

BODWIN & ASSOCIATES, P.C.

ILLINOIS ■ MICHIGAN

4/21/2015
Submitted by
Rep. Singh

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April 17, 2015

Representative Sam Singh
Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909

RE: *Amendment to MCL 257.601d*

Dear Representative Singh:

Please find this correspondence as it relates to the above referenced matter.

First and foremost I apologize for not being able to be present for the committee meeting on this matter on Tuesday, April 21, 2015. Unfortunately my municipal duties require me to be in court on that date and time.

As you are already aware, I litigated a case on behalf of Meridian Township in April 2013, Meridian Township v Karen Barney, 12-3543-OT, in the 55th District Court, which involved the above referenced statute. In this case, the Defendant was operating a van in the parking lot of a Meijer store on Grand River Ave in Okemos, MI. In the course of operating her vehicle, she hit three people and severely injured one of them. The third person hit suffered multiple fractures to her leg which required multiple surgeries to fix. I subsequently charged the Defendant with Moving Violation Causing Serious Impairment of a Body Function, pursuant to MCL 257.601d, as adopted by our Township Ordinances.

The Defendant's attorney filed a motion to dismiss and relied on MCL 257.601, which provides "The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except where a different place is specifically referred to in a given section." *Id.* The Defendant argued that the language of MCL 257.601d did not provide a "different place" in its language where it could be enforced. The Defendant further argued that the Michigan Court of Appeals determined in *People v Wilkens*, 267 Mich App 728, 705 NW2d 728 (2005), a Court may read nothing into an unambiguous statute that is not within the manifest intent of the Legislature as derived from the statute itself; only where the statutory language is ambiguous may a court properly go beyond the wording of the statute to ascertain legislative intent. As such, it was the Defendant's position that since the statute was unambiguous, it must be enforced as written, which did not allow it to be enforced outside of a public road.

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On behalf of the People, I argued that the underlying moving violation in this case was Careless Driving, pursuant to MCL 257.626(b), which specifically provides that Careless Driving may be enforced "while operating a vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public, including, but not limited to, an area designated for the parking of motor vehicles. *Id.* I argued that since the underlying moving violation clearly could be enforced in a parking lot, that MCL 257.601d must likewise be enforceable in a parking lot, relying on the Michigan Supreme Court decision in *Mason County Civil Research Council v Mason County*, 343 Mich 313, 72 NW2d 292 (1955), where the Court determined that the language used by the legislature must be interpreted in light of the purpose sought to be accomplished. To interpret the statute as the Defendant would suggest would allow someone to commit a moving violation, which results in the serious impairment of a body function or death of a victim, without any repercussion to the Defendant whatsoever, as long as it occurs off of a public road, i.e. in a parking lot.

Unfortunately, in this case, the judge agreed with the Defendant and determined that MCL 257.601d was unambiguous as written and that had the Michigan Legislature intended it to be enforced in "different places" it would have specifically provided as such in the statute.

As you can see, there is a significant potential for injustice with MCL 257.601d as it is currently written. My fear is that there will be future instances where a moving violation causes injury or death to a victim and there will be no recourse for that conduct. As such, I would respectfully request that the statute be amended to allow for MCL 257.601d's enforcement "on a highway or a frozen public lake, stream or pond or other place open to the general public, including, but not limited to, an area designated for the parking of motor vehicles". Adding this language will ensure that the public is protected from those drivers who have a negligent disregard for the safety of others.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

BODWIN & ASSOCIATES, P.C.

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CCH/jmh

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