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Robert E. Simmons, Charrie Brennan, David A. Williams, Louie A. Short, Patricia L. Castillo, Beth L. Hurst, and Jay Ezra Rea v. State of Utah, Department of Public Safety, Financial Responsibil-lty Division : Brief of Appellant

IN THE

SUPREME COURT
OF THE
STATE OF UTAH

ROBERT E. SIMMONS, CHARLES
BRENNAN, DAVID A. WILL
LOUIE A. SHORT, PATRICK L.
CASTILLO, BETH L. BE
JAY EZRA REA,
Plaintiffs

vs.

STATE OF UTAH, Dep
Public Safety, Financial
ity Division,
Defendant

BRIEF O

FILED
OCT 14 1969
Clerk, Supreme Court, Utah

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TABLE OF CONTENTS

CASES CITED

TABLE OF CONTENTS—Continued

Page

STATUTES CITED

IN THE

SUPREME COURT

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STATE OF UTAH

ROBERT E. SIMMONS, CHARRIE BRENNAN, DAVID A. WILLIAMS, LOUIE A. SHORT, PATRICIA L. CASTILLO, BETH L. HURST, and JAY EZRA REA,
Plaintiffs-Respondents,

vs.

STATE OF UTAH, Department of Public Safety, Financial Responsibility Division,
Defendant-Appellant.

Case No. 11771

BRIEF OF APPELLANT

STATEMENT OF THE KIND OF CASE

This appeal concerns the legality of several driver's license revocations by the appellant under Utah's Safety Responsibility Law, Section 41-12-5, Utah Code Ann., as amended.

DISPOSITION BELOW

Each of the respondents were involved in an automobile accident. Pursuant to the information available to it, the Public Safety Commission asked for a security deposit. Upon failure to make said deposit, the Commission revoked

the licenses of the respondents. The respondents petitioned the District Court of Salt Lake County for a review. The case was heard before the Honorable Bryant H. Croft. Judge Croft found for the respondents and ruled that additional reports were required before the Commission could legally revoke the petitioners' licenses.

RELIEF SOUGHT ON APPEAL

Appellant seeks a reversal of the lower court's decision ordering the restoration of the respondents' licenses and seeks an order in harmony with the decision of the Department of Public Safety.

STATEMENT OF FACTS

The respondents in this action were all uninsured motorists who were involved in automobile accidents. Upon the receipt of various accident reports, body shop estimates, and personal injury reports, the Public Safety Commission determined that in each accident there was either personal injury or property damage in excess of one hundred dollars ($100).

Pursuant to the Safety Responsibility Act in Utah, the Commission set the amount of security deposit which was required of the uninsured motorist. Upon failure of the respondents to post security as required by Section 41-12-5, Utah Code Ann. (1960), the Commission suspended their driver's licenses. That decision was reversed in the lower court.

Utah Sode Annotated 1953, as amended, shall con-

ARGUMENT

POINT I.

UTAH COURTS MUST GIVE ADMINISTRATIVE AGENCIES BROAD POWERS IN MAKING DECISIONS.

According to a Utah decision, the administrative agencies should be given a free hand when dealing with their statutory responsibilities. In the case of *Ricker* v. *Board of Ed. of Millard County School Dist.*, 16 Utah 2d 106, 396 P. 2d 416 (1964), the court said:

> ". . . It is the policy of the law not to favor limitations on the powers of the administrative body, but rather to give it a free hand to function within the sphere of its responsibilities. For that reason, it is to be assumed that the board has and retains its prerogative of using its best judgment . . .". *Id.*, 16 Utah 2d at 111, 396 P. 2d at 420.

In line with this reasoning is the general principle that strict rules of evidence are not applicable in hearings before administrative agencies. This principle was correctly stated by *Walker* v. *City of Clinton*, 244 Iowa 1009, 59 N. W. 2d 784 (1953), as follows:

> "We think it inescapable that the legislature intended to give permit-issuing bodies wide discretion in revocations. They are not required to wait upon criminal convictions; they need not give notice or hold hearings; *they are quite apparently not bound by technical rules of evidence. They need have before them only something which fairly shows cause which, in their judgment, indicates a continuation of the license will be inimical to the purposes*

of chapter 124. The nonapplication of rules of evidence is demonstrated when it is considered that since no hearing is necessary there would be no one to object to offered proof and no one to cross-examine." (Emphasis added.) *Id.*, 59 N. W. 2d at 791.

POINT II.

IN THESE CASES THE COMMISSION HAD SUFFICIENT EVIDENCE TO SUSPEND THE LICENSES OF THE UNINSURED MOTORISTS.

To support its actions, the Commission relied upon six
(6) basic types of evidence. These were:

1. The accident report filed by the investigating officer.
2. The accident report filed by the insured motorist.
3. The accident report filed by the uninsured motorist.
4. Body shop estimates of the cost to repair the damages.
5. Personal injury reports filed by injured drivers and passengers, which were all signed by a physician.
6. In one case (Beth Hurst) there was also a letter from the insured motorist.

None of this evidence was controverted. None of the reports, not even those filed by the uninsured motorist,

estimated the damages at less than $100.

According to the Utah statute, the Commission (Department of Public Safety) is given specific approval to use the accident reports required by Section 41-6-35. The statute states:

> "Report of accident required by section 41-6-35, Utah Code Annotated 1953, as amended, shall contain information to enable the commission to determine whether requirements for deposit of security under section 41-12-5 are inapplicable by reason of the existence of insurance or other exceptions specified in this act. *The commission may rely upon the accuracy of the information unless and until it has reason to believe that the information is erroneous* . . . The operator or the owner shall furnish such additional relevant information as the commission shall require." (Emphasis added.) Utah Code Ann. § 41-12-4 (1960).

The Safety Responsibility Act continues by pointing out that if the Commission receives an accident report which shows either one hundred dollars ($100) in property damage or any bodily injury, the Commission shall determine the amount of security required to be deposited by the uninsured motorist unless he is specifically excepted by the statute. Section 41-12-5(a), Utah Code Ann. (1960) continues by stating:

> ". . . The commission shall determine the amount of security deposit upon the basis of the reports or other evidence submitted to it but shall not require a deposit of security for the benefit of any person when evidence has not been submitted by such person or on his behalf as to the extent of

> his injuries or the damage to his property within fifty (50) days following the date of the accident . . ." Utah Code Ann. § 41-12-5(a) (1960).

The clear meaning of this statute is to equate the submitted reports to evidence. All the needed reports should be on file, and if not, the person suffering property damage or injuries has fifty days in which to submit reports. If there is a dispute as to the amount of damage or injury, the statute is clear that the injured or harmed person must submit a report if he is to benefit from this statute. As Section 41-12-4 points out — if additional relevant information is needed. the Commission will require it.

In the case at bar, the question to be decided is whether the Department of Public Safety, Financial Responsibility Division, is justified in suspending a driver's license when it is presented with (1) the investigating officer's report; (2) a report filed by the other driver; (3) an estimate of damage by a body shop; and (4) a report by an examining physician; all of which estimate the damage at more than one hundred dollars ($100). The specific clause in question reads as follows:

> ". . . (B)ut (the commission) shall not require a deposit of security for the benefit of any person when evidence has not been submitted by such person or on his behalf as to the extent of his injuries or the damage to his property within fifty (50) days following the accident." Utah Code Ann. § 41-12-5(a) (1960).

The Commission had reports submitted by or on behalf of the person injured. The fifty day time period is for

additional reports if required by the Commission or for additional reports to modify or enlarge the amounts of damage or personal injury.

In the case at bar, none of the amounts were questioned, nor was there an attempt to modify the stated amounts. Therefore, nothing more was needed. The Commission had ample evidence upon which to base its claim. It is immaterial whether or not the same reports are required by another statute; the Commission had sufficient evidence for its conclusion.

POINT III.

THESE RESPONDENTS ARE EXACTLY THE TYPE OF MOTORISTS THE STATUTE WAS DESIGNED FOR.

In his decision, Judge Croft pointed out how grossly unfair the statute seemed to him as he applied the following facts to the statute:

> "Even if an injured party concludes within 60 days after the accident that his own fault caused the accident, all of the reports and information collected by the commission would be on hand from which a determination of damage might be made. To then say that even though the injured party did not intend to seek recovery for his damages, the commission can nevertheless require security and suspend a license if not filed, seems grossly unfair." (R. at 124).

The facts are not applicable to the instant case. But even if those facts did arise, the proper solution under our statute is for the uninsured person to secure and submit a

document showing he has obtained a release from liability. Utah Code Ann. § 41-12-5(a) (1960). The same principle was correctly stated in *Agee* v. *Kansas Highway Comm'n Motor Vehicle Dept.*, 198 Kan. 173, 422 P. 2d 949 (1967) as follows:

> "We might add at this point that our Act contains provisions for relieving a person, otherwise liable, from the necessity of depositing security when he has either been released from liability by the other parties to an accident, been adjudicated not liable in a court of law, or has entered into a written agreement for payment of all claims arising from an accident." *Id.*, 422 P. 2d at 954.

The purpose of financial responsibility laws is to give monetary protection to:

> ". . . that everchanging and tragically large group of persons who while lawfully using the highways themselves suffer grave injury through the negligent use of those highways by others." *Mission Insurance Company* v. *Feldt*, 41 Cal. Rptr. 293 at 296, 396 P. 2d 709 at 712 (1964).

For this reason the Financial Responsibility Law must be liberally construed to foster its main objectives.

Under the facts of our case, the Commission had several reports, each placing the amount of injury or property damage above one hundred dollars ($100). Merely because the plaintiffs could not or did not obtain a release of liability or because the plaintiffs could not provide the security required is no reason why the statute should be construed narrowly. The case of *Agee* v. *Kansas Highway Comm'n Motor Vehicle Dept., supra,* aptly stated the general view:

> "A second ground alleged for vacating the suspension order was that Agee could neither obtain releases from the other parties to the accident nor provide the security required. This argument is pure sophistry. The provisions of the Act requiring security are directed against just such an individual. Inability, either to secure releases from others involved in the accident, or to provide security as required by the Department, is cause for entering an order of suspension, not for vacating one." *Id.*, 422 P. 2d at 955.

Once the statute is construed in the favor of the public, as it should be, it is easily noted that the plaintiffs-respondents are exactly the type of motorists the statute was designed to keep off the highway.

CONCLUSION

Appellant respectfully requests that for the reasons above stated, this appeal should be granted.

Respectfully submitted,

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