

March 23, 2000

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Daniel L. Herrmann Courthouse
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Wilmington, DE 19801

Re: *State of Delaware v. Patico Owens*
I.D. No. 9909028142
Letter Opinion

Dear Counsel:

This is the Court's decision in the above-captioned matter. Trial took place on March 7, 2000 and following the receipt of testimony and evidence the Court reserved decision.

The defendant was charged by Information with one (1) traffic count, Reckless Driving, by the Attorney General filed with the Clerk of Court.¹

At trial the Investigating Officer, New Castle County Patrolman Price, testified that he observed the defendant at a low rate of speed, approximately 15 miles per hour, westbound on Rising Drive in New Castle County. Officer Price testified that he observed another individual on the hood of the defendant's motor vehicle. The officer testified he stopped the defendant because he believed having a third-party on the hood was reckless in nature, and that there was a possibility of injury because of the defendant's actions. The officer testified that there was "moderate traffic on the highway." He further testified the defendant was "belligerent." Officer Price requested the

¹ The other two traffic charges the Attorney General entered a nolle prosequi. Following trial the Court requested cross-briefing to be filed by the parties. The Court received Ms. Minutola's memorandum on March 16, 2000. The Attorney General never filed any pleading or request for an extension of time to file a memorandum of law. (Cross-memoranda of law was ordered to be filed within ten (10) days of trial.)

defendant's insurance card, registration and driver's license which was subsequently produced prior to trial.

The defendant, Ms. Owens, also testified at trial. She testified that she was coming from a 7-11 Store and saw a friend on the roadway. She testified that she stopped to talk to her friend, who then jumped up on the passenger side of the hood of her motor vehicle. Ms. Owens testified that her motor vehicle was stopped when the third-party jumped on top of the hood and that she never drove her motor vehicle while her friend was located on the hood. She alleged that the Officer asked her, "Why do you people cause these problems?"

Discussion

The purpose of post-trial briefing was to determine whether the facts set forth in the trial record constituted proof beyond a reasonable doubt of a violation of 21 Del. C. § 4175(a). 11 Del. C. § 301.

As defense counsel pointed out, when there is a question of statutory interpretation the Court should apply "plain language" rules of statutory construction unless there is a reasonable doubt as to the meaning of the words or if the statute is otherwise ambiguous. *Jackson v. Multi-Purpose Criminal Justice Facility*, Del. Supr., 700 A.2d 1203, 1205 (1997). The applicable statute, 21 Del. C. § 4175(a) provides as follows:

No person shall operate a motor vehicle in such a manner as to cause willful, wanton or reckless damage to or destruction of property owned by another person, party, company or corporation.

Willful or wanton conduct indicates a "conscious indifference" or "I don't care attitude." *Eustice v. Rupert*, Del. Supr., 460 A.2d 507 (1983).

At trial, there was conflicting testimony as to whether the motor vehicle was moving or stopped at the time Ms. Owens' friend jumped on the hood of her motor vehicle and the Officer appeared. A question of fact therefore remains as to whether the vehicle was in operation or was stopped. Certainly, if the motor vehicle was stopped,

Ms. Owens was not driving or operating her motor vehicle in contravention of 21 Del. C. § 4175(a). The purpose of the Reckless Driving Statute “is to ensure drivers use care in the operation of their vehicles as the circumstances reasonably require having proper regard for rights and safety of other persons.” *Lynch v. Lynch*, Del. Supr., 195 A. 799 (1937). It is clearly incumbent on the State to prove the elements of the above statute existed in the record beyond a reasonable doubt. 11 Del. C. § 301. Specifically, it is incumbent upon the State to prove that Ms. Owens operated her motor vehicle “as to cause willful, wanton or reckless damage to or destruction of property owned by another person, party, company or corporation.” 11 Del. C. § 301.

Order and Opinion

The Attorney General never filed a memorandum of law in response to the Court’s ten (10) day briefing schedule. Counsel for the defendant has pointed out in her filing that the facts in the record indicated that the defendant’s conduct did not rise to the definition of willful or wanton conduct. The Court agrees. Perhaps it was negligence for the third-party to jump on defendant’s hood. Additionally, it is clear to the Court that trier of fact could reasonably conclude the evidence is “equally-balanced” as to whether the defendant violated, beyond a reasonable doubt, all elements of 21 Del. C. § 4175(a).

For all these reasons the Court finds the State has not proven the instant charge beyond a reasonable doubt. 11 Del. C. § 301.

IT IS SO ORDERED this 23rd day of March, 2000.

John K. Welch
Associate Judge

JKW/vh

cc: Ms. Jennie Faulkner, Clerk’s Office

