

1993

Mary Day v. The State of Utah : Unknown

Utah Court of Appeals

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STATE OF UTAH

OFFICE OF THE ATTORNEY GENERAL

Utah Court of Appeals

UTAH COURT OF APPEALS BRIEF



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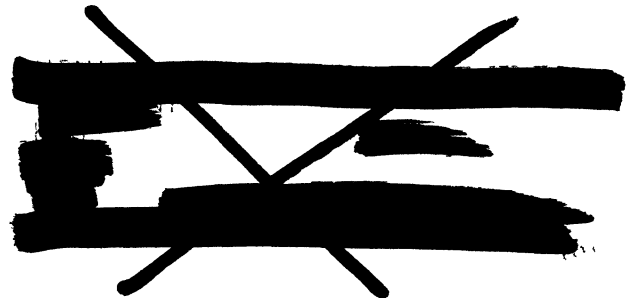
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May 11, 1994



Mary T. Noonan
Clerk of the Court
Utah Court of Appeals
230 South 500 East #400
Salt Lake City, UT 84102

Re: Day v. State, Case No. 930135-CA

Dear Ms. Noonan:

I am writing pursuant to Utah R. App. P. 24(j) to bring supplemental authorities to the attention of the Court in the case of Day v. State. Oral argument was heard in this case on March 28, 1994, by a panel consisting of Presiding Judge Greenwood and Judges Bench and Billings. I would appreciate your immediately forwarding a copy of this letter to those panel members.

Last Friday, this Court issued an opinion in the case of Wright v. University of Utah, No. 930217-CA, slip op. (Utah Ct. App. May 6, 1994). In Wright, a majority of the panel held that the plaintiff's claim that Utah Code Ann. section 63-30-4(4) denied her a remedy against a state employee was not properly before the Court where the plaintiff had failed to sue both the state and the state employee. Id. at 14-15.

The Wright decision is relevant to the issue of whether this Court should reach Day's claim that section 63-30-4(4) deprived her of a pre-existing common law remedy against the individual law enforcement officers in this case, where Day has not appealed from the trial court's dismissal of the individual officers and seeks only a remedy against the state. See Reply

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Brief, at 2-15. Cf. State v. Thurman, 846 P.2d 1256, 1269 (Utah 1993) (stare decisis applies to decisions of multi-panel appellate court).

Very truly yours,

A handwritten signature in cursive script that reads "Debra J. Moore". The signature is written in dark ink and is positioned above the typed name and title.

DEBRA J. MOORE
Assistant Attorney General
Litigation Division

cc: Larry R. Keller
Craig L. Boorman
Allan L. Larson
Anne Swenson