

1995

Jospeh M. Wisden v. Dixie College : Brief of Appellee

Utah Court of Appeals

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UTAH COURT OF APPEALS
BRIEF

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DOCKET NO. 950791-CA

IN THE UTAH COURT OF APPEALS

JOSEPH M. WISDEN,)	
)	
Petitioner/Appellant,)	Case No. 950791-CA
v.)	
)	
DIXIE COLLEGE,)	
)	Priority No. 15
Respondent/Appellee.)	

APPELLEE'S BRIEF

APPEAL FROM AN ORDER OF DISMISSAL ISSUED BY THE FIFTH
DISTRICT COURT IN AND FOR WASHINGTON COUNTY, STATE OF
UTAH, THE HONORABLE JAMES L. SHUMATE PRESIDING.

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AUG 22 1996

COURT

NO ORAL ARGUMENT REQUESTED; PUBLISHED OPINION UNWARRANTED

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JOSEPH M. WISDEN,)	
)	
Petitioner/Appellant,)	Case No. 950791-CA
v.)	
)	
DIXIE COLLEGE,)	
)	Priority No. 15
Respondent/Appellee.)	

This appeal is from an Order of Dismissal entered by the Fifth District Court, Washington County, State of Utah ("District Court"), on October 25, 1995. The District Court dismissed the case after concluding that it lacked statutory subject matter jurisdiction.

This Court has jurisdiction to review the Order of Dismissal and the attendant issues of subject matter jurisdiction pursuant to Utah Code Ann. § 78-2a-3(2)(b) (Supp. 1995).

DID THE DISTRICT COURT HAVE SUBJECT MATTER JURIS-
DICTION TO REVIEW THE FINAL DECISION OF THE DIXIE
COLLEGE PARKING APPEALS COMMITTEE?

2

STANDARD OF REVIEW

A court's interpretation of a statute is a question of law reviewed for correctness. Mackay v. Hardy, 896 P.2d 626 (Utah 1995).

A trial court's conclusion that it lacks subject matter jurisdiction is also reviewed for correctness. Barnard v. Utah State Bar, 857 P.2d 917 (Utah 1993).

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

(SEE VERBATIM TEXT IN ADDENDUM)

Utah Const. art. VIII § 5
Utah Code Annotated § 53B-3-101 (1994)
Utah Code Annotated § 53B-3-102 (1994)
Utah Code Annotated § 53B-3-103 (1994)
Utah Code Annotated § 53B-3-106 (1994)
Utah Code Annotated § 53B-3-109 (1994)
Utah Code Annotated § 63-46b-1 (1993)
Utah Code Annotated § 63-46b-2(1)(b) (1993)
Utah Code Annotated § 63-46b-14 (1993)
Utah Code Annotated § 63-46b-15 (Supp. 1994)
Utah Code Annotated § 78-2a-3(2)(b) (Supp. 1995)
Utah Code Annotated § 78-3-4(5) (1992)

STATEMENT OF THE CASE

NATURE OF THE CASE

The Petition filed in the district court sought judicial review of the Dixie College Parking Appeals Committee's decision upholding parking fine of \$20 on a campus parking violation. Petitioner Wisden, a student, asked for "equal application of the law" as its relief. District court jurisdiction was founded on Utah Code Ann. §§ 78-3-4(5) (1992) and 63-46b-14 and 15 (1993 & Supp. 1994).

COURSE OF PROCEEDINGS

Appellee/Respondent generally concurs with the Course of Proceedings recited in Appellant's/Petitioner's Brief.

DISPOSITION IN THE COURT BELOW

The district court dismissed the Petition for want of statutory subject matter jurisdiction.

STATEMENT OF FACTS

On April 19, 1995, Joseph Wisden ("Wisden"), a Dixie College Student, parked an automobile in a handicapped stall on the college campus. (R. at 2 & 122.) There was no handicapped placard or other visible indication that the car was properly parked there, and it was cited by a Dixie College Security Officer. (R. at 2 & 122.) Wisden presented the citation to the Security Office under protest. A discussion was had and ultimately a \$20 dollar fine was levied for no visible placard; even though Wisden had one but had not hung it up. (R. at 2, 122 & 123.) Wisden pursued available appeals to the Dean of Students and ultimately requested a hearing before the Dixie College Parking Appeals Committee. (R. at 2, 6, 123, & 124.)

On May 9, 1995, the Dixie College Parking Appeals Committee (the "Committee") convened to hear the appeal. (R. at 124 & 125.) The Dixie College Security Chief, Don Reid, presented the facts supporting the citation and the fine. Wisden appeared and responded to the citation and the committee's questions. (R. at 124 & 125.)

The Committee upheld the citation and the \$20 fine on the basis that Wisden did not have his handicapped placard visible while his car was parked in a handicapped zone. (R. at 8, 124 & 125.) The decision of the Committee was final and exhausted Wisden's administrative remedies. (R. at 2, 5 & 6.)

Wisden filed his "PETITION FOR JUDICIAL REVIEW OF INFORMAL AGENCY ACTION" (the "Petition") with the Fifth Judicial District Court in and for Washington County, State of Utah, on or about May 30, 1995. (R. at 1.)

The Petition was dismissed by the District Court by its ORDER OF DISMISSAL on October 23, 1995. This appeal followed. (R. at 159, 160 & 162.)

SUMMARY OF ARGUMENTS

The Petition cites two statutes upon which district court jurisdiction was based. These statutes and those referred to or implicit in them actually deny subject matter jurisdiction to the district court. The Petition was properly dismissed.

The Utah Constitution does not give Wisden the right to judicial review of the Committee's decision.

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ARGUMENT

POINT ONE

THE DISTRICT COURT HAS NO SPECIFIC STATUTORY JURISDICTION TO HEAR THIS CASE, AND PROPERLY DISMISSED IT.

Dixie College is one of Utah's institutions of higher education.¹ These institutions are regarded as "political subdivisions,"² and are statutorily "enabled" to pass and enforce rules and regulations governing parking and traffic on campus. Parking and traffic citations issued to non-students are normally referred to justice or municipal court,³ primarily because the institutions have no other means of enforcement. Students may also be referred to an appropriate court; but, with student violations, the institutions are statutorily authorized to enforce parking and traffic rules "internally" by various means including:⁴

Fines, fees and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, diplomas, and any reasonable combination of these alternatives.

At Dixie College, a student receiving a parking ticket is expected to pay the designated fine to the Cashier's Office. A student wanting to contest such a ticket would go first to the

¹ Utah Code Ann. § 53B-3-102 (1994).

² Utah Code Ann. § 53B-3-106(2) (1994).

³ Utah Code Ann. § 53B-3-109 (1994).

⁴ Utah Code Ann. § 53B-3-103 (1994).

Dixie College Security Office, next to the Dean of Students Office, and finally to a hearing before the Dixie College Parking Appeals Committee. The formalities of these hearings entitle a student to the fundamental requirements of due process -- notice and an opportunity to be heard, appropriate to the nature of the case. See, Montana State University v. Ransier, 536 P.2d 187 (Mont. 1975).

On April 19, 1995, Joseph Wisden, a Dixie College student, parked his car on campus in a handicapped space and was issued a parking citation by a college security officer. Wisden had a handicapped placard but it was not displayed properly. Over his objections of "forgetfulness," a \$20 fine was imposed. Wisden appealed to the Security Chief, the Dean of Students and ultimately to the Dixie College Parking Appeals Committee. Wisden was notified of the date and time for the Committee hearing and he attended and addressed the Committee stated his position and answered their questions. The Committee upheld the citation and the \$20 fine because Wisden admitted to parking in the handicapped space and not displaying his placard. (R. at 8, 124 & 125).

Wisden subsequently filed in Fifth District Court seeking "judicial review" of this final committee decision. His Petition asserted jurisdiction in that court under "U.C.A. § 78-3-4(5) and §§ 63-46b-14 & 15 the *Administrative Procedures Act*." ("U.A.P.A."). (R. at 1.)

The first section, Utah Code Ann. § 78-3-4(5) (1992), speaks directly to district court jurisdiction to review agency adjudicative proceedings and actually limits its authority to that spelled out in U.A.P.A., stating:

(2) The district court has jurisdiction to review agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative Procedures Act, **and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings.**
(Emphasis added.)

The other U.A.P.A. sections cited in the Petition, Utah Code Ann. §§ 63-46B-14 (1993) & 15 (Supp. 1994), itemize and detail district court jurisdiction and procedure in reviewing agency adjudicative proceedings originally conducted pursuant to U.A.P.A. However, U.A.P.A., by its own limitations does not have blanket application to all administrative proceedings.

It specifically does not apply to the Dixie College Parking Appeals Committee's hearing of Petitioner's "student" parking citation. To this, U.A.P.A., Utah Code Ann. § 63-46b-1 (1993), states:

(1) Except as set forth in Subsection (2), . . . the provisions of this chapter apply to every agency of the state and govern:

(a) all state agency actions that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of these actions.

(2) **This chapter does not govern[] . . .**

(d) **state agency actions to evaluate, discipline, employ, transfer, reassign, or promote students or teachers in any school or educational institution, or judicial review of those actions;**
(Emphasis added.)

U.A.P.A.'s broad application statement in Section 63-46b-1(1) (1993), also doesn't apply to the present case where the definition of "Agency" in Section 63-46b-2(1)(b) (1993), exempts U.A.P.A. application to most hearings at state institutions of higher education, which are political subdivisions, stating in pertinent part:

- (1) As used in this chapter[] . . .
- (b) **"Agency"** . . . **does not mean** . . . the Legislature, the courts, the governor, **any political subdivision of the state** or any administrative unit of a political subdivision of the state. (Emphasis added.)

After hearing how these various jurisdictional statutes intertwined and limited each other, the district court dismissed Wisden's "Petition for Judicial Review . . ." on its conclusion that his hearing before the Dixie College Parking Appeals Committee was a student disciplinary action, over which it had no statutory subject matter jurisdiction. (R. at 159 & 160.) This dismissal was correct where the specific statutory language limits such jurisdiction.

POINT TWO

PETITIONER WISDEN IS NOT CONSTITUTIONALLY ENTITLED TO JUDICIAL REVIEW OF THE DIXIE COLLEGE PARKING APPEALS COMMITTEE'S DECISION.

Citing Utah Const. art. VIII § 5, Wisden argues that the Dixie College Parking Appeals Committee is his "court of original jurisdiction," from which he has an appeal of right.

In this he perverts the plain meaning of the Constitution which states:

The district court shall have original jurisdiction in all matters except as limited by this constitution or by statute, and power to issue all extraordinary writs. The district court shall have appellate jurisdiction as provided by statute. The jurisdiction of all other courts, both original and appellate shall be provided by statute. Except for matters filed originally with the Supreme Court, **there shall be in all cases an appeal of right from the court of original jurisdiction to a court with appellate jurisdiction over the cause.** (Emphasis added.)

As articulated in State v. Phillips, 540 P.2d 936 (Utah 1975), the rule which should be applied here is that "[L]aws, and especially foundational laws such as our Constitution, should be interpreted and applied according to the plain import of their language as it would be understood by persons of ordinary intelligence and experience." Id. at 938.

In plain language, a committee hearing is not a "court;" a "court of original jurisdiction" is not a committee hearing.

Wisden cites various constitutional provisions to suggest that the specific language of the jurisdictional statutes, argued above, should be read more broadly so as to give him a jurisdictional footing for judicial review.⁵

In DeBry v. Salt Lake County Bd. of Appeals, 764 P.2d 627 (Utah Ct. App. 1988), citing Const. art. VIII, § 5, this Court

⁵ Certainly, Petitioner, in representing himself, should not be granted leniency in the general requirement that he become familiar with applicable procedural and substantive law. Harrison v. McNeese State University, 635 So.2d 318 (La.Ct.App. 1994).

rejected a similar "broad-reading" argument in reference to the specific statutory limits on its own jurisdiction:

DeBry proceeds from the premise that a direct "appeal" to **some** court of this state from a final order of a local government agency is an inherent right. However, the jurisdiction of the Court of Appeals and the district court's appellate jurisdiction must be provided by statute. (Emphasis in original.)

Id.

In DeBry, supra, the petitioner argued that the constitutional language should be broadly construed to grant him some form of judicial review. This Court disagreed with that argument on the specific statutory limitations of its own jurisdiction over the appeal.

Here, the plain and specific language of Wisden's asserted jurisdictional statutes denies the district court subject matter jurisdiction over this case. Likewise, the plain language of the Constitution does not mandate or allow for judicial review of the Committee's decision.

CONCLUSION

The district court was and is without specific statutory subject matter jurisdiction to review the decision of the Dixie College Parking Appeals Committee's decision to uphold the \$20 fine upon a Dixie College student as a consequence of a college parking ticket. Neither U.A.P.A. nor other cited jurisdictional statutes apply to such proceedings, and the Petition was properly dismissed.

There is no Constitutional right to judicial review of the Committee's decision.

The District Court's Order of Dismissal should be affirmed without oral argument or published opinion.

Respectfully submitted this 22nd day of August, 1996.

JAN GRAHAM
Utah Attorney General



D. MICHAEL CARTER (#4548)
Assistant Attorney General

CERTIFICATE OF SERVICE

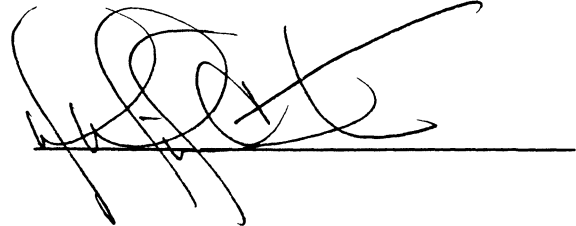
I certify that I served full, true and correct copies of the foregoing APPELLEE'S BRIEF, by mailing them first-class postage prepaid, on this 22nd day of August, 1996, to:

(1) original; (7) copies

Clerk of the Court
Utah Court of Appeals
230 South 500 East, # 400
Salt Lake City, Utah 84102

(2) copies

Mr. Joseph M. Wisden
465 So. Bluff Street, #160
St. George, Utah 84770



A D D E N D U M

Utah Const. art. VIII § 5

The district court shall have original jurisdiction in all matters except as limited by this constitution or by statute, and power to issue all extraordinary writs. The district court shall have appellate jurisdiction as provided by statute. The jurisdiction of all other courts, both original and appellate shall be provided by statute. Except for matters filed originally with the Supreme Court, there shall be in all cases an appeal of right from the court of original jurisdiction to a court with appellate jurisdiction over the cause.

Utah Code Ann. § 53B-3-101 (1994)

(1) It is the purpose of this chapter to confirm and clarify the power vested in the board [of regents] to pass rules and regulations governing parking and traffic on campuses and related facilities and to enforce the rules and regulations by all appropriate methods.

(2) The board may delegate this authority and other authority granted under this chapter to the president of each institution so long as the rules and are regulations approved by the institution's board of trustees.

Utah Code Ann. § 53B-3-102 (1994)

(1) As used in this chapter "state institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie College, College of Eastern Utah, Utah Valley State College, Salt Lake Community College, and any other university or college which may be established and maintained by the state of Utah.

(2) It includes any branch or affiliated institution and any campus or facilities owned, operated, or controlled by the governing board of the university or college.

Utah Code Ann. § 53B-3-103 (1994)

The board [of regents] may enact regulations governing the conduct of university and college students, faculty, and employees. The regulations may include rules governing traffic, parking, and related matters upon campuses and other facilities owned or controlled

by the institutions or the board. The board has the power to enforce its rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, and any reasonable combination of these alternatives.

Utah Code Ann. § 53B-3-106 (1994)

(1) All of the criminal laws of this state, including the traffic laws, are in full force and effect on the campuses of state institutions of higher education and upon all other property or facilities owned by the institutions or operated or controlled by the governing board of the institution.

(2) State institutions of higher education are "political subdivisions" and the board of the institutions is a "local authority." All streets, roadways, alleys, and parking lots on property owned or controlled by state institutions of higher education are "streets or highways" as these terms are used in Title 41, Chapter 6.

Utah Code Ann. § 53B-3-109 (1994)

Any municipal department of the circuit court or any justice court of any city or county in which property owned or controlled by a state institution of higher education is located has jurisdiction to hear and determine cases involving an alleged violation of this chapter.

Utah Code Ann. § 63-46b-1(1) (1993)

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

- (a) all state agency actions that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and
- (b) judicial review of these actions.

Utah Code Ann. § 63-46b-1(2)(d) (1993)

- (2) This chapter does not govern[] . . .
 - (d) state agency actions to evaluate, discipline, employ, transfer, reassign, or promote students or teachers in any school or educational institution, or judicial review of those actions

Utah Code Ann. § 63-46b-2(1)(b) (1993)

- (1) As used in this chapter[] . . .
 - (b) "Agency" means a board, commission, department, division, officer, council, office, committee, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, any political subdivision of the state or any administrative unit of a political subdivision of the state.

Utah Code Ann. § 63-46b-14 (1993)

- (1) A party aggrieved may obtain judicial review of final agency action, except in actions where judicial review is expressly prohibited by statute.
- (2) A party may seek judicial review only after exhausting all administrative remedies available, except that:
 - (a) a party seeking judicial review need not exhaust administrative remedies if this chapter or any other statute states that exhaustion is not required;
 - (b) the court may relieve a party seeking judicial review of the requirement to exhaust any or all administrative remedies if:
 - (I) the administrative remedies are inadequate; or
 - (ii) exhaustion of remedies would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.
- (3) (a) A party shall file a petition for judicial review of final agency action within 30 days after the date that the order constituting the final agency action is issued or is considered to have been issued under subsection 63-46b-13(3)(b).
 - (b) The petition shall name the agency and all other appropriate parties as respondents and shall

meet the form requirements specified in this chapter.

Utah Code Ann. § 63-46b-15 (Supp. 1994)

- (1) (a) The district courts have jurisdiction to review by trial de novo all final agency actions resulting from informal adjudicative proceedings, except that the juvenile courts have jurisdiction over all state agency actions relating to removal or placement of children in state custody and actions relating to the support of those children as determined administratively under Section 78-3a-49.
(b) Venue for judicial review of informal adjudicative proceedings shall be as provided in the statute governing the agency or, in the absence of such a venue provision, in the county where the petitioner resides or maintains his principal place of business.
- (2) (a) The petition for judicial review of informal adjudicative proceedings shall be a complaint governed by the Utah Rules of Civil Procedure and shall include:
 - (i) the name and mailing address of the party seeking judicial review;
 - (ii) the name and mailing address of the respondent agency;
 - (iii) the title and date of the final agency action to be reviewed, together with a duplicate copy, summary or brief description of the agency action;
 - (iv) identification of the persons who were parties in the informal adjudicative proceedings that led to the agency action;
 - (v) a copy of the written agency order from the informal proceeding;
 - (vi) facts demonstrating that the party seeking judicial review is entitled to obtain judicial review;
 - (vii) a request for relief, specifying the type and extent of relief requested; and
 - (viii) a statement of the reasons why the petitioner is entitled to relief.
(b) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.
- (3) (a) The district court, without a jury, shall determine all questions of fact and law and any constitutional issue presented in the pleadings.
(b) The Utah Rules of Evidence apply in judicial proceedings under this section.

Utah Code Ann. § 78-2a-3(2)(b) (Supp. 1995)

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

. . . .

- (b) appeals from the district court review of:
 - (i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and
 - (ii) a challenge to agency action under Section 63-46a-12.1;

Utah Code Ann. § 78-3-4(5) (1992)

(5) The district court has jurisdiction to review agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative Procedures Act, and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings.

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IN THE FIFTH JUDICIAL DISTRICT COURT
WASHINGTON COUNTY, UTAH

JOSEPH M. WISDEN,

Petitioner,

- vs -

DIXIE COLLEGE Parking Committee,

Respondent.

Case No. 95

**PETITION FOR JUDICIAL
REVIEW OF INFORMAL AGENCY
ACTION**

COMES NOW the Petitioner, Joseph M. Wisden, without and wanting counsel, and pursuant to U.C.A. §78-3-4(5) and U.C.A. §§63-46b-14 & 15 the *Utah Administrative Procedures Act*, to:
COUNT ONE — petition the district court for judicial review of the determination of the Dixie College Parking Committee's informal adjudicative action.

1. This PETITION is filed within thirty (30) days after the date constituting the final agency action.
2. The name of the respondent agency is the Dixie College Parking Committee. It's address is 225 So. 700 East, St. George, Utah, 84770, ATTN: Dean of Students, phone no. (801) 673-4811 extension 274.
3. Final agency action was provided the Petitioner by letter dated 17 May 1995, and is specifically contained at ¶ #7 and the summary following ¶ #7 (*please see Exhibit #1*).

4. Five (5) members of the Dixie College Parking Committee were unknown to the Petitioner, but were introduced at the informal hearing of 9 May 1995. As indicated in Exhibit #1, two (2) of the individuals were U.S. Armed Forces veterans and one (1) was a disabled student. One (1) was also the Dixie College Student Body President and one (1) was Bill Fowler, Dean of Students.

STATEMENT OF THE FACTS

1. Petitioner is a Student at Dixie College.
2. Petitioner is disabled, and is qualified for a disabled placard issued by the Utah Department of Motor Vehicles (DMV), pursuant to applicable law.
3. Forgetfulness is a segment of Petitioner's disability.
4. On 3 April 1995, Petitioner obtained a PERMANENT disabled placard from the Utah DMV.
5. On 19 April 1995, Petitioner traveled to Dixie College to attend school. He parked in a disabled parking spot at approximately 15 minutes to 9:00 o'clock a.m. He locked his car and proceeded to his first class of the day.
6. Petitioner forgot to hang his disabled placard on the rear view mirror of his automobile.
7. Twice the same week, Petitioner had also forgotten to remove his keys from the ignition switch, and locked his keys in his car at the same location.
8. At approximately 9:30 o'clock a.m., one Don Reid, Head of Security at Dixie College, wrote a citation against the Petitioner, for "parking in a handicapped zone."
9. Petitioner was not cited for "Failure to Display Permit."
10. Petitioner, upon returning to his car after classes, found a pink copy of the citation written against him, and proceeded to the Dixie College Security offices, with his disabled placard in hand.
11. After an unfortunate display of miscommunication and misunderstanding, Mr. Reid changed his mind about dismissing the citation and also kept Petitioner's pink copy of the citation.
12. Petitioner proceeded with his administrative remedies until they were exhausted, and the Dixie College Parking Committee's decision was final.
13. The Parking Committee's final decision was not based on the allegation of the citation.

PRAYER FOR RELIEF

1. Petitioner prays that the District Court find that the facts of this case do not support the final decision of the informal adjudicative action of the Dixie College Parking Committee.
2. Petitioner prays the District Court to overturn the final decision of the informal adjudicative action of the Dixie College Parking Committee.
3. Petitioner prays the District Court for relief from the final decision of the informal adjudicative action of the Dixie College Parking Committee to pay a fine of \$20.
4. Petitioner prays the District Court for relief in the form of costs and fees to bring this action.
5. Petitioner prays the District Court for any other relief it deems just and appropriate.

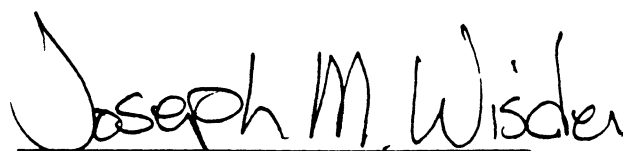
REASONS FOR RELIEF

Petitioner is entitled to relief on the following grounds:

1. Petitioner is entitled to relief on the basis of equal application of the law. If this matter were over a driver's license certificate, and Petitioner were to display his driver's license to the magistrate after being cited for not having one on his person, it is an absolute defense to the allegation of not having a driver's license, to display such to the magistrate on one's appearance in court. The same application should hold in this case.
2. Petitioner was **not** charged with not displaying his disabled placard, which only carries a fine of \$5.00, not \$20.00.
3. Petitioner clearly explained to the Parking Committee that his forgetfulness to hang his placard was a direct result of memory loss due to his disability. No evidence to the contrary was presented. Petitioner cannot be held liable for conduct directly related to his injuries.

DATED THIS 30th day of May, 1995.

Respectfully Submitted,


Joseph M. Wisden
In Proper Person

UTAH STATE

Washington County

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VERIFICATION

JOSEPH M. WISDEN, having been first duly sworn, deposes and says upon his oath:

1. That he is the Petitioner in the above-entitled action, that he has read the foregoing PETITION, and knows the contents thereof, and that the STATEMENT OF THE FACTS are honest, factual, and correct of his own knowledge, understanding, and belief.

2. That he further declares that he veritably believes that he is justly entitled to the relief sought therein.

Joseph M. Wisden
JOSEPH M. WISDEN
In Proper Person

SUBSCRIBED AND SWORN to before me this 30th day of May, 1995.

Denise Stanfield
NOTARY PUBLIC FOR UTAH

Residing in Washington County, Utah

