 (Utah 1991) (inmate has right to state due process at Board of Pardons hearing even though no federal due process right exists at such hearings).

In the present case, although Appellant did not articulate a distinct legal analysis under the Utah constitution, he did articulate his claim that retention of fees paid by him as a condition of probation to a state run residential program violated his right to due process under the state constitution. Although none of the cases relied upon in the previous section explicitly discuss a state constitutional analysis, they nevertheless support Appellant's state constitutional claim. See, e.g., United States v. Lewis, 478 F.2d 835; United States v. Lewis, 342 F.Supp. 833, 835; State v. Sup. Ct., 410 P.2d at 503-4; People v. Meyerowitz, 335 N.E.2d at 7.

The decisions to return fines and costs rely on fairness, equity and/or the constitutional proscription against deprivation of property without due process. The rationale for such decisions is equally applicable to a determination as to whether a procedure complies with state due process. Retention of the fees paid by Mr. Parker to a state run treatment program as a condition of

probation violates state due process under these circumstances where the conviction has been vacated.

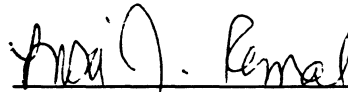
CONCLUSION

Appellant respectfully requests that this Court reverse the trial court's order denying the return of fees paid to a state run treatment program as a condition of probation.

SUBMITTED this 29<sup>th</sup> day of June, 1993.



JOAN C. WATT  
Attorney for Defendant/Appellant



LISA J. REMAL  
Attorney for Defendant/Appellant

CERTIFICATE OF DELIVERY

I, JOAN C. WATT, hereby certify that I have caused to be delivered eight copies of the foregoing to the Utah Court of Appeals, 400 Midtown Plaza, 230 South 500 East, Salt Lake City, Utah 84102, and four copies to the Attorney General's Office, 236 State Capitol, Salt Lake City, Utah 84114, this 29<sup>th</sup> day of June, 1993.

  
\_\_\_\_\_  
JOAN C. WATT

DELIVERED this \_\_\_\_\_ day of June, 1993.

\_\_\_\_\_

## **ADDENDUM A**

### **78-2a-3. Court of Appeals jurisdiction.**

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(i) appeals from a court of record in criminal cases, except those involving a conviction of a first degree or capital felony;

## **ARTICLE II JUDICIAL NOTICE.**

### **Rule 201. Judicial notice of adjudicative facts.**

(a) Scope of rule. This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary. A court may take judicial notice, whether requested or not.

(d) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

### **Rule 22. Sentence, judgment and commitment.**

(a) Upon the entry of a plea or verdict of guilty or plea of no contest, the court shall set a time for imposing sentence which shall be not less than two nor more than 30 days after the verdict or plea, unless the court, with the concurrence of the defendant, otherwise orders. Pending sentence, the court may commit the defendant or may continue or alter bail or recognizance.

Before imposing sentence the court shall afford the defendant an opportunity to make a statement in his own behalf and to present any information in mitigation of punishment, or to show any legal cause why sentence should not be imposed. The prosecuting attorney shall also be given an opportunity to present any information material to the imposition of sentence.

(b) On the same grounds that a defendant may be tried in his absence, he may likewise be sentenced in his absence. If a defendant fails to appear for sentence, a warrant for his arrest may be issued by the court.

(c) Upon a verdict or plea of guilty or plea of no contest, the court shall impose sentence and shall enter a judgment of conviction which shall include the plea or the verdict, if any, and the sentence. Following imposition of sentence, the court shall advise the defendant of his right to appeal and the time within which any appeal shall be filed.

(d) When a jail or prison sentence is imposed, the court shall issue its commitment setting forth the sentence. The officer delivering the defendant to the jail or prison shall deliver a true copy of the commitment to the jail or prison and shall make his return on the commitment and file it with the court.

(e) The court may correct an illegal sentence, or a sentence imposed in an illegal manner, at any time.

# **CONSTITUTION OF THE UNITED STATES OF AMERICA**

U.S. Const. Amend V reads:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## **AMENDMENT XIV**

### **Section 1. [Citizenship — Due process of law — Equal protection.]**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## **Rule 28. Disposition on appeal.**

(a) If a judgment of conviction is reversed, a new trial shall be held unless otherwise specified by the appellate court. Pending a new trial or other proceeding, the defendant shall be detained, or released upon bail, or otherwise restricted as the trial court on remand determines proper. If no further trial or proceeding is to be had a defendant in custody shall be discharged, and a defendant restricted by bail or otherwise shall be released from restriction and bail exonerated and any deposit of funds or property refunded to the proper person.

(b) Upon affirmance by the appellate court, the judgment or order affirmed or modified shall be executed.

(c) A party may, within 20 days, petition the appellate court for a rehearing. During this 20-day period or pending disposition of a petition for rehearing, and upon application of a party, the trial court may enter such orders as are necessary to insure the defendant's presence to comply with the judgment or make such other orders as are appropriate in the case. Upon final completion of an appeal, the entire record on appeal shall be remitted to the clerk of the lower court.

(d) In proper cases, upon motion of any party, the remittitur may be stayed pending proceedings in the Supreme Court of the United States or another court. In such case, the appellate court or the trial court may make such orders in the case pending further proceedings as are necessary or appropriate.

# **CONSTITUTION OF UTAH**

## **ARTICLE I**

### **Sec. 7. [Due process of law.]**

No person shall be deprived of life, liberty or property, without due process of law.

## ADDENDUM B



reverse and remand for reinstatement of the jury verdict and sentencing.

GARFF and ORME, JJ., concur.



STATE of Utah, Plaintiff and Appellee,

v.

Todd Allen PARKER, Defendant  
and Appellant.

No. 910265-CA.

Court of Appeals of Utah.

June 12, 1992.

Defendant was convicted in the Third District Court, Salt Lake County, Homer F. Wilkinson, J., of burglary of a dwelling, and he appealed. The Court of Appeals, Russon, J., held that police lacked required probable cause to arrest him so that his subsequent statements had to be suppressed.

Reversed and remanded.

#### 1. Automobiles ⇐349(2)

Reasonableness of traffic stop, which is limited seizure and more like investigative detention than custodial arrest, is assessed under principles governing investigative detentions based on whether officer's action was justified in its inception and whether action was reasonably related in scope to circumstances which justified initial interference. U.S.C.A. Const. Amends. 4, 5.

#### 2. Automobiles ⇐349(2)

Officer had justification for initial stop of defendant where defendant was driving 45 miles per hour in 25-mile per hour zone.

#### 3. Automobiles ⇐349(8)

While police officer had discretion to stop defendant for traffic violation, arrest

for burglary was not based on reasonable articulated suspicion where, at time of stop, only fact that tied defendant to burglary was presence of vehicle he was driving in area near where crime occurred; presence of vehicle, without more, did not give rise to reasonable suspicion.

#### 4. Automobiles ⇐349(15)

Police officer did not have discretion to remove defendant from his vehicle, handcuff him, and place him under arrest while witnessing defendant exceed speed limit while entering driveway absent any reasonable articulable suspicion that defendant was involved in earlier burglaries.

Joan C. Watt and James C. Bradshaw  
Salt Lake City, for defendant and appellant.

R. Paul Van Dam and Kris C. Leonard  
Salt Lake City, for plaintiff and appellee.

Before BILLINGS, JACKSON and  
RUSSON, JJ.

#### OPINION

RUSSON, Judge:

Todd Allen Parker appeals his convictions of three counts of burglary of a dwelling, a second degree felony, in violation of Utah Code Ann. § 76-6-202 (1990). We reverse and remand.

#### FACTS

On the night of September 5 and the early morning hours of September 6, 1990, three garages in and around a West Jordan subdivision in Salt Lake County were burglarized. In response to a dispatch call, Deputy Wayne Dial drove to the home of one of the victims, Sharon Gamboa. Mrs. Gamboa informed him that she had heard someone in the garage and, upon investigation, discovered that some items had been removed from the vehicles therein. The outside door to the garage was ajar, a screen had been cut from one of the garage windows, and the window had been opened. Mrs. Gamboa then described two men whom she had seen immediately thereafter

appear in the vicinity of her garage, walk across her lawn, and proceed on a sidewalk in front of her house.

During a subsequent search of a ballpark area located near Mrs. Gamboa's house, Deputy Dial found an unoccupied, parked vehicle. He ran a license plate check, discovered that the owner was Elna LaFreniere, and requested that dispatch contact her. Deputy Dial then left the car and, with the assistance of four other officers, established a perimeter watch around the vehicle, covering the five exits from the ballpark area. Approximately ten minutes after establishing the perimeter, another officer, Deputy Robert Bobrowski, saw the taillights of the vehicle light up and move northbound across the lawn of the ballpark area. After further investigation, he discovered tire tracks across the lawn from the spot where the vehicle had been parked.

Dispatch contacted Mrs. LaFreniere and learned that she thought that the vehicle was in her garage but, upon looking, she discovered that both the vehicle and her grandson, Parker, were gone. Dispatch asked Mrs. LaFreniere if she wanted the vehicle reported as stolen, and she responded that she did not. Dispatch relayed this information to Deputy Dial. Nevertheless, Corporal Troy Naylor was sent to Mrs. LaFreniere's home and spoke briefly with her concerning the absence of both her vehicle and her grandson. He then positioned his patrol car approximately two houses away from her house to await the vehicle's return.

Ten to fifteen minutes later, Parker arrived, driving his grandmother's vehicle. According to Corporal Naylor's estimate, Parker was driving at a speed of at least forty-five miles per hour in a twenty-five mile per hour zone. The vehicle skidded into the driveway, at which time Corporal Naylor radioed for a back-up and pulled his vehicle in behind Parker's vehicle to prevent it from leaving. He unholstered his gun and ordered Parker to exit his vehicle and stand up against it. After determining that Parker did not have any weapons on him, Corporal Naylor handcuffed him and

placed him under arrest. Parker was put in the back seat of Deputy Troester's police vehicle, which had just arrived. Corporal Naylor requested and received permission from Parker's grandmother to search her vehicle. He found four flashlights in the vehicle, two of which Mrs. LaFreniere could not identify.

Deputy Troester read Parker his rights, pursuant to *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), and Parker indicated that he was unsure whether he wanted to talk to the officers. The deputy asked no further questions concerning possible criminal activity, but did ask for basic information necessary to book Parker. Subsequently, from either the police radio or from the officers' conversations outside the police vehicle, Parker learned that his grandmother had told the officers about a friend of his, David Green. Parker then told Deputy Troester that he had been with Green and that they had committed the burglaries, and offered to take him to Green's apartment. Green was picked up, and the officers proceeded to Mrs. Gamboa's subdivision with Parker and Green. En route, Parker told Deputy Troester that he had two dollars in his pocket and that it was half of the money that he and Green had gotten that evening. Additionally, he pointed out the three garages that they had burglarized that night, explaining in two instances how they had entered and what they had taken.

Upon their arrival at the Gamboa residence, Mrs. Gamboa positively identified Parker and Green as the individuals she had seen immediately following the burglary of her garage. Parker was taken to the Salt Lake County Jail and charged with three counts of burglary. Parker subsequently pleaded not guilty to the charges and moved to suppress all evidence seized following his arrest. The matter was tried to the court, and Parker was found guilty as charged.

The sole issue presented on appeal is whether the trial court erred in denying Parker's motion to suppress evidence of the three burglaries obtained subsequent to his arrest. Specifically, Parker argues

that the police did not have the requisite probable cause to arrest him, and that his subsequent statements were elicited in violation of his rights under *Miranda* and the Fifth Amendment. The State responds that the police had probable cause to arrest him on the traffic violation, and that the conversation overheard by Parker did not amount to interrogation, and thus, Parker's statements were not obtained in violation of his right to remain silent.

#### ANALYSIS

"A trial court's findings of fact underlying its decision to grant or deny a motion to suppress must be upheld unless they are clearly erroneous. However, we review the trial court's legal conclusions in regards thereto under a correction of error standard." *State v. Hunter*, 831 P.2d 1033, 1035 (Utah App.1992) (citing *State v. Steward*, 806 P.2d 213, 215 (Utah App. 1991)).

[1] We first address Parker's argument that the police lacked probable cause to arrest him after stopping him for the speeding violation. The Fourth Amendment to the United States Constitution provides that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated[.]" U.S. Const. amend. IV. It is well settled that a police officer's stop of a vehicle is a "seizure" and therefore subject to fourth amendment protections. See *Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391, 1396, 59 L.Ed.2d 660 (1979); *Sandy City v. Thorsness*, 778 P.2d 1011, 1012 (Utah App. 1989). However, the Fourth Amendment does not prohibit all seizures, but only unreasonable ones. *Terry v. Ohio*, 392 U.S. 1, 9, 88 S.Ct. 1868, 1873, 20 L.Ed.2d 889 (1968). Since a traffic stop is a limited seizure and is more like an investigative detention than a custodial arrest, *United States v. Walker*, 933 F.2d 812, 815 (10th Cir.1991) (citing *Berkemer v. McCarthy*, 468 U.S. 420, 439, 104 S.Ct. 3138, 3149, 82

L.Ed.2d 317 (1984)), we assess the reasonableness of such a stop under principles governing investigative detentions, set forth in *Terry*. *Id.* at 815 (citing *United States v. Guzman*, 864 F.2d 1512, 1514 (10th Cir.1988)). Under *Terry*, the determination of whether a seizure is reasonable involves a two-pronged test: (1) Was the officer's action justified at its inception and (2) Was his action reasonably related in scope to the circumstances which justified the interference in the first place? *Terry*, 392 U.S. at 19-20, 88 S.Ct. at 1879; accord *State v. Robinson*, 797 P.2d 431, 435 (Utah App.1990).

[2] As to whether Corporal Naylor's action was justified at its inception, we have previously stated that a stop "can be justified only upon a showing of reasonable suspicion that defendant had committed or was committing a crime or that he was stopped incident to a traffic offense." *Thorsness*, 778 P.2d at 1012 (citation omitted); accord *State v. Dorsey*, 731 P.2d 1085, 1087 (Utah 1986); *State v. Holmes*, 774 P.2d 506, 507-08 (Utah App.1989); *State v. Baird*, 763 P.2d 1214, 1216 (Utah App.1988). "Whether there are objective facts to justify such a stop depends on the 'totality of the circumstances.'" *Holmes*, 774 P.2d at 508 (quoting *State v. Mendoza*, 748 P.2d 181, 183 (Utah 1987)). Corporal Naylor's undisputed testimony was that Parker was driving at a speed of at least forty-five miles per hour in a twenty-five mile per hour zone. It is readily apparent from these facts that it was proper for Corporal Naylor to stop Parker. Thus, the initial stop was clearly justified in this case.

However, we cannot say that Corporal Naylor's actions following the stop of Parker's vehicle were reasonably related in scope to the circumstances which justified the interference in the first place. Although Utah Code Ann. § 41-1-17 (1988) grants police officers discretion to arrest individuals who violate any provision of the Motor Vehicle Act,<sup>1</sup> we hold that, under the

1. Utah Code Ann. § 41-1-17 (1988) provides: The commission, and such officers and inspectors of the department as it shall designate,

peace officers, state patrolmen, and others duly authorized by the department or by

circumstances of this case, the decision to arrest Parker was an abuse of that discretion.

In regard to the length and scope of traffic stops, the Supreme Court has held that the detention "must be temporary and last no longer than is necessary to effectuate the purpose of the stop." *Florida v. Royer*, 460 U.S. 491, 500, 103 S.Ct. 1319, 1325, 75 L.Ed.2d 229 (1983). Similarly, the Utah Supreme Court has stated that the length and scope of a detention for a traffic violation "must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible." *State v. Johnson*, 805 P.2d 761, 763 (Utah 1991) (quoting *Terry*, 392 U.S. at 19-20, 88 S.Ct. at 1879); accord *State v. Lovegren*, 829 P.2d 155, 158 (Utah App.1992). Additionally, this court, as well as other courts, has consistently held that "once the reasons for the initial stop of the vehicle have been completed, the occupants must be allowed to proceed on their way." *Lovegren*, 829 P.2d at 158. "Any further temporary detention for investigative questioning after the fulfillment of the purpose for the initial traffic stop is justified under the fourth amendment only if the detaining officer has a reasonable suspicion of serious criminal activity." *Id.* (quoting *State v. Robinson*, 797 P.2d 431, 435 (Utah App.1990)); accord *Walker*, 933 F.2d at 816; *Guzman*, 864 F.2d at 1519. "Whether reasonable suspicion exists depends upon the 'totality of the circumstances.'" *Lovegren*, 829 P.2d at 158 (citations omitted).

[3] Our analysis therefore centers on whether Corporal Naylor had a reasonable articulable suspicion of criminal activity be-

yond the traffic offense justifying further detention of Parker and his ultimate arrest. Such is clearly lacking here. At the time that Corporal Naylor stopped Parker, the only fact known to the officer that even remotely tied Parker to the burglaries was the presence of the vehicle he was driving in a ball field near where one of the crimes occurred. It is axiomatic that presence at or near the scene of a crime, without more, does not give rise to a reasonable suspicion of criminal activity. See *Brown v. Texas*, 443 U.S. 47, 52, 99 S.Ct. 2637, 2641, 61 L.Ed.2d 357 (1979); *State v. Carpena*, 714 P.2d 674, 675 (Utah 1986) (per curiam); *Steward*, 806 P.2d at 216.

[4] In fact, it is difficult to imagine any circumstances surrounding a routine traffic stop in which the actions taken by Corporal Naylor in this case would be justified.<sup>2</sup> After witnessing Parker speed into his grandmother's driveway, Corporal Naylor pulled his vehicle behind Parker's, unholstered his gun, removed Parker from his vehicle, handcuffed him, and placed him under arrest. There is no evidence that Parker was making any attempt at escape; to the contrary, the vehicle was in neutral and pointed toward the garage. At this point, Corporal Naylor had no reasonable articulable suspicion that Parker had committed or was about to commit a crime. Under the circumstances present here, it is patently offensive to suggest that a police officer acting as Corporal Naylor did here was within the realm of discretion granted to police officers under the law. Accordingly, we hold that Corporal Naylor's ac-

law shall have power and it shall be their duty"

(b) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this act or other law regulating the operation of vehicles or the use of the highways.  
*Id.* (emphasis added). However, section 41-1-17 also provides that an officer may alternatively initiate the more usual traffic stop:

(c) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this act or of any other law regulating the operation of vehicles to

require the driver thereof to stop, exhibit his driver's license and the registration card issued for the vehicles and submit to an inspection of such vehicle, the registration plates and registration card thereon.

*Id.* (emphasis added).

2. We do not, however, express any opinion as to the appropriateness of arrest in those situations in which extenuating circumstances remove a traffic stop from the realm of a "routine" traffic stop, such as leading the police on a high speed chase or driving under the influence of alcohol or drugs.

tions were not reasonable in light of the facts in this case.<sup>3</sup>

### CONCLUSION

The trial court erred in denying Parker's motion to suppress evidence of the three burglaries obtained subsequent to the stop for the speeding violation. Accordingly, the denial of that motion and Parker's conviction are reversed, and this matter is remanded for further proceedings consistent with this opinion.

BILLINGS and JACKSON, JJ., concur.



Joanne HOLLAND, Petitioner,

v.

STATE OFFICE OF EDUCATION,  
DIVISION OF REHABILITATION  
SERVICES, Respondent.

No. 910409-CA.

Court of Appeals of Utah.

June 12, 1992.

Handicapped person challenged state agency's denial of reimbursement for transportation costs associated with vocational rehabilitation. The Court of Appeals, Garff, J., held that federal education assistance, including Pell Grant, which handicapped person qualified for after state agency had developed plan under which person would receive benefits for educational rehabilitation services in order to attend university, constituted "comparable benefits" requiring agency to deny person reimbursement for transportation costs.

Affirmed.

3. Since Parker's statements must be suppressed because they were made during the course of what we have already concluded to be an improper arrest, we do not address Parker's sec-

### 1. United States § 82(2)

State agency providing vocational rehabilitation services for handicapped persons has discretion to determine whether comparable benefits must be utilized whole or in part to meet cost of such services; so long as agency reasonably exercises such discretion, its decision will be affirmed. Higher Education Act of 1965 § 401(b), as amended, 20 U.S.C.A. § 1070(b).

### 2. United States § 82(2)

Federal education assistance, including Pell Grant, which handicapped person qualified for after state agency had developed plan under which person would receive benefits for educational rehabilitation services in order to attend university, constituted "comparable benefits" requiring agency to deny person reimbursement for transportation costs; Pell Grant, in amount of \$250 per month during academic year, could be spent on education costs, including transportation costs, and person's transportation expenses amounted to approximately \$200 per month. Higher Education Act of 1965 §§ 401(b), 411F(5)(A, B), as amended, 20 U.S.C.A. §§ 1070(b), 1070a-6(5)(A, B).

See publication Words and Phrases for other judicial constructions and definitions.

Robert B. Denton (argued) Legal Center for People With Disabilities, Salt Lake City, for petitioner.

R. Paul Van Dam, State Atty. Gen. and John S. McAllister, Asst. Atty. Gen. (argued), Salt Lake City, for respondent.

Before GARFF, GREENWOOD and RUSSON, JJ.

### OPINION

GARFF, Judge:

Joanne Holland petitions this court to review a determination by a fair hearing

and claim that his subsequent statements were elicited in violation of his rights under *Miranda* and the Fifth Amendment.

## **ADDENDUM C**

LISA J. REMAL, (#2722)  
Attorney for Defendant  
SALT LAKE LEGAL DEFENDER ASSOC.  
424 East 500 South, Suite, 300  
Salt Lake City, Utah 84111  
Telephone: 532-5444

FILED  
DISTRICT COURT

AUG 20 11 13 AM '92

BY [Signature] CLERK

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,  
Plaintiff,

: MOTION FOR RETURN OF FINE,  
: COSTS AND FEES AND NOTICE  
: OF HEARING

28 v.

TODD PARKER,  
Defendant.

: Case No. 901901633FS  
: HONORABLE HOMER F. WILKINSON

MOTION

COMES NOW the defendant above named by and through his attorney of record LISA J. REMAL, and hereby moves this court to order the return of any fines, costs and fees he paid as part of his sentence in the above-entitled case. Grounds for this motion are that the defendant's conviction was overturned by the Utah Court of Appeals and his case was thereafter dismissed. It is, therefore, in the interest of justice that all fines, costs and fees paid by the defendant be returned to him.

DATED this 16<sup>th</sup> day of August, 1992.

RESPECTFULLY SUBMITTED:

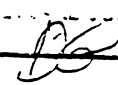
[Signature]  
LISA J. REMAL  
Attorney for Defendant

## ADDENDUM D



OCT 19 1992

LISA J. REMAL, (#2722)  
Attorney for Defendant  
SALT LAKE LEGAL DEFENDER ASSOC.  
424 East 500 South, Suite 300  
Salt Lake City, Utah 84111  
Telephone: 532-5444

By  Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

---

THE STATE OF UTAH,	:	ORDER DENYING DEFENDANT'S MOTION
	:	FOR RETURN OF FINE, COSTS AND
Plaintiff,	:	FEES
	:	
v.	:	
	:	
TODD ALLEN PARKER,	:	Case No. 901901633FS
	:	HONORABLE HOMER F. WILKINSON
Defendant.	:	


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Based upon the defendant's motion for return of fines,  
costs and fees which was heard on the dates of September 4, 1992 and  
September 15, 1992, and good cause appearing;

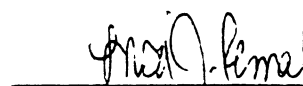
IT IS HEREBY ORDERED that fines shall be returned to the  
defendant but any money paid for rehabilitation will not be returned  
to the defendant.

DATED this 19 day of October, 1992.

BY THE COURT:

  
HONORABLE HOMER F. WILKINSON  
Third District Court

DELIVERED a copy of the foregoing to the office of the  
South Valley County Attorney, 2001 South State Street, Suite S-3700,  
Salt Lake City, Utah 84190-1200, this 16<sup>th</sup> day of October, 1992.



0059

## ADDENDUM E

**UTAH GOVERNMENT—**  
**BY GENERAL'S OFFICE STATE**  
**OL—**  
 usness Regulation Division—  
 senting—Tax  
 mission—Professional  
 ansing—Financial  
 trutions—Insurance — 533-3200  
**FILE PROPERTY TAX**  
 See Salt Lake County Assessor  
**FILE REGISTRATION**  
 Utah State Government—Tax Commission

**B**

**IR BABY**  
 Dial 1 & Then — 800 826-9662  
**EATH CERTIFICATES** — 538-6105  
**FAIRS OFFICE** — 538-8829  
 ute Surte 500  
**ITER—** — 533-9393  
**PARDONS**  
 10 South Murray — 261-6464  
 REGENTS 3 Trial Camer — 538-5247  
**FFICE** — 538-1027  
**BOARD** State Office Bldg — 538-3018  
**REGULATION**  
 See Utah State Government Commerce  
 Department Of

**C**

**RVICE REVIEW BOARD**  
 e Office Bldg — 538-3048  
**IE AND NEGLECT**  
**ING—**  
 County—24 Hour — 487-9811  
 rty—24 Hour — 544-1298  
 unt—24 Hour — 882-5600  
 Hour — 626-3506  
 24 Hour Hotline  
 Dial 1 & Then — 800 678-9399  
**SPECIAL HEALTH**  
**S** — 538-6165  
**TROL UTAH WING**  
 West — 533-5456  
**SE—**  
 ssive Emergency  
 ment 1110 State Office Bldg — 538-3400  
 al Maintenance And  
 on Shop 4501 S 2700 West - 965-4153  
**DEPARTMENT OF—160**  
**SOUTH—**  
 tion — 530-6955  
 — 530-6917  
**Of Consumer**  
**Utilities** — 530-6645  
**rotection Division of** — 530-6601  
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**of** — 530-4849  
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 rts — 530-6730  
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**ehicles** — 530-6727  
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**is Division of—**  
 — 530-6651  
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 lants — 530-6652  
**CODE**  
 lah State Government—Commerce  
 ment Division of Corporations &  
 Commercial Code  
**EXECUTIVE**  
**ATION** State Capitol Bldg — 538-1028  
**VE DISORDERS—**  
 — 584-8215  
**h Building** — 538-6165  
**ECONOMIC**  
**NT DEPARTMENT—**  
 n — 538-8700  
 urte 500  
 ffice — 538-8883  
 urte 500  
 ffice — 538-8829  
 urte 500  
 ffice — 538-8722  
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**UTAH STATE GOVERNMENT—**  
**COMMUNITY & ECONOMIC**  
**DEVELOPMENT DEPARTMENT—**  
 Community Services Office — 538-8731  
 324 S State Surte 500  
**Economic Development Division—**  
 Centers of Excellence — 538-8770  
 324 S State Surte 500  
 Communications — 538-8714  
 324 S State Surte 500  
 Business & Economic  
 Development — 538-8700  
 324 S State Surte 500  
 Business Expansion and Retention — 538-8775  
 324 S State Surte 500  
 Fine Arts Division—Utah Arts  
 Council 617 E South Temple — 533-5895  
 Film Commission — 538-8740  
 324 S State Surte 500  
 International Business  
 Development — 538-8737  
 324 S State Surte 500  
 Job Training—JTPA — 538-8750  
 324 S State Surte 500  
 Metro Utah Inc — 538-8746  
 324 S State Surte 500  
 National Business Development — 538-8800  
 324 S State Surte 500  
 Research — 538-8715  
 324 S State Surte 500  
 Rural Business Development — 538-8782  
 324 S State Surte 500  
 Hispanic Affairs Office — 538-8850  
 324 S State Surte 500  
 History—Division Of State  
 300 Rio Grande — 533-5755  
 Indian Affairs Office — 538-8808  
 324 S State Surte 103  
 Library Division—Utah State  
 Library  
 Administration  
 2150 S 300 West So St Lt — 466-5888  
 Blind & Physically Handicapped  
 Section — 466-6363  
 Travel Development Division—Travel  
 Council—  
 Council Hall Capitol Hill — 538-1030  
 Recorded Recreation—Skd Report  
 Council Hall — 521-8102  
 Utah Educational Technology  
 Initiative 250 E 500 South — 538-7732  
 Utah Procurement Outreach  
 Program — 538-8790  
 324 S State Surte 500  
 Utah State Fair—Fairpark — 538-8440  
 Utah State Office of Child Care—  
 Surte 500  
 324 S State — 538-8733  
 Or — 538-8880  
 Outside Salt Lake Area Call—  
 Toll Free—Dial 1 & Then — 800-6CARE90  
 Or Dial Toll Free—1 & Then — 800 622-7390  
**COMMUNITY HEALTH SERVICES**  
**DIVISION**  
 See Utah State Government—Health  
 Department  
**CONSUMER PROTECTION**  
 See Utah State Government Commerce  
 Department  
**CONSUMER SERVICES**  
**UTILITIES—COMMITTEE OF**  
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 Department  
**CONTRACTORS LICENSING**  
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 Department Division of Occupational &  
 Professional Licensing  
**CORPORATIONS**  
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 Department Division of Corporations &  
 Commercial Code  
**CORRECTIONS DEPARTMENT—6100 S**  
**300 EAST—**  
 Administration 6100 S 300 East Murray — 265-5500  
 Adult Probation & Parole—  
 Farmington Office 99 S Main Frmgton - 451-5001  
 Salt Lake Office 275 E 200 South—  
 Administration — 533-4984  
 Circuit Court Supervision — 533-5501  
 Community Service — 533-5545  
 District Court Supervision — 533-5501  
 Intensive Supervision Parole — 533-6055  
 Intensive Supervision Probation — 533-5501  
 Parole Supervision — 533-6055  
 Presentence Investigation — 533-4929  
 Tooele Office 255 S 100 East  
 Tooele — Salt Lake City Tel No — 521-2070  
 Community Correctional Centers—  
 Bonneville Community Center — 533-4336  
 Fremont Community Center  
 2588 W 2365 South W Vly City — 972-8651  
 Street Community Center  
 80 Orange — 533-6360  
 Women's Community Center  
 322 E 300 South — 364-1658  
 Diagnostic Unit Draper  
 14240 S Pony Express Rd Draper — 576-7000  
 Technical Services — 265-5500  
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**GOVERNMENT OFFICES**

**UTAH 5**

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**UTAH STATE GOVERNMENT—**  
**CORRECTIONS DEPARTMENT—6100 S**  
**300 EAST—**  
 Management Audit Services — 265-5500  
 Field Operations Administration  
 6100 S 300 East Murray — 265-5500  
 Prison Staff Training Center  
 14271 S State Draper — 571-3090  
 Utah State Prison  
 14400 S Pony Express Rd Draper — 576-7000  
 Women's Correctional Facility  
 Draper — 576-7000  
 Young Adult Correctional Facility  
 Draper — 576-7000  
 Utah Correctional Industries Draper — 571-9269  
 UCI Showroom 133 E 200 South — 359-5906  
**COSMETOLOGY LICENSING**  
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**COURTS—**  
 Administrative Office Of The  
 Courts  
 Judicial Council 230 S 500 East — 578-3800  
 Judicial Conduct Commission  
 180 S 300 West — 521-3911  
 Supreme Court 332 State Capitol — 538-1044  
 Court of Appeals—400 Midtown  
 Plaza—  
 230 S 500 East  
 Clerks Office — 578-3900  
 Administration — 578-3950  
 Third District Court—  
 Administration 240 E 400 South — 535-5581  
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 Commissioner 240 E 400 South — 535-5064  
 Mental Health Commissioner — 535-5828  
 Law Library — 535-5818  
 Court Executive — 533-3952  
 District Court—3rd District—240 East  
 400 South—  
 Brian Pat B Judge — 535-5450  
 Reporter — 535-5452  
 Daniels Scott Judge — 535-5174  
 Reporter — 535-5040  
 Frederick J Dennis Judge — 535-5678  
 Reporter — 535-5203  
 Hanson Timothy R Judge — 535-5677  
 Reporter — 535-5209  
 Lewis Leslie A Judge — 535-5474  
 Reporter — 535-5476  
 Moffat Richard H Judge — 535-5453  
 Reporter — 535-5455  
 Murphy Michael R Judge — 535-5456  
 Reporter — 535-5458  
 Noel Frank G Judge — 535-5459  
 Reporter — 535-5461  
 Rigthrop Kenneth Judge — 535-5462  
 Reporter — 535-5464  
 Rolich John A Judge — 535-5465  
 Reporter — 535-5967  
 Searway James S Judge — 535-5471  
 Reporter — 535-5473  
 Stirba Anne M Judge — 535-5468  
 Reporter — 535-5470  
 Wilkinson Homer F Judge — 535-5477  
 Reporter — 535-5479  
 Young David S Judge — 535-5480  
 Reporter — 535-5482  
 Second Judicial District Court—  
 Farmington Department—  
 Justice Complex—800 W State—  
 Child Support — 451-4403  
 Civil — 451-4401  
 Criminal — 451-4405  
 Domestic Relations — 451-4401  
 Judges—  
 Judge Cornaby Douglas L — 451-4410  
 Judge Page Rodney S — 451-4440  
 Commissioner—  
 Michael Alphon — 451-4430  
 Probate — 451-4404  
 Scheduling — 451-4400  
 Second District Juvenile Court  
 Farmington 447 W 675 North Frmgton 451-2232  
 Third District Juvenile Court  
 3522 S 700 West — 265-5900  
 McCully S P Judge — 265-5963  
 Christian A G Judge — 265-5969  
 Matheson F B Judge — 265-5972  
 Johansson O A Judge — 265-5974  
 Birrell R W Commissioner — 265-5966  
 Office of Court Executive — 265-5911  
 Salt Lake County Attorney — 265-5939  
 Accounting — 265-5932  
 Records — 265-5933  
 Restitution Work Program — 265-5913  
 Collection Department — 265-5935  
 Truancy Court — 265-5901  
 Juvenile Probation Offices—  
 East Office 525 E 4500 South Murray — 262-6053  
 Surte F-100  
 Salt Lake Office — 533-5657  
 205 W 700 South Surte 304  
 West Office — 969-6282  
 2964 W 4700 South Surte 111  
 West Valley City  
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**COURTS—**  
 Juvenile Probation Offices—  
 Counseling Office — 969-9904  
 3636 S Constitution Blvd Suite  
 201 West Valley City  
 Tooele Office 47 S Main Tooele — 882-9225  
**CIRCUIT COURTS—**  
 Third Circuit Courts—  
 Murray Department—5022 South  
 State—  
 Clerks Office—  
 Civil — 261-3542  
 Criminal — 261-3450  
 Small Claims — 261-0562  
 Traffic — 261-3381  
 Jury — 261-0561  
 Asst Clerk of Court — 261-0677  
 Court Executive and Clerk of  
 Court — 533-3980  
 Judges—  
 Barton Michael K — 261-0677  
 Clerk — 261-0677  
 Griffiths Leroy H — 261-0677  
 Clerk — 261-0677  
 Salt Lake Department—451 South  
 200 East—  
 Clerks Office—  
 Civil — 533-3911  
 Criminal — 533-3921  
 Small Claims — 533-3914  
 Small Claims Filing  
 Instructions — 533-3910  
 Traffic — 533-3901  
 Jury — 533-3939  
 Asst Clerk of The Court — 533-3980  
 Court Executive and Clerk of  
 Court — 533-3980  
 Judges—  
 Feuchs Dennis M — 533-3900  
 Clerk — 533-3980  
 Hutchings Michael L — 533-3900  
 Clerk — 533-3980  
 McClellan Sheila K — 533-3900  
 Clerk — 533-3980  
 Palmer Philip K — 533-3900  
 Clerk — 533-3980  
 Reese Robin W — 533-3900  
 Clerk — 533-3980  
 Sandy Department—440 East 8680  
 South—  
 Clerks Office—  
 Civil — 533-7884  
 Criminal — 533-7885  
 Small Claims — 533-7887  
 Traffic — 533-7883  
 Jury — 533-7888  
 Asst Clerk of Court — 533-7884  
 Court Executive and Clerk of  
 Court — 533-3980  
 Judges—  
 Livingston Roger A — 533-7335  
 Clerk — 533-7335  
 West Valley Department—3636 S  
 Constitution Blvd—  
 Clerks Office—  
 Civil — 533-7889  
 Criminal — 533-7889  
 Small Claims — 533-7889  
 Traffic — 533-7889  
 Jury — 533-5939  
 Asst Clerk of Court — 533-7889  
 Court Executive and Clerk of  
 Court — 533-3980  
 Judges—  
 Madley Tyrone E — 533-7889  
 Clerk — 533-7889  
 Thorne William A Jr — 533-7889  
 Clerk — 533-7889  
 Watson Edward A — 533-7889  
 Clerk — 533-7889  
 Second Circuit Courts—  
 Bountiful Department—745 South  
 Main Bountiful—  
 Traffic Clerk — 298-6150  
 Civil Clerk — 298-6151  
 Criminal & DUI Clerk — 298-6152  
 Small Claims — 298-6153  
 Chief Clerk — 298-6154  
 Jury Duty — 298-6153  
 Administration 745 S Main Bnd — 298-6160  
 Layton Department—425 N  
 Wasatch Dr Layton—  
 Traffic — 546-2484  
 Criminal — 544-2201  
 Small Claims & Civil — 544-9686  
 Juries — 544-3403  
 Sunset Department  
 85 W 1800 North Sunset — 825-3303  
**CRIME VICTIM REPARATIONS OFFICE**  
**OF—**  
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 Toll Free—Dial 1 & Then — 800 621-7444  
**CRIMINAL AND JUVENILE JUSTICE**  
 .01 State Capitol — 538-1031  
**CRIMINAL INVESTIGATIONS BUREAU** — 263-1363  
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