1972

State of Utah v. Charles V. (Brown) Artman : Brief of Respondent

IN THE

SUPREME COURT

OF THE

STATE OF UTAH

STATE OF UTAH,

Plaintiff-Respondent,

vs.

CHARLES (BROWN) ARTMAN,

Defendant-Appellant.

BRIEF OF RESPONDENT

APPEAL FROM THE JUDG
DISTRICT JUVENILE COURT
COUNTY, STATE OF UTAH, THE
PAUL C. KELLER, JUDGE.

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IN THE

SUPREME COURT

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STATE OF UTAH

STATE OF UTAH,
Plaintiff-Respondent,

vs.

CHARLES (BROWN) ARTMAN,
Defendant-Appellant.

Case No. 12799

BRIEF OF RESPONDENT

STATEMENT OF THE NATURE OF THE CASE

The appellant, Charles Artman, appeals from a conviction of the crime of aiding or encouraging a child to remain a delinquent, in violation of Repl. Vol. Utah Code Ann. § 55-10-80(1) (Repl. 1971).

DISPOSITION IN LOWER COURT

The appellant was tried without a jury in the District Juvenile Court for Salt Lake County, State of Utah, for the crime charged in the complaint. The Honorable Paul C. Keller found the appellant guilty and imposed sentence on the appellant of confinement in the county jail for three months and a fine of $200.

RELIEF SOUGHT ON APPEAL

The respondent submits that the judgment of the District Juvenile Court should be affirmed.

STATEMENT OF FACTS

On or about July 8, 1970, a 14 year old girl, hereafter referred to as R. S., ran away from home in the companionship of another young girl (R. 21). R. S. remained a runaway until she was apprehended by Salt Lake City Police Officers on July 15, 1970 (R. 28). R. S. and her friend spent the nights of July 8th and 9th in public parks. On the nights of July 10th, 12th and 13th, in a house rented and occupied by the appellant. The nights of July 11th and 14th she spent in a van outside the aforementioned house (R. 22). She was apprehended July 15th at this same house (R. 28). While staying at this dwelling she was provided food and lodging by the appellant.

ARGUMENT

POINT I.

THE EVIDENCE WAS SUFFICIENT TO SUSTAIN CONVICTION.

The appellant contends that the trial court erred in finding him guilty in that insufficient evidence was produced to uphold a conviction. Utah Code Ann. § 55-10-81 (Repl. 1971) provides penalties for:

> "Any person eighteen years of age or over who induces, aids, or encourages a child to violate any federal, state or local law or municipal ordinance, or who tends to cause children to become or remain delinquent, or who aids, contributes to, or becomes responsible for the neglect or delinquency of any child . . ."

The appellant contends that by opening his doors to all passersby and making his dwelling a nondenominational church, that he suddenly produces a screen that removes him from the category depicted in the above statute. This is not the case. A young girl (R. S.) 14 years of age, having the appearance of a girl of 14 years entered the dwelling of the appellant. She was provided a place to sleep and provided a sleeping bag in which to sleep (R. 23). This young girl and her friend were also provided food to eat and a place in which to prepare their own food (R. 24, 26). R. S. came in contact with the appellant at various times but was never asked her age or whether she was there with the permission of her parents.

The young girl stayed a total of three nights inside the appellant's dwelling and two nights in a van parked outside the dwelling (R. 22). The appellant provided conditions that were conducive to R. S. remaining a runaway from home. Certainly the evidence is conclusive to the fact that the appellant aided and encouraged R. S. to remain a runaway. There need not be any verbal conversation to qualify as encouraging and aiding. Providing a runaway a haven in that she is provided a place to sleep,

food to eat, and companionship, all of which were proven in this case are sufficient acts to show encouragement and aiding required by the statute.

The appellant contends that the mother of R. S. caused her to become a runaway. This case does not concern itself with the cause of the delinquency, rather the issue is whether the appellant's actions aided the minor in remaining a runaway. The young girl herself gave testimony to the effect that if she and her friend had not received a place to stay, she would have returned home sooner (R. 32).

POINT II.

THE APPELLANT WAS GUILTY OF CRIMINAL NEGLIGENCE AND GENERAL INTENT.

The appellant contends he was not guilty because there was no showing of criminal intent. Utah Code Ann. § 76-1-20 (1953) provides:

> "In every crime or public offense there must exist a union or joint operation of act and intent, or criminal negligence."

The appellant has disregarded the terminology, criminal negligence. In the case of *State* v. *Tritt*, 23 Utah 2d 365, 463 P. 2d 806 (1970), this Court held that where a doctor had provided a 17 year old boy with excessive prescriptions for harmful drugs and had failed to make inquiry as to the boy's actual age, knowing that he could

be found guilty of contributing to a minor, applying the principle of criminal negligence. This same disregard was present in the case at bar. The appellant opened his dwelling to a runaway girl, 14 years old. The appellant made no inquiry as to her age, as to her home, or whether her parents had knowledge of her whereabouts (R. 23). Yet he provided her with lodging, food and companionship. Certainly this type of conduct shows careless disregard for the rights and safety for this young minor. *State* v. *Lingman*, 97 Utah 180, 91 P. 2d 457 (1939). This evidence coupled with the well established rule that the court will hold in the light most favorable to the trial court is more than sufficient to find the appellant criminally negligent.

The appellant in arguing lack of intent also fails to recognize that it is not necessary to show that he intended to violate the law. The important fact is that the appellant intended to provide R. S. with a place to stay and food to eat. There can be no question that he intended the act with which he was charged.

POINT III.

UTAH CODE ANN. § 55-10-81 (REPL. 1971) IS NOT SO VAGUE OR INDEFINITE AS TO BE UNCONSTITUTIONAL.

The appellant contends that the statutes dealing with contributing to the delinquency of a minor are so vague that they should be struck down. The contention is that the term "delinquency" is nowhere defined, hence

too broad and vague. In the case of *State* v. *Tritt, supra,* Justice Crockett stated:

> "The terms delinquency and contributing to the delinquency as applied to minors has for many decades had such widespread usage as to give clear and understandable meaning that it denotes actions that will aid, encourage or involve children in conduct which is contrary to law, or which is so contrary to the generally accepted standards of decency and morality that its result would be substantially harmful to the mental, moral or physical well-being of the child." *Id.* at 809.

It must go without saying that providing a haven for a 14 year old girl to remain a runaway from home is harmful to the well being of a child and falls into the class that Justice Crockett so clearly illustrated. Other states have sustained the constitutionality of statutes similar to that of Utah's.

In the case of *People* v. *Calkin,* 48 Cal. App. 2d 33, 119 P. 2d 142 (1941), the California Court looked to their contributing statute, which is not unlike the Utah statute. The facts of that case involved a 15 year old girl who had run away from home. The defendant allowed the 15 year old girl to reside with him. The defendant had at one point encouraged to young girl to return home but upon her refusal had permitted her to stay. In upholding the conviction the Court stated:

> "The main purpose of the Juvenile Court law is to prevent the delinquency of children. By this law acts or omissions which tend to cause minors to become delinquent are made criminal. It is the

> purpose of the statute to safeguard children from those influences which would tend to cause them to become delinquent."

In the case of *People* v. *Owen*, 13 Mich. App. 469, 164 N. W. 2d 712 (1969), the Michigan Court was called to strike down their contributing statute as being vague and indefinite. The statute provided in part that:

> "Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division . . . shall be guilty of a misdemeanor." Michigan C. L. 1948, § 750.145 (Stat. Ann. 1962 Rev. § 28.340).

The case involved a young girl who had run away from home. The defendant had aided her in finding a place to stay. The Court upheld the statute saying:

> "We do not find that this section is so vague or indefinite as to deny defendant the constitutional right to be informed of the standard of conduct required of him and to be apprised of the charges against him."

The Arizona Court in the case of *State* v. *Cutshaw*, 7 Ariz. App. 210, 437 P. 2d 962 (1968), reached a similar conclusion in upholding their statute.

It seems evident that the Utah statute provides a standard of conduct which does not deny one's constitutional right. It is a well established principle that adults deal with children at their own peril. The purpose of the

statute is to punish those who would contribute or encourage a minor into delinquency or to remain in a state of delinquency.

The Court should favor the validity of any statute unless it appears completely unreasonable. That is not the case with Section 55-10-81.

CONCLUSION

The facts in the instant case amply demonstrate that the trial court acted properly in finding appellant guilty of the crime charged. The legal claims of error on which the appellant relies for reversal are wholly without merit. A simple perusal of the record makes it manifest that the trial court found sufficient evidence to convict. This Court has already provided an adequate definition of the term delinquency into which the facts of this case apply. The Court should affirm.

Respectfully submitted,

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